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**An Bille Airgeadais (Uimh. 2), 2023**  
**Finance (No. 2) Bill 2023**

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*Mar a leasáiodh sa Roghchoiste um Airgeadas, Caiteachas Poiblí agus Athchóiriú, agus an Taoiseach*  
*As amended in the Select Committee on Finance, Public Expenditure and Reform, and Taoiseach*

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Energy (Windfall Gains in the Energy Sector) (Temporary Solidarity Contribution) Act 2023 (No. 23)  
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Ministers and Secretaries (Amendment) Act 2011 (No. 10)  
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Planning and Development Acts 2000 to 2022  
Provisional Collection of Taxes Act, 1927  
Residential Tenancies Act 2004 (No. 27)  
Social Welfare Consolidation Act 2005 (No. 26)  
Stamp Duties Consolidation Act 1999 (No. 31)  
Succession Act 1965 (No. 27)  
Taxes Consolidation Act 1997 (No. 39)  
The Institution of Civil Engineers of Ireland (Charter Amendment) Act, 1969  
Value-Added Tax Consolidation Act 2010 (No. 31)





AN BILLE AIRGEADAIS (UIMH. 2), 2023  
FINANCE (NO. 2) BILL 2023

# Bill

*entitled*

An Act to provide for the imposition, repeal, remission, alteration and regulation of taxation, of stamp duties and of duties relating to excise and otherwise to make further provision in connection with finance; and to provide for related matters. 5

**Be it enacted by the Oireachtas as follows:**

## PART 1

UNIVERSAL SOCIAL CHARGE, INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX 10

### CHAPTER 1

#### *Interpretation*

#### **Interpretation (*Part 1*)**

1. In this Part, “Principal Act” means the Taxes Consolidation Act 1997.

CHAPTER 2 15

#### *Universal Social Charge*

#### **Amendment of section 531AN of Principal Act (rate of charge)**

2. (1) Section 531AN of the Principal Act is amended—

- (a) in subsection (3), by the substitution of “€25,760” for “€22,920”,
- (b) in subsection (4), by the substitution of “2026” for “2024”, and 20
- (c) by the substitution of the following for Part 1 of the Table to that section:

“Part 1

Part of aggregate income (1)	Rate of universal social charge (2)
The first €12,012	0.5 per cent
The next €13,748	2 per cent

25

The next €44,284	4 per cent
The remainder	8 per cent

”.

- (2) *Subsection (1)* applies for the year of assessment 2024 and each subsequent year of assessment. 5

### CHAPTER 3

#### *Income Tax*

#### **Exemption in respect of Clinical Placement Allowance**

3. Chapter 1 of Part 7 of the Principal Act is amended by the insertion of the following section after section 192N: 10

“192O. (1) In this section—

‘Act of 2011’ means the Nurses and Midwives Act 2011;

‘qualifying course’ means an undergraduate programme in nursing or midwifery approved by the Nursing and Midwifery Board of Ireland under section 85(2) of the Act of 2011; 15

‘qualifying payment’ means a payment, generally referred to and commonly known as a Clinical Placement Allowance, which is made periodically by or on behalf of the Minister for Health;

‘qualifying student’ means an undergraduate student who is registered in the candidate register maintained by the Nursing and Midwifery Board of Ireland under section 46 of the Act of 2011 and who is undertaking what is generally referred to and commonly known as a Supernumerary Clinical Placement as part of a qualifying course. 20

- (2) A qualifying payment made to a qualifying student on or after 1 January 2024 shall be exempt from income tax and shall not be reckoned in computing the total income of the qualifying student for the purposes of the Income Tax Acts. 25

- (3) A qualifying payment which is made to a qualifying student before 1 January 2024 shall be treated as if it were exempt from income tax in the year of assessment to which it relates and shall not be reckoned in computing the total income of the qualifying student for that year of assessment for the purposes of the Income Tax Acts. 30

- (4) A qualifying payment shall be deemed not to be a payment to which Chapter 4 of Part 42 applies.”.

#### **Exemption in respect of allowance for maternity-related administrative support** 35

4. Chapter 1 of Part 7 of the Principal Act is amended by the insertion of the following section after section 192O:

“192P. (1) In this section—

‘qualifying individual’ means a member of a local authority (within the meaning of the Local Government Act 2001) who is entitled to the benefit of a qualifying payment;

‘qualifying payment’ means an allowance paid, by or on behalf of the Minister for Housing, Local Government and Heritage, to a qualifying individual of maternity-related administrative support (within the meaning of the Regulations of 2023) subject to and in accordance with the Regulations of 2023; 5

‘Regulations of 2023’ means the Local Government Act 2001 (Section 142) (Allowance for Maternity-Related Administrative Support) Regulations 2023 (S.I. No. 404 of 2023). 10

- (2) A qualifying payment which is made to a qualifying individual on or after 1 January 2023 shall be exempt from income tax and shall not be reckoned in computing the total income of the qualifying individual for the purposes of the Income Tax Acts. 15
- (3) A qualifying payment shall be deemed not to be a payment to which Chapter 4 of Part 42 applies.”.

#### **Time limits for certain assessments and repayments**

5. (1) Section 531AOA of the Principal Act is amended by the insertion of the following subsections after subsection (5): 20
- “(6) (a) Where an employer makes a return under subsection (2) after the expiry of a period of 4 years commencing at the end of the year of assessment in which the income tax month falls, that employer shall not be entitled in the case of a repayment referred to in Regulation 4 of the Universal Social Charge Regulations 2018 (S.I. No. 510 of 2018) to be paid it, or given credit for it, by the Revenue Commissioners. 25
- (b) Notwithstanding paragraph (a), where, in a return made by an employer under subsection (2), the amount the employer is liable to pay pursuant to Regulation 4 of the Universal Social Charge Regulations 2018 (S.I. No. 510 of 2018) exceeds the amount of a repayment pursuant to the said Regulation 4 then credit may be given by the Revenue Commissioners against the amount the employer is liable to pay in that return. 30
- (7) Where, in relation to a return made under subsection (2) which includes a repayment, the Revenue Commissioners are of the opinion that the requirements of this section have not been met, they shall decide to refuse the repayment and shall notify the employer in writing of the decision and the reasons for it. 35
- (8) A person aggrieved by a decision of the Revenue Commissioners in relation to subsection (7) may appeal the decision to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of the notice of that decision.”. 40

- (2) Section 984B of the Principal Act is amended by the insertion of “subject to subsections (6A) and (6B) of section 985G,” after “and shall.”
- (3) Section 985G of the Principal Act is amended by the insertion of the following subsections after subsection (6):
- “(6A) (a) Where an employer makes a return under subsection (3)(a) after the expiry of a period of 4 years commencing at the end of the year of assessment in which the income tax month falls, that employer shall not be entitled in the case of a repayment referred to in section 984B to be paid it, or be given credit for it, by the Revenue Commissioners. 5 10
- (b) Notwithstanding paragraph (a), where, in a return made by an employer under subsection (3)(a), the amount the employer is liable to pay pursuant to section 984B exceeds the amount of a repayment pursuant to section 984B then credit may be given by the Revenue Commissioners against the amount the employer is liable to pay in that return. 15
- (6B) Where, in relation to a return made under subsection (3)(a) which includes a repayment, the Revenue Commissioners are of the opinion that the requirements of this section have not been met, they shall decide to refuse the repayment and shall notify the employer in writing of the decision and the reasons for it. 20
- (6C) A person aggrieved by a decision of the Revenue Commissioners in relation to subsection (6B) may appeal the decision to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of the notice of that decision.”. 25
- (4) Section 990 of the Principal Act is amended by the insertion of the following subsections after subsection (4):
- “(5) Subject to subsections (6), (7) and (8), an inspector or other officer shall not, in respect of a return made by an employer for an income tax month, make— 30
- (a) an assessment under subsection (1), or
- (b) an amendment of an assessment under subsection (2),
- after the expiry of a period of 4 years commencing at the end of the year following the year of assessment in which the income tax month falls. 35
- (6) Nothing in subsection (5) shall prevent an inspector or other officer from, at any time, making or amending an assessment for an income tax month in order to—
- (a) give effect to—
- (i) a determination of an appeal against an assessment, 40
- (ii) a determination of an appeal, other than one made under subparagraph (i), that affects the amount of tax charged by an

- assessment, or
- (iii) an agreement within the meaning of section 949V,
  - (b) take account of any fact or matter arising by reason of an event occurring after the return is made,
  - (c) correct an error in calculation in the assessment, or 5
  - (d) correct a mistake of fact whereby any matter in the assessment does not properly reflect the facts disclosed by the employer,  
and tax shall be paid or repaid (notwithstanding any limitation in subsection (6A) of section 985G or subsection (6) of section 531AOA) where appropriate in accordance with any such amendment. 10
  - (7) Notwithstanding subsection (5) and any limitation in the Tax Acts on the period within which a claim for relief from tax is required to be made, an inspector or other officer may, at any time, make or amend an assessment for an income tax month to give effect to a mutual agreement reached, under an arrangement having the force of law by virtue of section 826(1), between the competent authority of the State and a competent authority of another jurisdiction and tax shall be paid or repaid (notwithstanding any limitation in subsection (6A) of section 985G or subsection (6) of section 531AOA) where appropriate in accordance with any such assessment or amended assessment. 15  
20
  - (8) (a) Notwithstanding subsection (5), an inspector or other officer may, at any time, make or amend an assessment for an income tax month where he or she has reasonable grounds for believing that any form of fraud or neglect has been committed by or on behalf of an employer in connection with or in relation to tax due under this Chapter. 25
  - (b) In this subsection, ‘neglect’ has the same meaning as it has in section 959AD and subsection (2) of that section shall apply accordingly.”.
  - (5) Section 997 of the Principal Act is amended, in subsection (1A), by the substitution of “959AB, 959AC and 959AD” for “959AB and 959AD”. 30
  - (6) *Subsections (1), (2) and (3)* shall apply in respect of returns made for income tax months commencing on or after 1 January 2019.

**Amendment of section 477C of Principal Act (Help to Buy)**

- 6. (1) Section 477C of the Principal Act is amended— 35
  - (a) in subsection (1), by—
    - (i) the insertion of the following definition:

“ ‘affordable dwelling contribution’ shall be construed in accordance with section 12(2) of the Act of 2021;”,
    - (ii) the substitution of the following definition for the definition of “loan-to-value 40

ratio”:

“ ‘loan-to-value ratio’ means—

(a) in the case of a contract referred to in subsection (3)(a) that was entered into before 11 October 2023, the amount of the qualifying loan as a proportion of the purchase value of the qualifying residence, and 5

(b) in all other cases, the amount that is the aggregate of—

(i) the amount of the qualifying loan, and

(ii) in the case of a qualifying residence, the amount of the affordable dwelling contribution, if any, in respect of the qualifying residence, 10

as a proportion of the purchase value of the qualifying residence or the self-build qualifying residence, as the case may be;”,

and

(iii) in the definition of “qualifying period”, the substitution of “2025” for “2024”, 15

(b) in subsection (5A), by the substitution of “2025” for “2024”,

(c) in subsection (8)(b), by the substitution of “2025” for “2024”,

(d) in subsection (12)(a), by the insertion of the following subparagraphs after subparagraph (viii):

“(viiia) the amount of the affordable dwelling contribution, if any, in respect of the qualifying residence, 20

(viiib) evidence of the affordable dwelling purchase arrangement (within the meaning of section 12 of the Act of 2021), if any, entered into, in respect of the qualifying residence.”,

(e) in subsection (16)(a), in subparagraphs (ii) and (iii), by the substitution of “2025” for “2024” in each place where it occurs, and 25

(f) in subsection (25), by the substitution of “2025” for “2024”.

