# An Bille Airgeadais, 2018
# Finance Bill 2018

*Meabhrán Mínitheach*
*Explanatory Memorandum*

AN BILLE AIRGEADAIS, 2018

FINANCE BILL 2018

*Mar a tionscnaíodh*
*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 gives effect to the Budget announcement by reducing the 4.75 Per cent rate by 0.25 Per cent to 4.5 Per cent. In addition, the amount of income liable at the 2 Per cent rate is increased by €502 to €7,862 while the income liable at the new 4.5 Per cent rate is reduced by an equivalent amount.

### Chapter 3

*Income Tax*

*Section 3* gives effect to the budget announcement to increase all standard rate bands by €750 from 1 January 2019.

*Section 4* gives effect to the budget announcement to increase the earned income credit from €1,150 to €1,350.

*Section 5* gives effect to the budget announcement to increase the value of the home carer credit from €1,200 to €1,500.

*Section 6* amends section 191 of the Taxes Consolidation Act 1997 to provide an exemption from tax for certain payments made under a scheme in an EEA Member State to compensate individuals infected with Hepatitis C or HIV, in a similar manner to compensation payments made by the Hepatitis C Tribunal.

*Section 7* inserts a new section 194AA into the Taxes Consolidation Act 1997 to provide an exemption from tax for certain payments made by the Minister for Children and Youth Affairs to assist parents with the cost of childcare.

*Section 8* inserts a new section 120B into the Taxes Consolidation Act 1997 to provide an exemption from benefit-in-kind on the provision of certain accommodation and health care to members of the Permanent Defence Force.

*Section 9* amends sections 121 and 121A of the Taxes Consolidation Act 1997, which provide for the application of Benefit-in-kind to employer provided cars and vans respectively. This amendment extends the exemption for electric vehicles, which is due to expire at the end of 2018, until 31 December 2021. It also applies a cap of €50,000 on this exemption such that an electric vehicle with an original market value exceeding €50,000 will be subject to Benefit-in-kind at standard rates on the amount in excess of €50,000.

*Section 10* provides for a technical amendment to section 985A of the Taxes Consolidation Act 1997 to clarify that health or dental insurance policies, provided by employers who are health or dental insurance providers (or tied agents), to their employees are subject to the operation of PAYE.

*Section 11* amends section 128F of the Taxes Consolidation Act 1997, which provides for favourable tax treatment of share options granted under the Key Employee Engagement Programme.

Under the scheme there are restrictions imposed on the total market value of shares which can be granted by the qualifying company to a qualifying employee. The restrictions are set out in paragraph (d) in the definition of "qualifying share option" in subsection (1). The first amendment (which is subject to a commencement order) changes the restrictions applied at employee level whereby –

- the limit of €250,000 in any 3 consecutive years of assessment is replaced by a life-time limit of €300,000
- the limit of 50 Per cent of the annual emoluments in the year of assessment is increased to 100 Per cent of the annual emoluments.

The second change amends subsection (8) to provide for the collection of information required for State Aid publication purposes via the qualifying company's annual return.

*Section 12* inserts a new section 790CA into the Taxes Consolidation Act 1997 (TCA). This section provides income tax relief for the additional superannuation contribution (ASC) which will be payable by public servants from their pensionable pay in accordance with Part 4 of the Public Service Pay and Pensions (PSP&P) Act 2017 with effect from 1 January 2019. Under the new section, ASC payable by a public servant will be deductible as an expense in computing the amount of income assessable under Schedule E in the year in which it is paid. The ASC replaces the pension related deduction (PRD) which is currently deducted from the remuneration of public servants under the Financial Emergency Measures in the Public Interest (FEMPI) Act 2009 (as amended). The PRD provisions of the FEMPI Act 2009 have been repealed by section 4 of the PSP&P Act, with effect from 1 January 2019. Tax relief for the PRD is allowed under section 790C TCA by treating the deduction as an expense in computing the amount of income assessable under Schedule E in the year in which it is made. The ASC will therefore be treated in the same manner as PRD for tax relief purposes. This section comes into operation for the year of assessment 2019 and subsequent years of assessment.

*Section 13* makes a number of changes to the Taxes Consolidation Act 1997 to ensure that when employed individuals, who are paid on a weekly or fortnightly basis, have an extra payday in a tax year, commonly referred to as a "Week 53 payday", they will not have an underpayment of tax when their liability is reviewed after the end of the year of assessment. Where this section applies, the deductions and tax credits specified, together with the appropriate standard rate band, will be increased by 1/52. In addition, if the tax exemption provided for in section 188 (age exemption and associated marginal relief) applies, it will also be increased. Where the individual is paid fortnightly, the increase will be 1/26.

## Chapter 4

*Income Tax, Corporation Tax and Capital Gains Tax*

*Section 14* amends section 205A to exempt from taxation payments made to women who were resident in certain adjoining institutions in the Magdalen Restorative Justice Ex-Gratia Scheme in the same manner as such payments made to women who were resident in the Magdalen institutions. The amendment also provides an exemption from tax on any income or capital gains resulting from the investment and/or reinvestment of awards made in relation to the Magdalen institutions.

*Section 15* provides for amendments to the scheme under which accelerated wear and tear allowances are available for capital expenditure incurred on the provision of certain energy-efficient equipment. The amendments will provide for enhanced administrative effectiveness of the scheme. A new definition of energy-efficiency criteria now provides a framework for which criteria can be specified via Statutory Instrument by the Minister for Communications, Climate Action and Environment, on approval of the Minister for Finance. This will allow the SEAI to publish the list of products eligible under the scheme on their website and amend this list as appropriate, based on the new definition and criteria.

*Section 16* provides for a new accelerated capital allowances scheme for capital expenditure incurred on gas propelled vehicles and refuelling equipment used for the purposes of carrying on a trade. A wear and tear allowance is available for capital expenditure incurred between 1 January 2019 and 31 December 2021 at a rate of 100 Per cent.

*Section 17* relates to the scheme of accelerated capital allowances for equipment and buildings used by employers for the purposes of providing childcare services or a fitness centre to employees, introduced in Finance Act 2017 subject to a commencement order. Amendments are being made to ensure that the relief is a general measure available to all employers, and to commence the relief with effect from 1 January 2019. As the Finance Bill 2017 measure was subject to a commencement order (and, in light of that, the amendment from last year as never taken effect), this necessarily involves the repeal of that provision and the re-enactment of the relief in Finance Bill 2018.

The amendments to the scheme are the removal of the restriction on use of the relief by trades consisting wholly or partly of the provision of childcare services or fitness facilities, and the insertion of a new restriction that the facilities provided are not accessible or available for use by the general public.

*Section 18* amends section 438A of the Taxes Consolidation Act 1997. Section 438A is an anti-avoidance provision which extends the scope of the income tax charge under section 438 to loans made by a company which is controlled by, or which subsequently comes under the control of, a close company, where such loans would otherwise not give rise to a charge under section 438. This section inserts a new anti-avoidance provision into section 438A to ensure that certain tax avoidance arrangements, which are not currently caught by the provisions, will fall within the scope of the section 438 charge.

*Section 19* makes a number of amendments in relation to agri-taxation.

*Firstly*, it provides for averaging of farming profits to be availed of by farmers where they, or their spouse or civil partner, carries on another trade or profession or is a director of a company carrying on a trade or profession where they can control more than 25 Per cent of the ordinary share capital of the company. At present, such farmers are not entitled to avail of the income averaging regime.

*Secondly*, it extends the period for which stock relief is available until 31 December 2021. This includes standard stock relief, stock relief for young trained farmers and stock relief for Registered Farm Partnerships.

*Lastly*, it makes two amendments to take account of EU State Aid requirements in relation to stock relief for young trained farmers and Succession Farm Partnerships. It provides that the aggregate amount of relief granted under sections 667B and 667D of the Taxes Consolidation Act 1997 and section 81AA of the Stamp Duties Consolidation Act 1999 may not exceed the ceiling on aid of €70,000 per young trained farmer as required by EU Commission Regulation 702/2014 of 25 June 2014. In addition, it updates the definition of “microenterprise or small enterprise” in line with the EU Commission definition.

*Section 20* extends the 3 year tax relief for start-up companies under section 486C of the Taxes Consolidation Act 1997 to start-up companies which commence a new trade in 2019, 2020 or 2021.

*Section 21* amends section 97(2J) of the Taxes Consolidation Act 1997, to permit residential landlords to deduct from their rental income 100 Per cent of the interest on a loan used to purchase, improve or repair a rented residential premises. For 2018 the permitted deduction was capped at 85 Per cent of such interest and section 97(2J) previously provided for a cap on deductibility of loan interest of 90 Per cent in 2019 and 95 Per cent in 2020. This section takes effect from 1 January 2019.

*Section 22* amends section 216A of the Taxes Consolidation Act 1997 which provides for the exemption of payments up to €14,000 in a year received by individual householders for room rental in their own homes, known as “rent-a-room relief”. The measure is an incentive to increase the supply of residential accommodation for rent. The amendments to s.216A TCA 1997 introduce a minimum rental period of 28 days to expressly exclude short-term lettings from the incentive. The proposal will not affect the application of rent-a-room relief to certain types of shorter term residential accommodation which are not leisure or business related. These include the provision of accommodation for respite care, exchange language students or five day a week digs.