(2) *Paragraphs (a)(i) and (ii) and (d) of subsection (1) shall have effect on and from 11 October 2023.*

**Amendment of section 121 of Principal Act (Benefit of use of car) 30**

7. Section 121 of the Principal Act is amended, in subsection (4A)—

(a) in paragraph (aa)—

(i) in subparagraph (ii), by the substitution of “subject to paragraph (ab), “€35,000” for “€20,000”,

(ii) in subparagraph (iii)— 35

(I) by the substitution of “€35,000” for “€10,000”, and

(II) by the substitution of “December 2025;” for “December 2025.”,

and

(iii) by the insertion of the following subparagraphs after subparagraph (iii):

“(iv) €20,000 in respect of a car made available in the period 1  
January 2026 to 31 December 2026;

(v) €10,000 in respect of a car made available in the period 1 5  
January 2027 to 31 December 2027.”,

(b) in paragraph (ab)—

(i) by the substitution of “years of assessment 2023 and 2024” for “year of  
assessment 2023”, and

(ii) in subparagraph (i)— 10

(I) by the substitution of “subparagraph (i) or (ii), as the case may be, of  
paragraph (aa)” for “paragraph (aa)(i)”, and

(II) in clause (I), by the substitution of “subparagraph (i) or (ii), as the case  
may be, of paragraph (aa)” for “paragraph (aa)(i)”,

and 15

(c) in paragraph (ba), by the substitution of “years of assessment 2023 and 2024” for  
“year of assessment 2023”.

#### **Amendment of section 121A of Principal Act (Benefit of use of van)**

**8.** Section 121A of the Principal Act is amended, in paragraph (b) of subsection (2)—

(a) in subparagraph (vii)— 20

(i) in clause (II), by the substitution of “subject to subparagraph (viii), €35,000”  
for “€20,000”,

(ii) in clause (III)—

(I) by the substitution of “€35,000” for “€10,000”, and

(II) by the substitution of “December 2025;” for “December 2025, and”, 25

and

(iii) by the insertion of the following clauses after clause (III):

“(IV) €20,000 in respect of a van made available in the period 1  
January 2026 to 31 December 2026;

(V) €10,000 in respect of a van made available in the period 1 30  
January 2027 to 31 December 2027, and”,

and

(b) in subparagraph (viii)—

(i) by the substitution of “years of assessment 2023 and 2024” for “year of  
assessment 2023”, and 35

(ii) in clause (I)—

- (I) by the substitution of “clause (I) or (II), as the case may be, of subparagraph (vii) applies” for “subparagraph (vii)(I) applies”, and
- (II) in subclause (A), by the substitution of “clause (I) or (II), as the case may be, of subparagraph (vii)” for “subparagraph (vii)(I)”.

**Rate of charge and personal tax credits**

5

9. As respects the year of assessment 2024 and subsequent years of assessment, the Principal Act is amended—

(a) in section 15—

(i) in paragraph (i) of subsection (3), by the substitution of “€33,000” for “€31,000”, and

10

(ii) by the substitution of the following Table for the Table to that section:

“TABLE

PART 1

Part of taxable income (1)	Rate of tax (2)	Description of rate (3)
The first €42,000	20 per cent	the standard rate
The remainder	40 per cent	the higher rate

15

PART 2

Part of taxable income (1)	Rate of tax (2)	Description of rate (3)
The first €46,000	20 per cent	the standard rate
The remainder	40 per cent	the higher rate

20

PART 3

Part of taxable income (1)	Rate of tax (2)	Description of rate (3)
The first €51,000	20 per cent	the standard rate
The remainder	40 per cent	the higher rate

25

(b) in section 461—

(i) in paragraph (a), by the substitution of “€3,750” for “€3,550”,

30

(ii) in paragraph (b), by the substitution of “€3,750” for “€3,550”, and

(iii) in paragraph (c), by the substitution of “€1,875” for “€1,775”,

(c) in section 462B, in subsection (3), by the substitution of “€1,750” for “€1,650”,

(d) in section 465, in subsection (1), by the substitution of “€3,500” for “€3,300”,

(e) in section 466A, in subsection (2), by the substitution of “€1,800” for “€1,700”,

35

(f) in section 472, in subsection (4), by the substitution of “€1,875” for “€1,775” in



each place where it occurs, and

(g) in section 472AB—

(i) in subsection (2), by the substitution of “€1,875” for “€1,775” in each place where it occurs, and

(ii) in subsection (3), by the substitution of “€1,875” for “€1,775” in each place where it occurs. 5

**Amendment of section 472BB of Principal Act (sea-going naval personnel credit)**

10. Section 472BB of the Principal Act is amended, in subsection (3), by the substitution of “, 2023 or 2024” for “or 2023”.

**Amendment of section 473B of Principal Act (Rent tax credit)**

10

11. (1) Section 473B of the Principal Act is amended—

(a) by the insertion of the following subsection after subsection (6):

“(6A) Notwithstanding anything in this section, where, in respect of a year of assessment—

(a) an individual is entitled, in respect of a residential property, to an allowance to which subsection (1), (1A) or (1B) of section 836 applies, or 15

(b) an individual is allowed, in accordance with section 836(2), a deduction under section 114 in respect of expenses in maintaining a residential property, 20

this section shall not apply to a qualifying payment made in that year in respect of that residential property.”,

(b) by the substitution of the following subsection for subsection (8):

“(8) Where—

(a) a claimant, or 25

(b) in a case where subsection (4) applies, a claimant's spouse or civil partner,

proves that he or she made a qualifying payment in respect of a residential property used by his or her child as his or her principal private residence the claimant shall, upon making a claim in that regard, be entitled to the same rent tax credit as if the qualifying payment was made in respect of a residential property which was used by the claimant as his or her own principal private residence where— 30

(i) neither the individual nor the child is a relative of the landlord,

(ii) the child was undertaking an approved course and using the property to facilitate his or her participation in that course during the period to which the qualifying payment relates, and 35

- (iii) in the case of a tenancy which is required to be registered under Part 7 of the Residential Tenancies Act 2004, the tenancy complies with that requirement.”,
- and
- (c) in subsection (13)— 5
  - (i) by the substitution of “€750” for “€500”, and
  - (ii) by the substitution of “€1,500” for “€1,000”.
- (2) *Paragraph (b) of subsection (1)* shall be deemed to have come into operation on 1 January 2022.

**Taxation of rights to acquire shares or other assets** 10

**12. The Principal Act is amended—**

- (a) in section 128—
  - (i) in subsection (2A), by the substitution of “Notwithstanding any other provision of the Tax Acts and subject to subsection (2B), where a person” for “Notwithstanding any other provision of the Tax Acts, where a person”, and 15
  - (ii) by the insertion of the following subsection after subsection (2A):
    - “(2B) Where a gain is realised by the exercise of, or by the assignment or release of, a right on or after 1 January 2024 and a charge to tax arises under this section, Chapter 4 of Part 42 shall apply in respect of the gain.”, 20
- (b) in section 128B(1), by the substitution of “on or after 30 June 2003 and before 1 January 2024,” for “on or after 30 June 2003,”,
- (c) in section 531AO(1A)—
  - (i) in paragraph (a), by the deletion of “or”,
  - (ii) in paragraph (b), by the substitution of “Schedule 12A, or” for “Schedule 12A”, and 25
  - (iii) by the insertion of the following paragraph after paragraph (b):
    - “(c) an employee realises a gain by the exercise of, or by the assignment or release of, a right on or after 1 January 2024 which is chargeable to tax by virtue of section 128,”, 30
- (d) in section 959AB, by the substitution of the following subsection for subsection (3):
  - “(3) The emoluments to which this subsection applies are—
    - (a) emoluments within the meaning of section 112(2), including any payments chargeable to tax by virtue of section 123 and any sums which by virtue of Chapter 3 of Part 5 are to be treated as perquisites of a person’s office or employment, being emoluments, payments or sums other than those taken into account in an 35

assessment to income tax for the year of assessment in which they are received and, for the purposes of subsection (2)—

(i) any such payment shall, notwithstanding anything in section 123(4), be treated as having been received at the time it was actually received, and 5

(ii) any such sums which are not actually paid to that person shall be treated as having been received at the time when the relevant expenses were incurred or are treated for the purposes of Chapter 3 of Part 5 as having been incurred,

and 10

(b) a gain realised by the exercise of, or by the assignment or release of, a right on or after 1 January 2024 which is chargeable to tax by virtue of section 128.”,

and

(e) in section 985A— 15

(i) in subsection (1)—

(I) in paragraph (b), by the deletion of “and”,

(II) in paragraph (c), by the substitution of “section 121A, and” for “section 121A.”, and

(III) by the insertion of the following paragraph after paragraph (c): 20

“(d) a gain realised by the exercise of, or by the assignment or release of, a right on or after 1 January 2024 which is chargeable to tax by virtue of section 128.”,

and

(ii) by the substitution of the following subsection for subsection (3): 25

“(3) The amount referred to in this subsection is—

(a) in respect of the emoluments referred to in paragraphs (a), (b) and (c) of subsection (1), the amount which, on the basis of the best estimate that can reasonably be made, is the amount of income likely to be chargeable to tax under Schedule E in respect of the emolument concerned, and 30

(b) in respect of the emolument referred to in paragraph (d) of subsection (1), the gain chargeable to tax under Schedule E as calculated by reference to section 128(4).”.

**Mortgage interest tax relief** 35

**13.** The Principal Act is amended—

(a) in section 458, in Part 2 of the Table, by the insertion of “Section 473C” after “Section 473B”, and

(b) by the insertion of the following section after section 473B:

**“Mortgage interest tax relief**

**473C. (1)** In this section—

‘appropriate percentage’, in relation to a year of assessment, means a percentage equal to the standard rate of tax for that year; 5

‘claimant’ has the meaning given to it by subsection (2);

‘credit information provider’ has the meaning given to it by section 2 of the Credit Reporting Act 2013;

‘dependent relative’, in relation to an individual, means any of the persons mentioned in paragraph (a) or (b) of subsection (2), or in paragraph (a) or (b) of subsection (2A), of section 466 in respect of whom the individual is entitled to a tax credit under that section; 10

‘loan’ means any loan or advance or any other arrangement whatever by virtue of which interest is paid or payable;

‘local property tax number’ means the unique identification number assigned to a residential property by the Revenue Commissioners under section 27 of the Finance (Local Property Tax) Act 2012; 15

‘mortgage interest tax credit’ has the meaning given to it by subsection (2);

‘personal representative’ has the same meaning as in section 799; 20

‘PPS Number’, in relation to an individual, means the individual’s Personal Public Service Number within the meaning of section 262 of the Social Welfare Consolidation Act 2005;

‘qualifying interest’ in relation to an individual, means the total amount of interest falling due in a year of assessment, and paid in that year of assessment, where such interest has been paid in respect of a qualifying loan; 25

‘qualifying lender’ means a credit information provider;

“qualifying loan”, in relation to an individual and a qualifying property, means a loan or loans from a qualifying lender which, without being used for any other purpose, is or are used by the individual solely for the purpose of defraying money employed in the purchase, repair, development or improvement of the qualifying property or in paying off another loan or loans used for such purpose, and is or are secured by the mortgage of freehold or leasehold estate or interest in that qualifying property, and the amount of the aggregate of the balance remaining unpaid on the loan or loans in respect of that qualifying property on 31 December 2022 is— 30