*Section 23* amends Part 16 of the Principal Act, which provides for relief from income tax for investments in corporate trades. Those reliefs are the Employment Investment Incentive (“EII”) and Start-Up Relief for Entrepreneurs (“SURE”). The text of Part 16 of the Principal Act is replaced with a revised, simplified and consolidated text. The new text contains a number of changes to the operation of the schemes, including as follows:

The amendment provides for the Start-up Capital Incentive (“SCI”) to allow tax relief to certain persons who invest in early stage start-up ventures.

It provides that applicant companies can self-certify that they have met the “company conditions” and that if they incorrectly self-certify then the clawback of any relief claimed will be on the company. Companies may apply to Revenue for confirmation that they meet certain Group Block Exemption Regulations criteria. It also provides that investors can self-certify that they have met the “investor conditions” (being those that the investor is in a position to know for themselves). If the investor incorrectly claims relief because of these conditions, then the relief will be clawed back on the investor.

It amends the trigger points in relation to when claims can be made, tying all claims to a requirement to have spent 30 Per cent of the money on a qualifying purpose rather than the various trigger points which currently apply under existing provisions.

It clarifies the qualifying uses to which the funds raised can be put.

It permits preference redeemable shares and prohibits certain other risk reduction tools.

It aligns the definitions of professional services and of an unlisted company with those in s.128F.

It removes restrictions on companies, within 4 years of raising EII shares, quoting on a stock exchange.

It permits designated funds to invest in qualifying companies, even if the investment would not qualify for relief, to diversify the risk profile of the fund; it allows individuals invest in the fund even if they would not qualify for relief; it provides that designated funds do not have to be closed funds (although only investments in closed funds should be available for relief in the year the amounts are subscribed to the fund rather than the year the amount is invested in the company).

It places a reporting obligation on Designated Funds where they are aware that a clawback event has occurred.

The amendment also provides that where an investor invests in a holding company which invests in a qualifying subsidiary, the holding company must return the capital to investors in circumstances where it sells the subsidiary.

Finally, EII, SURE are extended to 31 December 2021 along with the Start-up Capital Incentive (“SCI”).

## Chapter 5

*Corporation Tax*

*Section 24* will give effect to the Budget announcement providing for a four-year extension to section 481 of the Taxes Consolidation Act 1997 (TCA) from the current end date of December 2020 to December 2024. The section also introduces a new, time-limited, tapered regional uplift of 5 Per cent for productions in areas designated under the State aid regional guidelines. This uplift will taper out over a period of 4 years. The uplift will be available at a rate of 5 Per cent in years 1 and 2, 3 Per cent in year 3 and finally 2 Per cent in year four. The introduction of the uplift will be subject to EU approval.

The section also provides for a number of administrative changes to ensure the credit operates in an efficient manner. This includes a provision for the credit moving to a self-assessment based system, an amendment to the application process to allow for the Department of Arts, Heritage and the Gaeltacht to issue a cultural certificate and two amendments to ensure the section 481 remains State aid compliant.

*Section 25* introduces Controlled Foreign Company (CFC) rules as required by Council Directive (EU) 2016/1164 of 12 July 2016 (the Anti-Tax Avoidance Directive or ATAD).

CFC rules are an anti-abuse measure, intended to prevent the diversion of profits from controlling companies in the State to offshore subsidiaries (the CFCs) located in low or no tax jurisdictions. For this purpose a company is considered to have control of a subsidiary where (in broad terms) it has direct or indirect ownership of or entitlement to more than 50 Per cent of the share capital, voting power or distributions.

The rules operate by attributing undistributed income of the CFCs, arising from non-genuine arrangements put in place for the essential purpose of avoiding tax, to the controlling company, or a connected company in the State, for taxation, where the controlling company or the connected company have been carrying out 'significant people functions' (SPFs) in the State. The rules require an analysis as to the extent to which the CFC would hold the assets or bear the risks that it does were it not for the controlling company undertaking the SPFs in relation to those assets and risks.

In line with the ATAD a number of exemptions are provided including exemptions for CFCs with low profits or a low profit margin or where the CFC pays a comparatively higher amount of tax in its territory than it would have paid in the State. A one-year grace period is also allowed in respect of newly-acquired CFCs where certain conditions apply. The CFC rules will not apply where the arrangements under which SPFs performed have been entered into on an arm's length basis or are subject to the Part 35A Transfer Pricing regime.

Unless an exemption applies, the legislation ensures that undistributed income, with an Irish nexus by reference to Irish SPFs, which has been artificially diverted from the State, will fall to be taxed in the State. In order to prevent double taxation, a credit will be available against the CFC charge for foreign tax paid on the same income.

The legislation takes effect for accounting periods of controlling companies beginning on or after 1 January 2019.