(a) not less than €80,000, and

(b) not more than €500,000; 40

‘qualifying period’ means the period commencing on 1 January 2023

and ending on 31 December 2023;

‘qualifying property’, in relation to an individual, means a residential property which is used as the sole or main residence of—

- (a) the individual,
- (b) a former or separated spouse of the individual, or a former civil partner or a civil partner from whom the individual is living separately in circumstances where reconciliation is unlikely, or 5
- (c) a person who, in relation to the individual, is a dependent relative, and which is, where the residential property is provided by the individual, provided rent-free and without any other consideration; 10

‘relievable interest’ has the meaning given to it by subsection (4);

‘residential property’ means—

- (a) a building or part of a building located in the State which is used or suitable for use as a dwelling, and
- (b) adjoining land which the occupier of the building or part of the building, referred to in paragraph (a), has for his or her own occupation and enjoyment with that building or part of that building as its gardens or grounds of an ornamental nature; 15

‘separated’ means separated under an order of a court of competent jurisdiction or by deed of separation or in such circumstances that the separation is likely to be permanent; 20

‘specified amount’, in relation to a year of assessment, means the lesser of—

- (a) an amount equal to the relievable interest, and
  - (b) €6,250. 25
- (2) An individual (referred to in this section as the ‘claimant’) who proves that during the qualifying period he or she paid qualifying interest and makes a claim in that regard shall be entitled to a tax credit (to be known as the ‘mortgage interest tax credit’) equal to the lesser of—
- (a) an amount equal to the appropriate percentage of the specified amount, and 30
  - (b) the amount which reduces the claimant’s income tax to nil.
- (3) Where a claimant is assessed to tax in accordance with section 1017 or 1031C in a year of assessment, any qualifying interest paid by the claimant’s spouse or civil partner in that year of assessment shall, for the purposes of this section, be deemed to have been paid by the claimant. 35
- (4) (a) For the purposes of this section, relievable interest, in relation to an individual, shall be an amount determined by the formula—

A-B

40

where—

A is the amount of qualifying interest for the year of assessment 2023, and

B is the amount of qualifying interest for the year of assessment 2022. 5

(b) Where qualifying interest paid for a year of assessment referred to in paragraph (a) is for a period where the number of days in the years of assessment to which ‘A’ and ‘B’ in the formula in paragraph (a) relate are not the same, the amount of qualifying interest represented by ‘A’ or ‘B’, as the case may be, in the formula in paragraph (a) shall— 10

(i) where the number of days in the year of assessment to which ‘A’ relates is greater than the number of days in the year of assessment to which ‘B’ relates, be determined by the following formula— 15

$$A \times D/E$$

and

(ii) where the number of days in the year of assessment to which ‘B’ relates is greater than the number of days in the year of assessment to which ‘A’ relates, be determined by the following formula— 20

$$B \times D/E$$

where—

D is the number of days in the year of assessment with the lesser number of days, and 25

E is the number of days in the year of assessment with the greatest number of days.

(5) Where qualifying interest is paid in respect of a period which falls partly in one year of assessment and partly in another year of assessment, the amount of qualifying interest paid in respect of that period shall be apportioned to each year of assessment based on the proportion each part of the period bears to the period as a whole. 30

(6) Where, in the case of an individual within the meaning of paragraph (a) of the definition of ‘qualifying property’ in subsection (1)—

(a) the individual dies during the qualifying period, and the residential property is used as the sole or main residence of the deceased individual’s widow or widower or surviving civil partner, or of any dependent relative of the deceased, the property shall be treated as a qualifying property for the purposes of this section and interest paid on a qualifying loan by a personal representative of that individual shall, upon making a claim in that regard, be treated as 35 40

- qualifying interest, or
- (b) the individual, or where subsection (3) applies, the individual or his or her spouse or civil partner, resides in another residential property to facilitate his or her attendance at or participation in his or her trade, profession, employment or office holding, that other residential property may be treated as a qualifying property for the purposes of this section. 5
- (7) A residential property shall not be regarded as a qualifying property for the purpose of this section where—
- (a) a charge to Local Property Tax under section 16 of the Finance (Local Property Tax) Act 2012 applies to the residential property concerned for the calendar year 2023 and the requirements of Part 7 of that Act are not complied with, 10
- (b) the provisions of any permission required under the Planning and Development Acts 2000 to 2022 and granted on or before 31 December 2022 in respect of the residential property are not complied with or such permission has ceased to exist, 15
- (c) any interest in a residential property was acquired from an individual who is the spouse or civil partner of the individual acquiring such interest, except— 20
- (i) a former or separated spouse of that individual, or
- (ii) a former civil partner or a civil partner from whom that individual is living separately in circumstances where reconciliation is unlikely,
- or 25
- (d) any interest in a residential property was acquired from an individual who is connected, within the meaning of section 10, with the individual acquiring such interest and it appears that the purchase price of the residential property substantially exceeds the value of what is acquired. 30
- (8) Notwithstanding subsection (2), where two or more individuals are or would but for this subsection be entitled under this section to relief in respect of the same qualifying property, the following provisions shall apply:
- (a) only one mortgage interest tax credit under this section shall be allowed in respect of the qualifying property; 35
- (b) the upper limit of €6,250 referred to in paragraph (b) of the definition of ‘specified amount’ in subsection (1) shall apply in proportion to each individual’s relievable interest in respect of that property; 40
- (c) each individual shall be entitled to claim such part of the mortgage interest tax credit that is equal to the lesser of—

- (i) that amount that is proportional to the specified amount referred to in paragraph (b) in respect of that individual, and
  - (ii) the amount which reduces the claimant’s income tax to nil.
- (9) Notwithstanding the provisions of this section, where, in respect of a qualifying property and a year of assessment— 5
  - (a) an individual is entitled, in respect of a residential property, to an allowance to which subsection (1), (1A) or (1B) of section 836 applies, or
  - (b) an individual is allowed, in accordance with section 836(2), a deduction under section 114 in respect of expenses in maintaining a residential property, this section shall not apply to qualifying interest paid in that year in respect of that residential property. 10
- (10) In making a claim under this section, a claimant shall provide to the Revenue Commissioners, through such electronic means as the Revenue Commissioners make available, the following information— 15
  - (a) the claimant’s name, address (including the Eircode) and PPS Number,
  - (b) the address (including the Eircode and local property tax number) of the qualifying property in respect of which a claim under this section is made, 20
  - (c) in the case of a qualifying property referred to in paragraph (b) or (c), as the case may be, of the definition of ‘qualifying property’ in subsection (1), the name, address (including the Eircode) and PPS Number of the person referred to in the said paragraph (b) or (c) who is using the property as his or her sole or main residence, 25
  - (d) where subsection (3) applies—
    - (i) the name, address (including the Eircode) and PPS Number of the claimant’s spouse or civil partner,
    - (ii) the address (including the Eircode and local property tax number) of the qualifying property in respect of which a claim under this section is made, 30
  - (e) full particulars of the qualifying loan or loans under which qualifying interest was paid, including but not limited to—
    - (i) the qualifying interest paid by the claimant for the years of assessment 2022 and 2023, 35
    - (ii) where subsection (8)(c) applies, the total qualifying interest paid by all of the individuals concerned for the years of assessment 2022 and 2023, and
    - (iii) the amount of the aggregate of the balance remaining unpaid on the loan or loans as provided for in the definition of ‘qualifying loan’ in subsection (1), 40



and

(f) any other information that may reasonably be required by the Revenue Commissioners to determine whether the requirements of this section are met.

(11) A qualifying lender shall, on being so required by an officer of the Revenue Commissioners, furnish or make available to the officer, within the period of 30 days of being requested to do so by the Revenue Commissioners, particulars referred to in subsection (10)(f). 5

(12) Failure to furnish any of the particulars referred to in subsection (10) shall be grounds for refusal of a claim and, where relief has already been given to a claimant under this section, such relief may be withdrawn by the Revenue Commissioners.”. 10

**Amendment of section 208 of Principal Act (lands owned and occupied, and trades carried on by, charities)**

14. Section 208 of the Principal Act is amended, in paragraph (b) of subsection (2), by the insertion of “or profession” after “trade” in each place where it occurs. 15

**Amendment of section 208B of Principal Act (charities - miscellaneous)**

15. Section 208B of the Principal Act is amended—

(a) in subsection (1), by the insertion of the following definition:

“ ‘CHY number’, in relation to a charity, means a unique identifying number issued by the Revenue Commissioners to a charity that is exempt from income tax under section 207, 208 or 208A, as the case may be;” 20

and

(b) by the insertion of the following subsections after subsection (6): 25

“(7) Where the Revenue Commissioners are satisfied that a charity has ceased to be eligible for an exemption from income tax provided for in section 207, 208 or 208A, as the case may be, they shall, by notice in writing served by registered post on the charity, withdraw the exemption granted under section 207 or 208, or the determination under section 208A, as the case may be, from the charity and the withdrawal shall apply and have effect from such date as is specified in the notice, which date shall not be earlier than the date on which the charity has ceased to be eligible for an exemption from income tax. 30

(8) Notwithstanding any obligation imposed on the Revenue Commissioners under section 851A or any other enactment in relation to the confidentiality of taxpayer information (within the meaning of that section), the Revenue Commissioners shall, by notice in writing, inform the Charities Regulatory Authority of any withdrawal of an exemption granted under section 207 or 208, or a determination under section 208A, as the case may be, which notice shall set out the name, 40

CHY number and address of the charity, confirm that the exemption or determination, as the case may be, has been withdrawn and set out the date from which that withdrawal takes effect.

- (9) Notwithstanding any obligation imposed on the Revenue Commissioners under section 851A or any other enactment in relation to the confidentiality of taxpayer information (within the meaning of that section), the Revenue Commissioners may publish the name, address and CHY number of a charity.” 5

**Amendment of section 235 of Principal Act (bodies established for promotion of athletic or amateur games or sports)** 10

16. Section 235 of the Principal Act is amended—

(a) in subsection (1)—

- (i) by the substitution for “In this section, “approved body of persons” means—” of the following:

“In this section—

‘approved body of persons’ means—”, 15

(ii) in the definition of “approved body of persons”, in paragraph (b)—

(I) in subparagraph (i), by the substitution of “1984,” for “1984, or”,

(II) in subparagraph (ii), by the substitution of “1976, or” for “1976;”, and

(III) by the insertion of the following subparagraph after subparagraph (ii): 20

“(iii) any body of persons that, as respects the year 2022 or any earlier year of assessment, was granted exemption from income tax or corporation tax under this section before the coming into operation of *section 16 of the Finance (No. 2) Act 2023*;”,

and 25

(IV) in clause (II), by the substitution of “a tax advantage;” for “a tax advantage.”,

and

(iii) by the insertion of the following definitions:

“ ‘competitive sport’ means all forms of physical activity which, through organised participation, aim at— 30

(a) expressing or improving physical fitness, and

(b) obtaining improved results in competition at all levels;

‘games and sports exemption number’ means a number issued to a body of persons approved by the Revenue Commissioners for the purposes of this section; 35

‘recreational sport’ means all forms of physical activity which, through casual or regular participation, aim at—

- (a) expressing or improving physical fitness and mental well-being,  
and
- (b) forming social relationships;  
'sport' includes competitive sport and recreational sport.”,

and

5

(b) by the insertion of the following subsection after subsection (5):

- “(6) Notwithstanding any obligations as to secrecy or other restriction upon disclosure of information imposed by or under any statute or otherwise, the Revenue Commissioners may publish the name, county and games and sports exemption number of an approved body of persons.”.

**Amendment of section 784 of Principal Act (retirement annuities: relief for premiums)**

17. Section 784 of the Principal Act is amended by the insertion of the following subsection after subsection (8):

- “(9) Notwithstanding any other provision of this Chapter, on and from 1 January 2024 the Revenue Commissioners shall not approve any contract under this section, save in the case of any such contract in respect of which an application has been made to the Revenue Commissioners for approval under this section before that date.”.

**Amendment of section 784A of Principal Act (approved retirement fund)**

20

18. Section 784A of the Principal Act is amended, in subsection (1B), by the substitution of the following paragraph for paragraph (a):

“(a) in the case of a loan made—

- (i) to the individual beneficially entitled to the assets in an approved retirement fund or to any person connected with that individual, or

- (ii) to a close company, where the individual beneficially entitled to the assets in an approved retirement fund, or any person connected with that individual, is a participator in that close company,

the amount to be regarded as a distribution for the purposes of this section is an amount equal to the value of the assets of the approved retirement fund used to make such a loan or used as security for such a loan.”.

**Amendment of section 787K of Principal Act (Revenue approval of PRSA products)**

35

19. Section 787K of the Principal Act is amended, in subsection (1)(c)(ii), by the deletion of “or after he or she attains the age of 75 years”.

**Exemption from income tax of rental income subject to registration with Residential Tenancies Board**

20. Part 30 of the Principal Act is amended in Chapter 4 by the insertion of the following section after section 790E:

- “790F. (1) In this section— 5
- ‘Act of 2004’ means the Residential Tenancies Act 2004;
- ‘approved retirement fund’ has the same meaning as in section 784A;
- ‘Board’ means the Residential Tenancies Board;
- ‘exempt approved scheme’ shall be construed in accordance with section 774; 10
- ‘lease’ means any lease or tenancy agreement in respect of—
- (a) a residential premises required to be registered under Part 7 of the Act of 2004 by the person chargeable, or
- (b) a dwelling referred to in section 3(2) of the Act of 2004;
- ‘PEPP’ and ‘PEPP provider’ have the same meaning, respectively, as in Chapter 2D of this Part; 15
- ‘person chargeable’, in respect of the rental income or the profits or gains arising from any rent in respect of a residential property, means—
- (a) in the case of an exempt approved scheme, the trustees of the scheme, 20
- (b) in the case of a RAC, the persons by and to whom premiums are payable under any contract for the time being approved under section 784,
- (c) in the case of a RAC established under trust, the trustees or other persons having the management of any trust scheme so approved, 25
- (d) in the case of an approved retirement fund, the qualifying fund manager acting on behalf of the person beneficially entitled to the assets of the approved retirement fund,
- (e) in the case of a PRSA, the PRSA administrator, or 30
- (f) in the case of a PEPP, a PEPP provider;
- ‘PRSA’ and ‘PRSA administrator’ has the same meaning, respectively, as in Chapter 2A of this Part;
- ‘qualifying fund manager’ has the same meaning as in section 784A;
- ‘qualifying lease’ means a lease granted by the person chargeable to a tenant residing in a residential property; 35
- ‘RAC’ means an annuity contract or a trust scheme or part of a trust scheme for the time being approved by the Revenue Commissioners under section 784;

‘register’ means the residential tenancies register established and maintained by the Board under section 127 of the Act of 2004;

‘residential property’, in relation to a qualifying lease, means a residential property in respect of which rent or similar payments are payable to the person chargeable. 5

(2) With effect from 1 January 2024, where a person chargeable is allowed an exemption from income tax under section 774(3), 784(4), 784A(2), 787I(1) or 787AC(1), or an exemption from capital gains tax under section 784A(2), as the case may be, in relation to rents receivable from a qualifying lease, the exemption concerned shall not be allowed unless the tenancy is registered under Part 7 of the Act of 2004 in respect of the qualifying lease. 10

(3) For the purposes of subsection (2)—

(a) the Revenue Commissioners may by notice in writing require the person chargeable to provide, within 30 days of the date of such notice, evidence that the qualifying lease has been registered under Part 7 of the Act of 2004, and 15

(b) provision by the person chargeable of a copy of the entry in respect of the residential property concerned in the published register provided under section 132 of the Act of 2004 shall be accepted as evidence that the registration requirement referred to in subsection (2) has been complied with.”. 20

### **Amendment of Part 15 of Principal Act (personal allowances and reliefs, etc.)**

21. Part 15 of the Principal Act is amended—

(a) in section 458, in Part 2 of the Table to that section, by the insertion of “Section 480C” after “Section 478A”, and 25

(b) in Chapter 1, by the insertion of the following section after section 480B:

#### **“Residential premises rental income relief**

**480C.** (1) In this section—

‘Act of 1982’ means the Housing (Private Rented Dwellings) Act 1982; 30

‘Act of 2004’ means the Residential Tenancies Act 2004;

‘appropriate percentage’, in relation to a year of assessment, means a percentage equal to the standard rate of tax for that year;

‘first year of assessment’, in relation to a person chargeable, means the year of assessment in which the person chargeable first claims a tax credit under this section; 35

‘ownership’, in relation to the ownership of a premises by a person, includes ownership of the premises by the person jointly with another person; 40

‘person chargeable’ means an individual who is a person chargeable within the meaning of section 96;

‘qualifying premises’ means a rented residential premises situated in the State—

- (a) that on the specified date is owned by a person chargeable, and 5
- (b) to which, on that date, one of the following subparagraphs applies:
  - (i) the premises is occupied by a tenant under a tenancy registered under Part 7 of the Act of 2004 by the person chargeable;
  - (ii) the premises is a premises to which Part II of the Act of 1982 applies and is occupied by a tenant; 10
  - (iii) the premises is let to a public authority (within the meaning of the Act of 2004) and is occupied by a tenant;
  - (iv) the premises is being actively marketed for rent with a view to the person chargeable entering into a residential tenancy agreement with a willing tenant; 15

‘relevant amount’, in relation to a person chargeable in a year of assessment, means the amount of profits or gains arising from all qualifying premises owned by the person chargeable and on which the person chargeable is assessed to tax under Case V of Schedule D after any allowance is made in charging the income under Case V of Schedule D in accordance with section 305(1)(a) or relief for losses under section 384; 20

‘relevant year of assessment’ in relation to a person chargeable, means any of the 4 consecutive years of assessment beginning with the first year of assessment in relation to the person; 25

‘rent’ has the same meaning as it has in section 96;

‘rented residential premises’ has the same meaning as it has in section 96;

‘specified date’ means 31 December in a year of assessment.

- (2) In relation to a year of assessment, a person chargeable shall be entitled to a tax credit of the lesser of— 30
  - (a) in respect of the year of assessment 2024—
    - (i) €600, or
    - (ii) an amount equal to the appropriate percentage of the relevant amount, 35
  - (b) in respect of the year of assessment 2025—
    - (i) €800, or
    - (ii) an amount equal to the appropriate percentage of the relevant amount,

- (c) in respect of the year of assessment 2026—
  - (i) €1,000, or
  - (ii) an amount equal to the appropriate percentage of the relevant amount,
 and 5
- (d) in respect of the year of assessment 2027—
  - (i) €1,000, or
  - (ii) an amount equal to the appropriate percentage of the relevant amount.
- (3) This section shall not apply in respect of a person chargeable where any qualifying premises owned by the person is occupied by a tenant who is— 10
  - (a) a person connected to the person chargeable by virtue of section 10, or
  - (b) an uncle, aunt, niece or nephew of the person chargeable or of a spouse or civil partner of the person chargeable. 15
- (4) This subsection applies in respect of a relevant year of assessment where—
  - (a) the person chargeable concerned ceases, during the relevant year, to be a person chargeable in respect of any qualifying premises that was owned by that person during the first year of assessment, or 20
  - (b) any qualifying premises that was owned by the person chargeable during the first year of assessment is let, during the relevant year, to a tenant to whom paragraph (a) or (b) of subsection (3) applies.
- (5) Where subsection (4) applies in respect of a relevant year of assessment— 25
  - (a) an amount, the income tax on which, at the standard rate for the year of assessment, is equal to the amount of the tax credit claimed under this section by the person chargeable in that year or any previous year of assessment, shall be deemed to be profits or gains of the person chargeable computed under section 97(1) in the year of assessment, and 30
  - (b) assessments shall, as necessary, be made or amended to give effect to this subsection.
- (6) A person chargeable shall not be entitled to a tax credit under this section for a year of assessment, unless, on the specified date in that year— 35
  - (a) the requirements of the Finance (Local Property Tax) Act 2012, in relation to the making of returns and the payment of local property tax, have been complied with in respect of all qualifying premises 40

owned by the person chargeable, and

- (b) the person chargeable has been issued with a tax clearance certificate in accordance with section 1095 and such tax clearance certificate has not been rescinded under subsection (3A) of that section. 5
- (7) Subject to subsections (8) and (9), where, for any year of assessment, a qualifying premises is owned by more than one person chargeable, the amount of the tax credit under this section to which each such person shall be entitled shall be the amount of the tax credit, calculated in accordance with subsection (2), that is equal to the portion of the Case V profits or gains arising from the qualifying premises to which the person chargeable concerned is entitled. 10
- (8) Subsection (7) shall not operate to affect the entitlement of a person chargeable to a tax credit under this section in respect of a qualifying premises ('the first-mentioned qualifying premises'), other than the qualifying premises referred to in that subsection, where the first-mentioned qualifying premises is owned solely by the person chargeable. 15
- (9) Where subsection (7) applies to a person chargeable in respect of more than one qualifying premises, the amount of the tax credit under this section to which that person chargeable shall be entitled shall be the higher or highest proportion of the tax credit to which that person chargeable is entitled in respect of any of those qualifying premises. 20
- (10) This section shall apply in respect of the years of assessment 2024, 2025, 2026 and 2027.”. 25

**Amendment of Part 1 of Schedule 26A to Principal Act (donations to approved bodies)**

**22.** (1) Part 1 of Schedule 26A to the Principal Act is amended—

(a) by the substitution of the following paragraph for paragraph 3:

“3. A designated institution of higher education within the meaning of the Higher Education Authority Act 2022 that falls under paragraph (a) of section 53(1) of that Act or any body established for the sole purpose of raising funds for such an institution.”. 30

and

(b) by the insertion of the following paragraph after paragraph 7:

“7A. Royal Irish Academy.”. 35

(2) *Subsection (1)* shall have effect on and from 10 November 2022.

(3) Section 93 of the Finance Act 2022 is repealed.



**Amendment of Schedule 13 to Principal Act (accountable persons for purposes of Chapter 1 of Part 18)**

23. (1) Schedule 13 to the Principal Act is amended—
- (a) by the deletion of paragraphs 9, 10 and 11,
  - (b) by the substitution of the following paragraph for paragraph 26: 5  
“26. A designated institution of higher education within the meaning of the Higher Education Authority Act 2022 that falls under paragraph (a) of section 53(1) of that Act and that is also a funded body within the meaning of that Act.”,
  - (c) by the insertion of the following paragraph after paragraph 210: 10  
“211. Royal Irish Academy.”,  
and
  - (d) by the insertion of the following paragraphs after paragraph 211 (inserted by *paragraph (c)*):  
“212. Irish Air Navigation Service. 15  
213. Tailte Éireann.  
214. Coimisiún na Meán.”.
- (2) Section 23 of the Finance Act 2022 is amended by the repeal of—
- (a) paragraphs (a) and (d) of subsection (1), and
  - (b) subsections (2) and (3). 20
- (3) *Paragraphs (b) and (c) of subsection (1)* shall have effect as on and from 10 November 2022.