*Section 26* makes a technical amendment to section 291A of the Taxes Consolidation Act 1997. The amendment clarifies the operation of the 80 Per cent cap, introduced in Finance Act 2017, on the aggregate amount of capital allowances, and any related interest expense, which may be offset in an accounting period against trading income of the relevant trade in circumstances where a company has incurred capital expenditure on a specified intangible asset or assets both before and on or after 11 October 2017. This amendment is intended to ensure that there can be no doubt as to the correct operation of the relief, as set out in detail in Revenue Guidance issued in January 2018. The amendment applies as and from 11 October 2017, the date from which the 80 Per cent cap applies.

## Chapter 6

*Capital Gains Tax*

*Section 27* amends section 579B of the Taxes Consolidation Act 1997. That section imposes a Capital Gains Tax charge where a trust which is resident in the State becomes non-resident. The Capital Gains Tax charge is based on the market value of the trust assets at the time when the trustees of a settlement become neither resident nor ordinarily resident in the State. The European Court of Justice recently ruled that the UK legislation which corresponds to section 579B was incompatible with freedom of establishment in so far as an immediate payment of Capital Gains Tax was required. Accordingly, section 579B is amended to ensure that it is compatible with EU law by providing that that trustees can opt to pay tax chargeable under the section in instalments over 5 years.

*Section 28* amends section 603A of the Taxes Consolidation Act 1997. That section provides relief from Capital Gains Tax on the transfer of a site by a parent (or both parents simultaneously) to a child of the parents or one of the parents or on the transfer of a site by a civil partner (or both civil partners simultaneously) to a child of either civil partner, where the transfer is to enable the child to construct his or her principal private residence on the site. The area of the site must not exceed 1 acre and the value of the site must not exceed €500,000. The section is amended to allow both a child and his or her spouse/civil partner to avail of the relief. The amendment will apply to disposals made on or after 1 January 2019.

*Section 29* amends section 604B of the Taxes Consolidation Act 1997. That section provides for Capital Gains Tax relief for farm restructuring where the first transaction takes place by 31 December 2019. Individuals who avail of this relief are required to provide certain information to the Revenue Commissioners. The section is amended to ensure that the information is furnished by an individual on a form at the same time as a tax return is submitted by that individual. In addition, the amendment will ensure that the requirement to provide information to the Revenue Commissioners relates to when the entitlement to relief arises rather than the date of the disposal.

*Section 30* substitutes a new Chapter 2 of Part 20 of the Taxes Consolidation Act 1997 for the existing Chapter. It replaces an existing, focussed, anti-avoidance exit provision with a new broad-based exit tax charge, transposing Article 5 of the Anti-Tax Avoidance Directive into Irish tax law.

The new section 627 provides that an exit tax will apply on the occurrence of any of the following events, where such event occurs on or after 10 October 2018:

- where a company transfers assets from its permanent establishment in Ireland to its head office or permanent establishment in another territory,
- where a company transfers the business carried on by its permanent establishment in Ireland to another territory, or
- where an Irish-resident company transfers its residence to another country.

The charge will not apply if the assets of an Irish-resident company continue to be used in Ireland by a permanent establishment of the company after the company migrated. In effect, the new exit tax will tax unrealised capital gains where companies migrate or transfer assets offshore without an actual disposal, such that they leave the scope of Irish tax, by deeming a disposal to have occurred.

The rate of exit tax will be 12.5 Per cent. However, an anti-avoidance provision is included in the legislation to ensure that a rate of 33 Per cent rather than 12.5 Per cent will apply if the event that gives rise to the exit tax charge forms part of a transaction to dispose of the asset and the purpose of the transaction is to ensure that the gain is charged at the lower rate. This is in keeping with the objective of the pre-existing provision that is being replaced, which was designed in response to identified instances of aggressive tax planning involving the actual realisation of gains offshore.

In addition, the new section 629A provides that exit tax in respect of non-resident companies can be recovered from another Irish-resident member of a group or from a controlling director who is resident in Ireland for tax purposes.

In line with the ATAD; the new section 628 contains a provision relating to the base cost of an asset for exit tax purposes where it has transferred in from another Member State; the new section 629 provides for the payment of exit tax to be deferred by paying it in instalments over 5 years in the case of exits to an EU/EEA State; and the new section 627 provides that exit tax will not apply to assets which relate to the financing of securities, assets given as collateral or where the asset transfer takes place to meet prudential capital requirements or for liquidity management, where such assets will revert to the permanent establishment or company within 12 months.

The new Chapter 2 also contains transitional provisions relating to the administration of the pre-existing charge.