CHAPTER 4

*Income Tax, Corporation Tax and Capital Gains Tax*

**Amendment of section 97B of Principal Act (deduction for retrofitting expenditure) 25**

24. Section 97B of the Principal Act is amended—
- (a) in subsection (1)—
    - (i) by the insertion of the following definition:  
“ ‘Act of 1982’ means the Housing (Private Rented Dwellings) Act 1982;”, 30
    - and
    - (ii) in the definition of “qualifying premises”, by the substitution of the following paragraph for paragraph (b):  
“(b) occupied by a tenant under a tenancy registered under Part 7 of the Act of 2004 by the person chargeable, or occupied by a tenant and 35

which is a dwelling to which Part II of the Act of 1982 applies,  
and”,

- (b) in subsection (7)(b), by the substitution of the following subparagraph for subparagraph (i):

“(i) in respect of the qualifying premises concerned, the person chargeable is in breach of their obligations under Part 3 of the Act of 2004 or, as the case may be, of the terms of the tenancy in the case of a dwelling to which Part II of the Act of 1982 applies;”,

and 10

- (c) in subsection (11)(a), by the substitution of the following subparagraph for subparagraph (i):

“(i) in respect of the qualifying premises concerned, that person is in breach of their obligations under Part 3 of the Act of 2004 or, as the case may be, of the terms of the tenancy in the case of a dwelling to which Part II of the Act of 1982 applies;”,

**Amendment of section 1041 of Principal Act (rents payable to non-residents)**

**25.** Section 1041 of the Principal Act is amended—

- (a) in subsection (1), by the substitution of “Subject to subsection (1B)(b), section 1034 shall not apply” for “Section 1034 shall not apply”, 20
- (b) in subsection (1A)(f), by the substitution of “remitted to the Revenue Commissioners” for “remitted to Revenue”,
- (c) by the substitution of the following subsection for subsection (1B):

“(1B) (a) Section 1034 shall not apply to—

- (i) tax on profits or gains chargeable to tax under Case V of Schedule D, or 25
- (ii) tax on any of the profits or gains chargeable under Case IV of Schedule D which arise under the terms of the lease, but to a person other than the lessor, or which otherwise arise out of any disposition or contract such that if they arose to the person making it they would be chargeable under Case V of Schedule D, 30

where the trustee, guardian, committee, attorney, factor, agent, receiver, branch or manager of the non-resident person—

- (I) deducts tax in accordance with section 238, and 35
- (II) provides the Revenue Commissioners with the information specified in subsection (1C).
- (b) Where paragraph (a) applies—
- (i) subsection (1) shall not apply, and

(ii) section 238 shall apply to the trustee, guardian, committee, attorney, factor, agent, receiver, branch or manager of the non-resident person in relation to a payment due to a non-resident person which is made to the trustee, guardian, committee, attorney, factor, agent, receiver, branch or manager of that non-resident person as it applies to other payments, being annual payments charged with tax under Schedule D and not payable out of profits or gains brought into charge to tax.”, 5

and

(d) in subsection (1C)(f), by the substitution of “remitted to the Revenue Commissioners” for “remitted to Revenue”. 10

**Amendment of section 238 of Principal Act (annual payments not payable out of taxed income)**

26. Section 238 of the Principal Act is amended by the substitution of the following subsection for subsection (7): 15

“(7) Except where provided by subsections (1) and (1B) of section 1041, this section shall not apply to any rents or other sums in respect of which the person entitled to them is chargeable to tax under Case V of Schedule D or would be so chargeable but for any exemption from tax.”. 20

**Amendment of section 669O of Principal Act (exemption in respect of the catch sum)**

27. Section 669O of the Principal Act is amended—

(a) in subsection (2), by the substitution of “relevant chargeable period” for “preceding chargeable period”, and

(b) by the insertion of the following subsections after subsection (3): 25

“(4) Notwithstanding any limitation—

(a) in section 865(4) on the period within which a claim for a repayment of tax is required to be made, or

(b) in section 959V(6) on the period within which a chargeable person may amend a return and self assessment, 30

section 865(6) shall not prevent the Revenue Commissioners from repaying an amount of tax as a consequence of an election made under subsection (2), where a licence holder gives notice of such an election and amends the return and self assessment solely in respect of such election, in accordance with section 959V, for the relevant chargeable period within a period of 4 years after the end of the chargeable period in which the Brexit compensation sum is received and has made a valid claim in relation to a repayment of tax within the meaning of section 865. 35

(5) In this section— 40

‘relevant chargeable period’ means the chargeable period in which the temporary tie up payment referred to in subsection (2) was taken into account in determining profits or gains chargeable to tax under Schedule D;

‘return’ has the same meaning as in section 959A.”

5

**Amendment of section 216D of Principal Act (certain profits of micro-generation of electricity)**

28. Section 216D of the Principal Act is amended—

(a) in subsection (1), in the definition of “relevant period”, by the substitution of “31 December 2025” for “31 December 2024”, and

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(b) in subsection (3), by the substitution of “€400” for “€200”.

**Amendment of section 285A of Principal Act (acceleration of wear and tear allowances for certain energy-efficient equipment)**

29. Section 285A of the Principal Act is amended, in subsection (1), in the definition of “relevant period”, by the substitution of “31 December 2025” for “31 December 2023”.

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**Amendment of section 285D of Principal Act (acceleration of wear and tear allowances for farm safety equipment)**

30. Section 285D of the Principal Act is amended, in subsection (14)(a), by the substitution of “31 December 2026” for “31 December 2023”.

**Amendment of Part 16 of Principal Act (relief for investment in corporate trades)**

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31. (1) Part 16 of the Principal Act is amended—

(a) in section 488(1), in the definition of “General Block Exemption Regulation”, by the insertion of “, as amended by Commission Regulation (EU) No. 2023/1315 of 23 June 2023<sup>1</sup>” after “17 June 2014”,

(b) in section 493, in the definition of “expansion risk finance investment”, by the substitution of “to fund a new economic activity” for “to fund entering a new product on the market or entering a new geographic market”,

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(c) in section 494, by the substitution of the following subsection for subsection (3):

“(3) The shares, other than where relief under section 507 is claimed, may be redeemable.”,

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(d) in section 495, by the insertion of the following subsection after subsection (6):

“(7) This section applies to shares in a company that carry preferential rights to a dividend or to repayment of capital on a winding up, except in circumstances where the shares are issued to the managers of a qualifying investment fund.”,

35

(e) in section 496—

1 OJ No. L167, 30.06.2023, p.1

- (i) by the substitution of the following subsection for subsection (5):
- “(5) (a) An initial risk finance investment shall only be a qualifying investment where each company in the RICT group, at the time the eligible shares are issued—
- (i) has not been operating in any market, or 5
  - (ii) has been operating in any market for—
    - (I) less than 10 years following its date of incorporation, or
    - (II) less than 7 years after its first commercial sale.
- (b) Where a business (in this paragraph referred to as ‘the acquiring business’) in the RICT group has acquired another business (in this paragraph referred to as ‘the acquired business’), or was formed through a merger (in this paragraph referred to as ‘the merged businesses’), the periods referred to in subparagraph (ii) of paragraph (a) shall, in the case of the application of clause (I) or (II), as the case may be, of the said subparagraph (ii), encompass the operations of the acquired business or the merged businesses, respectively, except for such acquired business or merged businesses whose turnover accounts for less than 10 per cent of the turnover of the acquiring business in the financial year preceding the acquisition or, in the case of merged businesses, less than 10 per cent of the combined turnover that each of the businesses comprising the merged businesses had in the financial year preceding the merger. 10 15 20
- (c) For the purposes of paragraph (b), references to financial year shall be construed in accordance with Chapter 3 of Part 6 of the Companies Act 2014.” 25
- (ii) by the substitution of the following subsection for subsection (6):
- “(6) An expansion risk finance investment shall only be a qualifying investment where, based on a business plan prepared in view of a new economic activity, the amount to be raised through the issue of those shares is— 30
- (a) greater than 50 per cent of the RICT group’s average annual turnover in the preceding 5 years, or
  - (b) greater than 30 per cent of the RICT group’s average annual turnover in the preceding 5 years where the investment— 35
    - (i) significantly improves the environmental performance of the activity in accordance with Article 36(2) of the General Block Exemption Regulation,
    - (ii) constitutes an environmentally sustainable investment as defined in Article 2(1) of Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020<sup>2</sup>, or 40

- (iii) is aimed at increasing capacity for the extraction, separation, refining, processing or recycling of a critical raw material listed in Annex IV of the General Block Exemption Regulation.”,
- and
- (iii) in subsection (7)(b), by the substitution of “provided for” for “foreseen”, 5
- (f) in section 497—
- (i) in subsection (2)—
- (I) in paragraph (a), by the substitution of “€5,500,000” for “€5,000,000”, and
- (II) in paragraph (b), by the substitution of “€16,500,000” for “€15,000,000”, 10
- (ii) in subsection (3), by the substitution of “€5,500,000” for “€5,000,000”, and
- (iii) in subsection (4), by the substitution of “€16,500,000” for “€15,000,000”, and
- (g) in section 502, by— 15
- (i) the substitution of the following subsection for subsection (2A):
- “(2A) (a) In respect of shares issued after 8 October 2019 and on or before 31 December 2023, a qualifying investor who makes a qualifying investment in a qualifying company shall be entitled, subject to this section, to relief for the full amount subscribed, which shall be given, subject to section 508J(4), as a deduction from his or her total income for the year of assessment in which the shares are issued. 20
- (b) In respect of shares issued on or after 1 January 2024, a qualifying investor who makes a qualifying investment in a qualifying company shall be entitled, subject to this section, to relief for— 25
- (i) 125 per cent of the amount subscribed where the qualifying investment is made pursuant to section 496(5)(a)(i),
- (ii) 87.5 per cent of the amount subscribed where the qualifying investment is made pursuant to section 496(5)(a)(ii), 30
- (iii) 50 per cent of the amount subscribed where the qualifying investment is made pursuant to section 496(6),
- (iv) 50 per cent of the amount subscribed where the qualifying investment is made pursuant to section 496(7), or
- (v) 75 per cent of the amount subscribed where the qualifying investment is made through a qualifying investment fund in accordance with section 508J, 35
- which shall be given, subject to section 508J(4), as a deduction from his or her total income for the year of assessment in which the

shares are issued.”,

and

(ii) in subsection (3)(a)—

(I) in subparagraph (ii)—

(A) by the substitution of “the years of assessment 2020, 2021, 2022 and 2023” for “the year of assessment 2020 and each subsequent year of assessment”, and 5

(B) in clause (II), by the substitution of “investments, and” for “investments.”,

and

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(II) by the insertion of the following subparagraph after subparagraph (ii):

“(iii) €500,000 in respect of the year of assessment 2024 and each subsequent year of assessment.”.

(2) *Subsection (1)* shall have effect as respects shares issued on or after 1 January 2024.

**Amendment of Part 23 of Principal Act (farming and market gardening)**

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**32.** The Principal Act is amended—

(a) in section 664—

(i) in subsection (1)(a), by—

(I) the deletion of the definition of “EU Basic Payment Scheme”, and

(II) the insertion of the following definition:

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“ ‘EU Basic Income Support for Sustainability’ means the scheme administered by the Minister for Agriculture, Food and the Marine under Regulation (EU) 2021/2115 of the European Parliament and of the Council of 2 December 2021<sup>3</sup>,”

and

25

(ii) in subsection (7), by the substitution of “EU Basic Income Support for Sustainability” for “EU Basic Payment Scheme”,

(b) in section 667B—

(i) in subsection (5A)(b)(i), by the substitution of “€100,000” for “€70,000”, and

(ii) in subsection (5B), by the substitution of “€100,000” for “€70,000”,

30

(c) in section 667C—

(i) in subsection (1), by the insertion of the following definition:

“ ‘Commission Regulation (EU) No. 1408/2013’ means Commission Regulation (EU) No. 1408/2013 of 18 December 2013<sup>4</sup> as amended by

3 OJ No. L435, 6.12.2021, p.1

4 OJ No. L352, 24.12.2013, p.9

Commission Regulation (EU) 2019/316 of 21 February 2019<sup>5</sup> and  
Commission Regulation (EU) 2022/2046 of 25 October 2022<sup>6</sup>;

and

(ii) in subsection (3A)—

(I) in paragraph (b), by the substitution of “Subject to paragraphs (c) and (d),” for “Subject to paragraph (c),”, and 5

(II) by the insertion of the following paragraphs after paragraph (c):

“(d) In the case of a qualifying period commencing on or after 1 January 2024, a specified person shall be entitled to relief in respect of relevant deductions of an amount not exceeding €20,000 in the aggregate in that qualifying period. 10

(e) Where a specified person constitutes a single undertaking within the meaning of Commission Regulation (EU) No. 1408/2013, relief under this subsection shall be available only insofar as it does not exceed the ceiling of aid laid down in that Commission Regulation.”, 15

and

(d) in section 667D(8)(b), by the substitution of “€100,000” for “€70,000”.

**Amendment of section 664 of Principal Act (relief for certain income from leasing of farm land) 20**

**33.** Section 664 of the Principal Act is amended—

(a) in subsection (1)—

(i) in paragraph (a), by—

(I) the insertion of the following definitions:

“ ‘own’, in relation to farm land, includes holding a leasehold interest in farm land; 25

‘relevant lease’ means a lease of farm land which is for a definite term of 50 years or more;”,

and

(II) in the definition of “qualifying lessor”— 30

(A) in paragraph (ii), the substitution of “arm’s length, and” for “arm’s length;”, and

(B) the insertion of the following paragraph after paragraph (ii):

“(iii) subject to paragraph (aa), has owned the farm land referred to in that paragraph for a continuous period of not less than 7 years beginning on the date of the contract to purchase the farm land 35

5 OJ No. L51 I, 22.2.2019, p.1

6 OJ No. L275, 25.10.2022, p.55



concerned.”,

and

(ii) by the insertion of the following paragraph after paragraph (a):

“(aa) (i) Subject to subsections (1A) to (1D), paragraph (iii) of the definition of ‘qualifying lessor’ shall apply to an individual who purchased farm land pursuant to a contract entered into on or after 1 January 2024 for a consideration equal to the market value of the farm land at the date of the purchase of that farm land. 5

(ii) The reference in subparagraph (i) to the purchase by an individual of farm land shall be read as including a reference to the acquisition by an individual of a leasehold interest in farm land under a relevant lease and the reference in that subparagraph to the date of the purchase shall be read as including a reference to the date on which a relevant lease in respect of farm land is granted.”, 10 15

and

(b) by the insertion of the following subsections after subsection (1):

“(1A) (a) Where an individual referred to in subsection (1)(aa)(i)—

(i) within a period of 7 years from the date of the purchase referred to in subsection (1)(aa), transfers the farm land, in whole or in part (in this subsection referred to as the ‘transferred farm land’), other than by way of purchase for a consideration equal to the market value of the transferred farm land at the date of the transfer, to a person (in this subsection referred to as the ‘transferee’) who is connected with the individual, and 20 25

(ii) it is reasonable to consider that the main purpose, or one of the main purposes, of the transfer referred to in subparagraph (i) is to avoid the application to the individual of paragraph (iii) of the definition in subsection (1) of ‘qualifying lessor’ in respect of the transferred farm land, 30

then—

(I) the transferred farm land shall be treated as having been purchased by the transferee for a consideration equal to its market value at the date of the transfer, 35

(II) for the purposes of subparagraph (i) of paragraph (aa) of subsection (1), a reference in that subparagraph to the date of the purchase shall be read as a reference to the date of the transfer, and

(III) paragraph (iii) of the definition in subsection (1) of ‘qualifying lessor’ shall apply to the transferee in respect of the transferred farm land and the reference in that paragraph to the date of the 40

contract to purchase the farm land shall be read as a reference to the date of the transfer of the farm land to the transferee.

- (b) Where, within the period of 7 years from the date of the purchase referred to in subsection (1)(aa)—
- (i) the transferee transfers the transferred farm land, in whole or in part, other than by way of purchase for a consideration equal to its market value, to a person connected with the individual (in this subsection referred to as a ‘subsequent transferee’), and 5
  - (ii) it is reasonable to consider that the main purpose, or one of the main purposes, of the transfer referred to in subparagraph (i) is to avoid the application to the transferee of paragraph (iii) of the definition in subsection (1) of ‘qualifying lessor’ in respect of the transferred farm land, 10
- then—
- (I) the transferred farm land shall be treated as having been purchased by the subsequent transferee for a consideration equal to its market value at the date of the transfer to the subsequent transferee, 15
  - (II) for the purposes of subparagraph (i) of paragraph (aa) of subsection (1), a reference in that subparagraph to the date of the purchase shall be read as a reference to the date of the transfer to the subsequent transferee, and 20
  - (III) paragraph (iii) of the definition in subsection (1) of ‘qualifying lessor’ shall apply to the subsequent transferee in respect of the transferred farm land and the reference in that paragraph to the date of the contract to purchase the farm land shall be read as a reference to the date of the transfer of the farm land to the subsequent transferee. 25
- (c) Paragraph (b) shall, with any necessary modifications, apply in respect of any transfer by a subsequent transferee to another person as it does to a transfer by a transferee to a subsequent transferee under that paragraph. 30
- (d) In this subsection, references to the transfer of farm land, in whole or in part, shall be read as including references to the grant of a leasehold interest in the farm land, in whole or in part, and, where the context requires, references to— 35
- (i) the transferee shall be read as a reference to the person to whom the lease has been granted,
  - (ii) the person transferring the farm land shall be read as a reference to the person granting the leasehold interest in the farm land, and 40
  - (iii) the date of the transfer shall be read as a reference to the date on which the leasehold interest in the farm land is granted.

- (1B) (a) Where, as part of, or in connection with, a scheme or arrangement—
- (i) farm land is acquired (in this subsection referred to as the ‘acquired farm land’) by an individual on or after 1 January 2024 from a person (not being an individual) with whom the individual is connected, 5
  - (ii) the farm land is acquired by the individual other than by way of purchase for a consideration equal to its market value at the date of the acquisition, and
  - (iii) it is reasonable to consider that the main purpose, or one of the main purposes, of the scheme or arrangement is to avoid the application to the individual of paragraph (iii) of the definition in subsection (1) of ‘qualifying lessor’ in respect of the acquired farm land, 10
- then— 15
- (I) the acquired farm land shall be treated as having been purchased by the individual for a consideration equal to its market value at the date of the acquisition,
  - (II) for the purposes of subparagraph (i) of paragraph (aa) of subsection (1), a reference in that subparagraph to the date of the purchase shall be read as a reference to the date of the acquisition, and 20
  - (III) paragraph (iii) of the definition in subsection (1) of ‘qualifying lessor’ shall apply to the individual in respect of the farm land and the reference in that paragraph to the date of the contract to purchase the farm land shall be read as a reference to the date of the acquisition of the farm land by the individual. 25
- (b) In this subsection, ‘acquire’, in relation to farm land, includes the acquisition of a leasehold interest in farm land and a reference in this subsection to the date of the acquisition shall, in relation to farm land, be read as including a reference to the date on which a leasehold interest in farm land was granted. 30
- (1C) (a) Where, on or after 1 January 2024, an individual purchases farm land pursuant to a contract entered into on or after that date, from a person who is not connected with the individual for a consideration that is greater or less than the market value of the farm land on the date of the purchase, then— 35
- (i) the farm land shall be treated as having been purchased by the individual for a consideration equal to its market value at the date of the purchase, and 40
  - (ii) paragraph (iii) of the definition in subsection (1) of ‘qualifying lessor’ and, where applicable, paragraph (a)(i) of subsection (1A), shall apply to the individual.

- (b) Where, as part of a scheme or arrangement entered into between an individual and another person in respect of farm land purchased by the individual pursuant to a contract entered into on or after 1 January 2024 (in this paragraph referred to as the ‘first-mentioned farm land’)— 5
  - (i) the individual acquires farm land from such other person (in this paragraph referred to as the ‘second-mentioned farm land’) in exchange for the first-mentioned farm land, and
  - (ii) it is reasonable to consider that the main purpose, or one of the main purposes, of the scheme or arrangement is to avoid the application to the individual of paragraph (iii) of the definition in subsection (1) of ‘qualifying lessor’ in respect of the first-mentioned farm land, 10
 then—
  - (I) the second-mentioned farm land shall be treated as having been purchased by the individual for a consideration equal to its market value at the date of the acquisition of that farm land by the individual, and 15
  - (II) paragraph (iii) of the definition in subsection (1) of ‘qualifying lessor’ and, where applicable, subsection (1A)(a)(i), shall apply to the individual in respect of the second-mentioned farm land. 20
- (c) In this subsection, ‘acquire’, in relation to farm land, includes the acquisition of a leasehold interest in farm land and a reference in this subsection to the date of the acquisition shall, in relation to farm land, be read as including a reference to the date on which a leasehold interest in farm land was granted. 25
- (1D) Paragraph (iii) of the definition in subsection (1) of ‘qualifying lessor’ shall not apply in respect of an individual who enters into a qualifying lease by reason of the death of the individual’s spouse or civil partner and the spouse or civil partner jointly owned the farm land with the individual immediately before the death of the spouse or civil partner.”. 30

**Amendment of Chapter 2 of Part 29 of Principal Act (scientific and certain other research)**

- 34. (1) Chapter 2 of Part 29 of the Principal Act is amended— 35
  - (a) in section 766, by the substitution of the following subsection for subsection (1A):
    - “(1A) For the purposes of this section and section 766C—
    - (a) where expenditure is incurred by a company on machinery or plant which qualifies for any allowance under Part 9 and the machinery or plant will not be used by the company wholly and exclusively for the purposes of research and development, the amount of the 40