## PART 2

## EXCISE

### Chapter 1

*Section 31* amends section 35 of Chapter 1 of Part 2 of the Finance Act 2017. The amendment to the definition of a “sugar sweetened drink” ensures that certain categories of beverages will be subject to sugar sweetened drinks tax where those beverages do not meet a minimum calcium content of 119 milligrams per 100 millilitres. The amendment fulfils the commitment made as part of the formal EU State aid notification process for sugar sweetened drinks tax. The section also makes a technical amendment to section 42(1) of Chapter 1 of Part 2 of the Finance Act 2017 to clarify that the conditions for repayments of sugar sweetened drinks tax for supplies outside the State and for returned goods operate independently of one another.

*Section 32* confirms the Budget increases in the rates of Tobacco Products Tax and Minimum Excise Duty for cigarettes. The Tobacco Products Tax rates 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. Minimum Excise Duty now applies at the rate of duty applicable to a packet of 20 cigarettes sold at €11.00.

*Section 33* provides for an excise duty increase in the rate of betting duty and betting intermediary duty with effect from 1 January 2019. The rate of betting duty is increased from 1 Per cent to 2 Per cent for bookmakers and remote bookmakers. The rate of betting intermediary duty is increased from 15 Per cent to 25 Per cent for remote betting intermediaries.

*Section 34* amends section 130 of the Finance Act 1992 which provides interpretation (definitions) of various terms required for vehicle registration tax purposes in the State. The definition of CO2 emissions is amended to reflect the introduction of new emission measurement systems and to update the legislation references. The section also includes a definition of heavy oil and propellant to facilitate the separation of diesel vehicles for charging purposes.

*Section 35* amends section 132 of the Finance Act 1992 by providing for an increase on diesel passenger cars and light "commercials" that are in VRT Category A by applying a 1 Per cent increase on each of the CO2 bands that are currently applied. Vehicles other than diesel remain at the lower rate. This section also provides that diesel hybrid electric and plug-in hybrids are retained in the lower CO2 bands.

*Section 36* amends section 134 of the Finance Act 1992 by ceasing to make repayments of the Value-Added Tax element of the vehicle registration tax on any cars registered after 1 January 2019, and by ceasing the repayment altogether from 1 April 2019.

*Section 37* amends section 135C of the Finance Act 1992 to extend the VRT relief for Hybrid Electric vehicles until 31 December 2019. The section also provides a reference amendment to ensure that vehicles are eligible for the remission or repayment.

*Section 38* amends section 135D of the Finance Act 1992 by extending the export repayment scheme from EU category M1 vehicles (passenger cars only) to all vehicles registered as Category A vehicles (that is, including EU category N1 "light commercial" vehicles).

*Section 39* introduces a scheme that provides for a proportionate payment of VRT where a vehicle has been leased in another Member State, is brought into the State for the duration of that lease and is then exported from the State. The scheme is limited to passenger cars and light commercials that have been charged at the category A rate, that have never previously been registered in the State, that are subject to a lease of between a minimum of 1 and a maximum of 48 months, that are the subject of a lease that is completed between a State resident and a company established in another Member State that has an Irish Value-Added Tax registration, and that are registered in the name of a person established in the State. There is an obligation to remove the vehicle from the State following the expiry of the lease. If the vehicle is not removed the balance of the VRT will be collected along with an interest charge of approximately 10 Per cent per annum.

## PART 3

## VALUE-ADDED TAX

*Section 40* is a definitions section.

*Section 41* amends section 46(1)(ca) of the Value-Added Tax Consolidation Act 2010 to provide that those goods and services which were previously subject to Value-Added Tax at 9 Per cent will be subject to Value-Added Tax at 13.5 Per cent, except for the provision of sporting facilities and the supply of newspapers and other periodicals. It also provides for the 9 Per cent rate to apply to the supply of electronic publications. This section also inserts a new paragraph 7A into Schedule 3 of the Value-Added Tax Consolidation Act 2010 which defines electronic publications, to include the electronic supply of newspapers, periodicals and books. These measures will take effect from 1 January 2019.

*Section 42* deletes section 94(7)(e) of the Value-Added Tax Consolidation Act 2010 to ensure that the taxation of the sale of a residential property, by the developer or a person connected to the developer, where the developer was entitled to deductibility, continues to apply where a receiver disposes of that property, being an asset of an accountable person.

*Section 43* amends section 104(2) of the Value-Added Tax Consolidation Act 2010 to remove from telephone operators or other accountable persons the possibility of reducing Value-Added Tax already paid on the supply of telephone cards which are used to access a telecommunications service from outside the EU. This measure will take effect from 1 January 2019.

## PART 4

## STAMP DUTIES

*Section 44* is an interpretation section. It provides that in Part 4 the “Principal Act” means the Stamp Duties Consolidation Act 1999.