- expenditure attributable to research and development shall be such portion of that expenditure as is just and reasonable, and such portion of the expenditure shall be treated for the purposes of subsection (1)(a) as incurred by the company wholly and exclusively in carrying on research and development activities, and 5
- (b) where, at any time, the apportionment made under paragraph (a), or a further apportionment made under this paragraph, ceases to be just and reasonable, then—
- (i) such further apportionment shall be made at that time as is just and reasonable, 10
- (ii) any such further apportionment shall supersede any earlier apportionment, and
- (iii) any such adjustments, assessments or repayments of tax shall be made as are necessary to give effect to any apportionment under this subsection.”, 15
- (b) in section 766A, by the substitution of the following subsection for subsection (9):
- “(9) (a) A claim shall not be made under this section in respect of relevant expenditure incurred in an accounting period that commences on or after 1 January 2023. 20
- (b) A company may, in respect of relevant expenditure incurred in an accounting period, make a claim under this section or section 766D.”,
- (c) in section 766C—
- (i) in subsection (1), by the substitution of “30 per cent” for “25 per cent”, 25
- (ii) in subsection (6)(a)(i), by the substitution of “€50,000” for “€25,000”,
- (iii) by the insertion of the following subsection after subsection (7):
- “(7A) Where a company (in this section and section 766D referred to as the ‘predecessor’) which has made a claim in accordance with this section ceases to carry on a trade which includes the carrying on by it of research and development activities and another company (in this section and section 766D referred to as the ‘successor’) commences to carry on the trade and those research and development activities (the cessation and commencement referred to in this section and section 766D as the ‘event’) and— 30
- (a) both the predecessor and successor were, at the time of the event, members of the same group of companies within the meaning of section 411(1), and 35
- (b) on or at any time within 2 years after the event the trade and the research and development activities are not carried on otherwise than by the successor, 40

- then the successor may, to the extent that the predecessor has not, in respect of each instalment referred to in subsection (6), specified that the amount of the instalment, or any portion of that amount, is to be treated as an overpayment of tax in accordance with subsection (7)(a) or paid to the company in accordance with subsection (7)(b), be entitled to such amount that the predecessor would have been entitled to under subsections (1) and (6).” 5
- (iv) in subsection (8), by the substitution of “for the purposes of corporation tax” for “for any tax purpose”,
- (v) in subsection (9)(b)— 10
- (I) in subparagraph (i), by the deletion of “and” where it occurs after “development activities”,
- (II) in subparagraph (ii), by the substitution of “period concerned, and” for “period concerned.”, and
- (III) by the insertion of the following subparagraph after subparagraph (ii): 15
- “(iii) amounts claimed under section 766(2), which are carried forward by the company in accordance with section 766(4) (referred to in section 766(4) as ‘the excess’), excluding amounts claimed in accordance with section 766(4B), and which may be treated as an amount by which corporation tax of the succeeding accounting periods may be reduced.” 20
- (vi) by the insertion of the following subsections after subsection (15):
- “(16) Nothing in this section shall prevent the Revenue Commissioners from examining a claim subsequent to any payment or offset having been made and making or amending an assessment, as the case may be, under Chapter 5 of Part 41A. 25
- (17) (a) The company shall notify the Revenue Commissioners in writing, on or before the relevant date, in a form prescribed by the Revenue Commissioners, of the intention of the company to make a claim under this section and the prescribed form shall contain such particulars in relation to the claim as may be specified in the prescribed form including— 30
- (i) the name, address and corporation tax number of the company,
- (ii) a description of the research and development activities carried out by the company, 35
- (iii) the number of employees carrying on research and development activities, and
- (iv) details of expenditure incurred by the company on research and development activities which has been or is to be met directly or indirectly by grant assistance or any other assistance referred to in section 766(1)(b)(v). 40
- (b) The Revenue Commissioners may require the company to provide

such additional information, explanations, and particulars and to give all assistance which may reasonably be required for the purpose of inspecting the information required to be delivered under this subsection.

(c) Paragraph (a) shall not apply where the company has made a claim under this section or section 766 in respect of any of the 3 immediately preceding accounting periods. 5

(d) In paragraph (a), ‘relevant date’ means the date which is 90 days before the claim under subsection (1) shall be made.”,

(d) in section 766D— 10

(i) in subsection (1), by the substitution of “30 per cent” for “25 per cent”,

(ii) by the insertion of the following subsection after subsection (3):

“(3A) Where an event referred to in section 766C(7A) occurs and—

(a) in connection with the event the predecessor transfers to the successor a building or structure in respect of which— 15

(i) the predecessor had made a claim under this section,

(ii) the transfer is a transfer to which section 617 applies, and

(iii) at the time of the transfer either or both the specified relevant period and the specified time had not expired,

(b) on, or at any time within 2 years after, the event, the trade and research and development activities are not carried on otherwise than by the successor, and 20

(c) the building or structure in respect of which relevant expenditure was incurred by the predecessor—

(i) in a case where the specified relevant period had not expired, would continue to be a qualifying building if a reference, in the definition of ‘qualifying building’ in section 766A(1)(a), to activities carried on by the company were construed as a reference to activities carried on by the company and the successor, and 25 30

(ii) continues to be used by the successor throughout the remainder of the specified time for the purposes of research and development activities,

then—

(I) the charge to tax as provided for in subsection (3) shall not apply in relation to the transfer by the predecessor, 35

(II) the successor may, to the extent that the predecessor has not, in respect of each instalment referred to in subsection (5), specified that the amount of the instalment, or any portion of that amount, is to be treated as an overpayment of tax in 40

accordance with subsection (6)(a) or paid to the company in accordance with subsection (6)(b), be entitled to such amount that the predecessor would have been entitled to under subsections (1) and (5), and

(III) subsection (3) shall have effect as if references to the company in that subsection were references to the successor.”, 5

(iii) in subsection (7), by the substitution of “for the purposes of corporation tax” for “for any tax purpose”,

(iv) by the insertion of the following subsection after subsection (8):

“(8A) The company shall, when making a claim in accordance with subsection (8), provide details of amounts which are carried forward by the company in accordance with section 766A(4), being amounts which have not been used to reduce the corporation tax of an accounting period in accordance with section 766A(2) (referred to in section 766A(4) as ‘the excess’), excluding amounts claimed in accordance with section 766A(4B), and which may be treated as an amount by which corporation tax of the succeeding accounting period may be reduced.”, 10 15

(v) by the insertion of the following subsections after subsection (14):

“(15) Nothing in this section shall prevent the Revenue Commissioners from examining a claim subsequent to any payment or offset having been made and making or amending an assessment, as the case may be, under Chapter 5 of Part 41A. 20

(16) (a) The company shall notify the Revenue Commissioners in writing, on or before the relevant date, in a form prescribed by the Revenue Commissioners, of the intention of the company to make a claim under this section and the prescribed form shall contain such particulars in relation to the claim as may be specified in the prescribed form including— 25

(i) the name, address and corporation tax number of the company, 30

(ii) confirmation that the building or structure is a qualifying building,

(iii) the proportion of the qualifying building which is to be used for the purpose of the carrying on by the company of research and development activities within the meaning of section 766(1)(a) for the specified relevant period, and 35

(iv) details of expenditure incurred by the company which has been or is to be met directly or indirectly by grant assistance or any other assistance referred to in section 766A(1)(b)(i).

(b) The Revenue Commissioners may require the company to provide such additional information, explanations, and particulars and to give all assistance which may reasonably be required for the purpose of inspecting the information required to be delivered 40



under this subsection.

(c) Paragraph (a) shall not apply where the company has made a claim under this section or section 766A in respect of any of the 3 immediately preceding accounting periods.

(d) In paragraph (a), ‘relevant date’ means the date which is 90 days 5 before the claim under subsection (1) shall be made.”.

(2) (a) Subject to *paragraphs (b), (c) and (d), subsection (1)* shall apply in respect of accounting periods commencing on or after 1 January 2024.

(b) *Subsection (1)(b)* shall be deemed to have applied on and from 15 December 2022. 10

(c) *Paragraphs (c)(v) and (d)(iv) of subsection (1)* shall apply in respect of accounting periods ending on or after 31 December 2023.

(d) *Paragraph (c)(vi) (in so far as it inserts subsection (16) in section 766C of the Principal Act) and paragraph (d)(v) (in so far as it inserts subsection (15) in section 766D of the Principal Act) of subsection (1)* shall apply on and from the 15 date of the passing of this Act.

#### **Amendment of certain tax exemption provisions**

**35.** (1) The Principal Act is amended—

(a) in section 220—

(i) by the insertion of the following paragraph after paragraph 9: 20

“10. Ennis 2040 (Strategic Development) Designated Activity Company, registered on 8 December 2020 (registered number 684352).”,

and

(ii) by the insertion of the following paragraph after paragraph 10 (inserted by *subparagraph (i)*): 25

“11. Nature Partners Company Limited by Guarantee, registered on 1 November 2021 (registered number 707015).”,

(b) in Schedule 4—

(i) by the insertion of the following paragraph after paragraph 45:

“45A. Grangegorman Development Agency.”, 30

and

(ii) by the insertion of the following paragraph after paragraph 74AA:

“74AAA. The National Paediatric Hospital Development Board.”,

and

(c) in Part 1 of Schedule 15— 35

(i) by the insertion of the following paragraph after paragraph 48:

“49. Ennis 2040 (Strategic Development) Designated Activity Company, registered on 8 December 2020 (registered number 684352).”,

and

(ii) by the insertion of the following paragraph after paragraph 49 (inserted by *subparagraph (i)*):

“50. The National Paediatric Hospital Development Board.”.

(2) (a) *Paragraphs (a)(i) and (c)(i) of subsection (1)* shall be deemed to have effect from 8 December 2020.

(b) *Paragraph (a)(ii) of subsection (1)* shall be deemed to have effect from 1 November 2021.

(c) *Paragraph (b)(i) of subsection (1)* shall be deemed to have effect from 10 May 2006.

(d) *Paragraphs (b)(ii) and (c)(ii) of subsection (1)* shall be deemed to have effect from 23 May 2007.

### **Outbound payments defensive measures**

36. (1) Part 33 of the Principal Act is amended by the insertion of the following Chapter after section 817T:

#### “CHAPTER 5

#### *Outbound payments defensive measures*

#### **Interpretation**

817U. (1) In this Chapter—

‘arrangement’ has the same meaning as it has in Part 35A;

‘associated entities’ shall be construed in accordance with subsection (3);

‘controlled foreign company charge’ has the same meaning as it has in Part 35B;

‘domestic tax’ means income tax, corporation tax or capital gains tax;

‘EEA Agreement’ means the Agreement on the European Economic Area signed at Oporto on 2 May 1992, as adjusted by the Protocol signed at Brussels on 17 March 1993;

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

‘entity’ has the same meaning as it has in Part 35C;

‘excluded payment’ means a payment, or a portion thereof, made by a company to the extent that it is reasonable to consider that—

(a) an amount of income, profits or gains arising from the payment is within the charge to—

- (i) supplemental tax,
  - (ii) foreign tax at a nominal rate greater than zero per cent, or
  - (iii) domestic tax, other than as applied by this Chapter,
- or
- (b) the payment is made out of an amount of income, profits or gains 5  
where—
    - (i) that income, profits or gains are within the charge to foreign tax  
at a nominal rate greater than zero per cent, and
    - (ii) in calculating the amount of foreign tax to which that income,  
profits or gains are subject, no account is taken of that payment 10  
or any amount in respect of that payment,

and includes a payment which would be a payment to which  
paragraph (a) or (b) applies but for the fact that the entity which  
would be within the charge to tax—

    - (I) in respect of that payment, or 15
    - (II) in respect of the income, profits or gains out of which the  
payment is made,

is a pension fund, government body or other entity, resident in a  
territory other than a specified territory, that, under the laws of that  
territory, is exempted from tax which generally applies to profits, 20  
income or gains in that territory;

‘foreign company charge’ has the same meaning as it has in Part 35B;

‘foreign tax’ has the same meaning as it has in Part 35C;

‘permanent establishment’, in respect of a company, means a fixed  
place of business situated in a territory other than where that company 25  
is resident, through which the business of a company is wholly or  
partly carried on;

‘qualified IIR’, ‘qualified UTPR’, and ‘qualified domestic top-up tax’  
have the same meaning, respectively, as they have in Part 4A;