*Section 45* amends sections 31 and 31A of the Stamp Duties Consolidation Act 1999. These sections impose a stamp duty charge in certain circumstances at the stage when an agreement or contract is signed and then provide a ‘credit’ for the stamp duty paid if there is a subsequent conveyance or transfer on sale. Instead of transferring the stamp duty paid on the contract to the later executed instrument of conveyance or transfer, Revenue will issue a stamp certificate stating that the later instrument is not chargeable with stamp duty.

*Section 46* amends sections 81AA and 81C of the Stamp Duties Consolidation Act 1999 in relation to stamp duty reliefs for transfers of farmland.

Paragraph (a) of subsection (1) amends section 81AA. Subparagraph (i) inserts a definition of “EU Regulation” as referring to “Commission Regulation (EU) No. 702/2014 of 25 Jun 2014” in relation to EU State aid rules governing aid given to the agricultural and forestry sectors. The reference to “EU Regulation” is then used in the amended subsections (7A), (8) and (11).

Subparagraph (ii) inserts a new subsection (7A) to impose an aggregate limit of €70,000 on the amount of State aid that may be granted to a farmer under this section and sections 667B (stock relief) and 667D (succession farm partnerships) of the Taxes Consolidation Act 1997. This limit is specified in article 18 of the EU Regulation to which these three tax reliefs are subject.

Subparagraph (iii) amends paragraph (c) in subsection (8) to correct an incorrect reference to the EU Regulation. The reference to medium-size enterprise is incorrect and is being removed to leave the reference to micro and small-size enterprises only. Tax relief is restricted to these size enterprises.

Subparagraph (iv) amends subsection (11) in relation to the qualifying conditions applying to a person who achieves the relevant agricultural qualification to be treated as a ‘young trained farmer’ after the date of execution of the instrument transferring the land and who can claim a repayment of stamp duty. Clause (I) amends paragraph (c) to require that such a person must submit a business plan to Teagasc and come within the EU Regulation meaning of micro or small-size enterprise before a repayment of stamp duty can be claimed. Clause (II), as a consequence of restructuring paragraph (c), transfers the provision about claiming a repayment of stamp duty (formerly part of paragraph (c)) to a new stand-alone paragraph (d).

Subparagraph (v) amends subsection (12) in relation to the clawback of stamp duty that happens when land is disposed of within the 5-year period following the execution of the instrument transferring the land. Paragraphs (e) and (f) are being deleted to remove outdated references to the imposition of penalties in relation to the provision of an incorrect declaration or certificate. The requirement to submit these declarations or certificates (previously contained in subsections (8) and (11)) was removed by Finance Act 2012 but the consequential deletion of paragraphs (e) and (f) was inadvertently overlooked at the time.

Subparagraph (vi) makes consequential amendments to subsection (13) arising from the deletion of paragraphs (e) and (f) in subsection (12). This involves the deletion of paragraphs (b), (c) and (d) of subsection (13) to limit the penalties/clawbacks that can arise under subsection (12).

Subparagraph (vii) amends subsection (16) to extend the period for which the stamp duty relief will apply for an additional three years. Subject to a Commencement Order, the relief will apply to conveyances executed on or before 31 December 2021 instead of 31 December 2018.

Paragraph (b) of subsection (1) makes some technical amendments to section 81C in relation to stamp relief for farm consolidation to take account of the introduction of self-assessment in 2012. Finance Act 2012 removed the requirement in the Stamp Duties Consolidation Act 1999 for a person claiming tax relief to provide various certificates and declarations. However, as relief was not available under section 81C at the time, this section was not amended in line with other sections. The need to make the amendments has come to light with the reintroduction of farm consolidation relief in Finance Act 2017.

Subparagraph (i) deletes subsection (7) to remove the requirement for the inclusion of a certificate in an instrument to the effect that a person is entitled to farm consolidation relief. Subparagraph (ii) makes a consequential amendment to subsection (9) arising from the deletion of subsection (7) by deleting paragraph (c) to remove a penalty for the provision of an incorrect certificate under subsection (7). Subparagraph (iii) amends subsection (10)(b) to remove the reference to a penalty arising under subsection (9)(c) and to delete paragraphs (c) and (d) which refer to penalties arising under subsection (9)(c).

Subsection (2) makes the extension of the relief in section 81AA for an additional three years (provided for by subsection (1)(a)(vii)) subject to commencement by Ministerial Order.

*Section 47* amends section 159A of the Stamp Duties Consolidation Act 1999 to provide a taxpayer with a right of appeal to the Appeal Commissioners against a decision made by Revenue in relation to a claim for a repayment of stamp duty. This is required for the purposes of making a valid appeal under section 949J of the Taxes Consolidation Act 1997.

## PART 5

## CAPITAL ACQUISITIONS TAX

*Section 48* is an interpretation section. It provides that, in Part 5, the Principal Act means the Capital Acquisitions Tax Consolidation Act 2003.

*Section 49* provides for the making of miscellaneous amendments (contained in Schedule 1 to this Bill) to the Capital Acquisitions Tax Consolidation Act 2003.

*Section 50* amends section 86 of the Capital Acquisitions Tax Consolidation Act 2003 which provides for an exemption from inheritance tax in respect of certain dwelling houses. Subsection (2)(c) of that section disallows the exemption where a successor has a beneficial interest in another dwelling house at the date of the inheritance. The amendment ensures that, at the date of an inheritance, successors will be deemed to have a beneficial interest in a dwelling house that is subject to a discretionary trust that they have established and where the trust property may be applied for their benefit.

*Section 51* amends Schedule 2 to the Capital Acquisitions Tax Consolidation Act 2003. That Schedule deals with the computation of gift tax and inheritance tax. The amendment gives effect to the Budget announcement to increase the Group A tax-free threshold from €310,000 to €320,000. This is the group threshold that applies primarily to gifts and inheritances from parents to their children. The increased threshold applies to gifts and inheritances taken on or after 10 October 2018.

## PART 6

## MISCELLANEOUS

*Section 52* contains a definition of “Principal Act” (i.e. the Taxes Consolidation Act 1997) for the purposes of Part 6 of the Bill.

*Section 53* makes several amendments in relation to the tax appeal procedures contained in Part 40A of the Taxes Consolidation Act 1997 to facilitate improvements to the tax appeals process.

Paragraph (d) deletes section 949AG to ensure that its application does not have unintended consequences and impose an additional and inappropriate administrative burden on the Tax Appeals Commission and on Revenue. Paragraph (a) is a consequential amendment resulting from the deletion of subsection 949AG by paragraph (d). It involves the re-insertion of an unchanged paragraph (c) in section 669(5) (valuation of farm trading stock) of the Taxes Consolidation Act 1997 following its removal by the Finance (Tax Appeals) Act 2015 in connection with the enactment of section 949AG.

Paragraph (b) amends section 949P(1) to correct an incorrect cross-reference.

Paragraph (c) amends section 949Q by deleting paragraphs (d) and (e) so that certain detailed information is no longer routinely requested at the very early stages of an appeal.

Paragraph (e) amends section 949AN to clarify the authority given to the Appeal Commissioners to determine a new appeal on the basis of a previous determination involving a similar or related matter without the need to hold a new hearing.

*Section 54* 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 a relief from income tax or corporation tax provided for by section 667C of the Taxes Consolidation Act 1997 regarding registered farm partnerships. 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) in the agricultural sector.

*Section 55* amends section 858 of the Taxes Consolidation Act 1997, which provides for an identity card which is acceptable as evidence of a Revenue officer’s authorisation for the purposes of specified provisions of tax and customs legislation. The amendment replaces the reference in the current section to the European Communities (Intrastat) Regulations, 1993 (S.I. No. 136 of 1993) with a reference to its successor provision, the European Communities (Intrastat) Regulations 2011, (S.I. 610 of 2011). The purpose of the Intrastat Regulations is to grant Revenue officials power to obtain information on the trade in goods between EU countries for the production of statistics and other purposes.

*Section 56* makes a number of changes to the Taxes Consolidation Act 1997 arising from the Pay As You Earn (PAYE) Modernisation Programme that has been undertaken by Revenue. A modernised and updated real-time system for the administration of PAYE will operate from 1 January 2019. The main legislative amendments, which will facilitate this new system, were included in section 77 and Schedule 1 of Finance Act 2017. The changes in this Bill are the remaining technical changes required for the new system to operate effectively and consist of (i) updates to the references to the Income Tax Regulations which underpin the operation of PAYE on income; (ii) insertion of an obligation on an employer to file a monthly Universal Social Charge return, in line with the current requirement to file an income tax return; (iii) updating of the pension reporting provisions to include the ASC (Additional Superannuation Contribution) which will be payable by public servants from their pensionable pay in accordance with Part 4 of the Public Service Pay and Pensions (PSP&P) Act 2017 with effect from 1 January 2019; and (iv) confirmation that re-grossed income under section 986A is chargeable on the employee as Schedule E (employment) income, thereby allowing the employee to get the benefit of the tax already deducted.

*Section 57* amends section 959AA of the Taxes Consolidation Act 1997, which provides for time limits on assessments made or amended by a Revenue officer. The amendment allows for the making and amending of assessments outside the four-year time limit in the case of bilateral Mutual Agreement Procedures (MAP) reached between the competent authority of Ireland and a competent authority of another jurisdiction with which Ireland has a Double Taxation Agreement. The amendment removes any possible time limit restrictions that may apply to MAPs and implements the standards agreed under the OECD Base Erosion and Profit Sharing project.

*Section 58* makes a number of amendments to certain tax exemption provisions in Part 7, Part 26, Part 27, Schedule 4 and Schedule 15 of the Taxes Consolidation Act 1997. The details are as follows:

Paragraphs (a), (c) and (d) of subsection 1 relate to the Motor Insurers Insolvency Compensation Fund, as established by section 3D of the Insurance Act 1964 to fund payments to claimants in the event that a motor insurer is liquidated;

Paragraph (a) provides that a new section 218A is to be inserted in Part 7 to provide for an exemption from tax on income which would otherwise be chargeable to tax under cases III or IV of Schedule D, on income arising to the Motor Insurers Bureau of Ireland (the Bureau) from investments made by it of moneys paid to the Fund;

Paragraphs (c) and (d) amend sections 730D and 739D to provide that, in relation to investments held by the Bureau in the fund in domestic life assurance policies and investment undertakings, a gain shall not arise on the happening of a chargeable event and therefore no exit tax will be deducted by the life assurance company or investment undertaking;

Paragraph (b) amends section 220 to include Limerick Twenty Thirty Strategic Development DAC in the list of bodies corporate that are exempt from corporation tax. This body is a 100 Per cent subsidiary of Limerick City and County Council which, in line with all local authorities, is exempt from corporation tax;

Paragraph (e) amends Schedule 4 to include the National Transport Authority, Sport Ireland, the Child and Family Agency and the Western Development Commission 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; and

Paragraph (f) amends Part 1 of Schedule 15 to include Limerick Twenty Thirty Strategic Development DAC and the National Transport Authority in the list of bodies that may avail of an exemption from tax on chargeable gains under section 610 of the Taxes Consolidation Act 1997.

These bodies are non-profit making and/or are being made exempt from taxation in order to avoid circular payments in and out of the Exchequer. The exemptions are to take effect from the dates of establishment.

*Section 59 and Schedule 2* provide for technical amendments to the—

- Taxes Consolidation Act 1997 (paragraph 1),
- Value-Added Tax Consolidation Act 2010 (paragraph 2),
- Finance Act 1992 (paragraph 3), and
- Finance Act 2001 (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.

The schedule also amends Schedule 13 of the Taxes Consolidation Act 1997, by removing from the list six entities that are no longer accountable persons required to operate Professional Services Withholding Tax, by adding four entities that are now accountable persons and by amending the names of four entities. Paragraph 5 contains the commencement provisions relating to paragraphs 1 to 4 above.

*Section 60* deals with the "care and management" of taxes and duties.

*Section 61* contains provisions relating to the short title, construction and commencement of the Bill.

## SCHEDULE 1

## AMENDMENTS TO CAPITAL ACQUISITIONS TAX CONSOLIDATION ACT 2003

*Schedule 1* makes several amendments to the Capital Acquisitions Tax Consolidation Act 2003.

Paragraph (a) amends section 46(7A) in relation to the standard 4 year time limit, following the receipt of a return, allowed for Revenue officers to make enquiries and authorise inspections. The amendment inserts a different commencement date for the 4 year period in circumstances where certain conditions attaching to a relief must be satisfied. Where conditions for a relief must be satisfied for a specified period after the relief is claimed, the 4 year period commences on the latest date on which all the conditions were required to be satisfied.

Paragraph (b) amends section 53A which provides for a surcharge in the case of the late filing of returns. The definition of "specified return date" in subsection (1) is expanded to include the return filing date for discretionary trust tax returns which is the last day of the 4 month period after the valuation date (set out in section 46(2C)). This will ensure that a surcharge can be applied where discretionary trust tax returns are not filed on time.

Paragraph (c) inserts a new section 67A in relation to the due date for the payment of outstanding Capital Acquisitions Tax following the determination of an appeal by the Appeal Commissioners. Such tax is due and payable on the original due date for the appealed assessment unless the tax paid before the appeal was made is at least 90 Per cent of the tax determined to be due, in which case the outstanding tax is due and payable one month after the date of the determination.

Paragraph (d) amends section 90 which provides for relief from Capital Acquisitions Tax in respect of gifts and inheritances of certain business property. Some of the definitions in subsection (1) refer to the repealed Companies Act 1963 and the Companies (Amendment) Act 1986 and are being updated to take account of the Companies Act 2014.

Paragraph (e) amends section 104 in relation to the credit given for Capital Gains Tax already paid against Capital Acquisitions Tax payable on the same asset in connection with the same event. A new subsection (3A) disapplies the usual clawback of the credit where the asset is disposed of within two years after the date of the gift or the inheritance in the case of a life assurance policy that must be cashed in and cannot be retained for the two year period.

*An Roinn Airgeadais,*
*Deireadh Fómhair*, 2018.

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