‘relevant distribution’ has the same meaning as it has in Chapter 8A of 30  
Part 6;

‘relevant Member State’ means—

    - (a) a Member State of the European Union, or
    - (b) not being such a Member State, an EEA State;

‘relevant payment’ means a payment made by a company of an amount 35  
of interest or royalties which has been, or may be, in the current  
accounting period or any subsequent accounting period, deducted,  
allowed or relieved in computing its or another company’s profits or  
losses for the purposes of corporation tax;

‘royalty’ means a payment of any kind for—

- (a) the use of, or the right to use—
  - (i) any copyright of literary, artistic or scientific work, including cinematograph films,
  - (ii) any patent, trademark, design or model, plan, secret formula or process,
- or
- (b) information concerning industrial, commercial or scientific experience;

‘specified territory’ means a territory, other than a relevant Member State, which is a listed territory or a zero-tax territory; 10

‘supplemental tax’ means—

- (a) a foreign company charge,
- (b) a qualified IIR,
- (c) a qualified UTPR, 15
- (d) a qualified domestic top-up tax, or
- (e) any other tax which is similar to any of the taxes referred to in paragraphs (a) to (d);

‘tax period’ has the same meaning as it has in section 835Z;

‘zero-tax territory’ means a territory that, other than in respect of an entity whose income, profits or gains are treated by that territory, or would be so treated but for an insufficiency of income, profits or gains, as arising or accruing to another entity— 20

- (a) generally subjects entities to tax at a rate of zero per cent on income, profits and gains, or 25
  - (b) does not generally subject entities, whether on a remittance basis or otherwise, to a tax on income, profits and gains.
- (2) In this Chapter, ‘listed territory’ has the same meaning as in section 835YA subject to the modification that references to ‘an accounting period beginning’ shall be read as references to ‘the making of a payment or distribution’. 30
- (3) In this Chapter, two entities shall be ‘associated entities’ in respect of each other where—
- (a) one entity, directly or indirectly, possesses or is beneficially entitled to— 35
    - (i) where the other entity is an entity having share capital, more than 50 per cent of the issued share capital of the other entity, or
    - (ii) where the other entity is an entity not having share capital, an

- interest of more than 50 per cent of the ownership rights in the other entity,
- (b) one entity, directly or indirectly, is entitled to exercise more than 50 per cent of the voting power in the other entity,
- (c) one entity (in this paragraph referred to as ‘the first-mentioned entity’), directly or indirectly, holds such rights as would—
- (i) where the other entity is a company, if the whole of the profits of that other entity were distributed, entitle the first-mentioned entity, directly or indirectly, to receive more than 50 per cent of the profits so distributed, or
- (ii) where the other entity is an entity other than a company, if the share of the profits of that other entity to which the first-mentioned entity is entitled, directly or indirectly, is more than 50 per cent,
- (d) one entity has definite influence in the management of the other entity, or
- (e) there is another entity in respect of which the two entities are, in accordance with paragraph (a), (b), (c) or (d), associated entities.
- (4) For the purposes of subsection (3)(d), one entity (in this subsection referred to as ‘the first-mentioned entity’) shall be considered to have definite influence in the management of another entity (in this subsection referred to as ‘the second-mentioned entity’) where the first-mentioned entity has the ability to participate, on the board of directors or equivalent governing body of the second-mentioned entity, in the financial and operating policy decisions of the second mentioned entity, where that ability causes, or could cause, the affairs of the second-mentioned entity to be conducted in accordance with the wishes of the first-mentioned entity.
- (5) For the purposes of this Chapter, an entity shall be regarded as being a resident of a territory if—
- (a) in a case where the territory is a territory with the government of which arrangements having the force of law by virtue of section 826(1) have been made, the entity is regarded as being a resident of that territory under those arrangements, and
- (b) in any other case, the entity is by virtue of the law of a territory resident for the purposes of tax in that territory,
- but where an entity is not resident in any territory in accordance with paragraph (a) or (b) it shall be regarded as being resident in the territory under whose laws it was created.
- (6) For the purposes of this Chapter, where a relevant payment or a relevant distribution is made to an entity or a permanent establishment (in this subsection referred to as ‘the first-mentioned entity or permanent establishment’) and some or all of that payment or

distribution is treated as arising or accruing to another entity or permanent establishment (in this section referred to as ‘the second-mentioned entity or permanent establishment’) or an individual, that is resident or situated in a different territory, under the tax law of the territory where—

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- (a) the first-mentioned entity or permanent establishment is resident or situated, as the case may be, and
- (b) the second-mentioned entity or permanent establishment or such individual is resident or situated, as the case may be,

then, for the purposes of this Chapter, the payment or distribution, or the relevant portion thereof, shall be treated as if it had been made to the second-mentioned entity or permanent establishment or that individual.

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### **Payment of interest**

**817V.** (1) This section applies to a relevant payment of interest paid by a company to—

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- (a) an associated entity that is resident in a specified territory and is not resident in another territory that is not a specified territory, or
- (b) a permanent establishment of an associated entity which is situated in a specified territory,

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to the extent that the relevant payment of interest is not an excluded payment.

(2) Sections 64(2), 198(1)(c), 246(3), 246A(3)(a)(A) and 246A(3)(b)(A) shall not apply to a relevant payment of interest to which this section applies.

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(3) Subsection (2) of section 246 shall apply to a relevant payment of interest to which this section applies as if a reference to a payment of yearly interest in that subsection were a reference to a relevant payment of interest to which this section applies.

(4) Where this section applies to a relevant payment of interest on a security referred to in section 37(2), section 36(2) shall apply as if ‘shall be paid without the deduction of tax, but all such interest’ were omitted.

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(5) Where an arrangement is entered into by any person and it is reasonable to consider that the main purpose or one of the main purposes of the arrangement, or any part of the arrangement, is the avoidance of the application of any of the provisions of this section to a relevant payment of interest, directly or indirectly, to an associated entity in a specified territory, then this section shall apply as if the arrangement, or that part of the arrangement, had not been entered into.

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(6) Subject to subsection (5), this section shall not apply to a relevant payment of interest by a company where that relevant payment of

interest is a payment—

(a) to which section 64(2)(b)(i) or 246A(3)(a)(A) would apply, but for subsection (2), or

(b) to which section 246A(3)(b)(A) would apply, but for subsection (2), solely by virtue of section 246A(3)(b)(ii)(I),

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where it is reasonable to consider that the company is not, and should not be, aware that any portion of the relevant payment of interest is made to an associated entity.

(7) This section shall not apply to the portion of the relevant payment of interest made by a company to an entity to the extent that—

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(a) a corresponding amount has been paid by that entity to another person in a tax period which commences within 12 months of the end of the tax period in which the payment is made by the company,

(b) the corresponding amount referred to in paragraph (a) would have been an excluded payment had that corresponding amount been paid directly by the company to that other person referred to in that paragraph, and

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(c) all payments were made for bona fide commercial purposes.

(8) Nothing in this section shall result in the application of section 246(2) to an entity other than a company which makes a relevant payment of interest.

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### **Payment of royalties**

**817W.** (1) This section applies to a relevant payment of a royalty by a company to—

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(a) an associated entity that is resident in a specified territory and is not resident in another territory that is not a specified territory, or

(b) a permanent establishment of an associated entity which is situated in a specified territory,

to the extent that the relevant payment of a royalty is not an excluded payment.

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(2) (a) The receipt of a relevant payment of a royalty to which this section applies shall be deemed to be annual profits arising to the associated entity, or permanent establishment of the associated entity, referred to in subsection (1), as the case may be, from property in the State for the purposes of section 18(1).

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(b) A relevant payment of a royalty to which this section applies shall be an annual payment charged with tax under Schedule D for the purposes of section 238(2).

(c) Subsections (3) and (4) of section 242A shall not apply to a relevant payment of a royalty to which this section applies.

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- (3) Section 757(2) shall not apply to a relevant payment of a royalty to which this section applies.
- (4) Where an arrangement is entered into by any person and it is reasonable to consider that the main purpose or one of the main purposes of the arrangement, or any part of the arrangement, is the avoidance of the application of any of the provisions of this section to a relevant payment of a royalty, directly or indirectly, to an associated entity in a specified territory, then this section shall apply as if the arrangement, or that part of the arrangement, had not been entered into.

**Making of distribution**

**817X.** (1) This section applies to a relevant distribution where—

- (a) a company resident in the State makes a relevant distribution to—
  - (i) an associated entity that is resident in a specified territory and is not resident in another territory that is not a specified territory, or
  - (ii) a permanent establishment of an associated entity which is situated in a specified territory,
- (b) to the extent that the relevant distribution is not an excluded payment, and
- (c) to the extent that the relevant distribution is made out of income, profits or gains which have not been chargeable, directly or indirectly, to—
  - (i) domestic tax,
  - (ii) foreign tax at a nominal rate greater than zero per cent,
  - (iii) a controlled foreign company charge,
  - (iv) a supplemental tax, or
  - (v) any other tax which is similar to any of the taxes referred to in subparagraphs (i) to (iv).
- (2) Sections 140(3)(a), 142(2), 153(4), 172B(7), 172D(2) and 172E(1) shall not apply to a relevant distribution to which this section applies.
- (3) Where an arrangement is entered into by any person and it is reasonable to consider that the main purpose or one of the main purposes of the arrangement, or any part of the arrangement, is the avoidance of the application of any of the provisions of this section to the making of a relevant distribution, directly or indirectly, to an associated entity in a specified territory, then this section shall apply as if the arrangement, or that part of the arrangement, had not been entered into.

**Reporting**

**817Y.** (1) In this section—



‘chargeable period’ has the meaning assigned to it by section 959A;  
‘specified return date for the chargeable period’ has the meaning  
assigned to it by section 959A.

- (2) Every company who makes a payment of interest or a royalty, or  
makes a relevant distribution to— 5
- (a) an associated entity that is resident in a specified territory and is  
not resident in another territory that is not a specified territory, or
- (b) a permanent establishment of an associated entity which is situated  
in a specified territory,
- in a chargeable period shall, in the return required to be delivered 10  
under Chapter 3 of Part 41A, provide the following details in respect  
of each payment or distribution—
- (i) the amount of the payment or distribution,
- (ii) the amount of tax withheld on the payment or distribution, and
- (iii) the territory where the entity or permanent establishment is 15  
resident, or situated, as the case may be.

#### **Scope of application**

- 817Z.** (1) Subject to subsection (2), this Chapter shall apply to a payment of  
interest or royalties, or the making of a distribution, on or after 1 April 20  
2024.
- (2) Where arrangements are in place on or before 19 October 2023, in  
respect of which there is a payment of interest or royalties, or the  
making of a distribution, then this Chapter shall apply to such payment  
or distribution made, as the case may be, on or after 1 January 2025.”.
- (2) The Principal Act is amended— 25
- (a) in section 36(2), by the substitution of “Subject to section 817V, the interest on  
all” for “The interest on all”,
- (b) in section 64(2), by the substitution of “Subject to section 817V, section 246(2)”  
for “Section 246(2)”,
- (c) in section 140(3), in paragraph (a), by the substitution of “Subject to section 30  
817X, so much of” for “So much of”,
- (d) in section 142(2), by the substitution of “Subject to section 817X, where a  
distribution” for “Where a distribution”,
- (e) in section 153(4), by the substitution of “Subject to section 817X, where for any  
year” for “Where for any year”, 35
- (f) in section 172B(7), by the substitution of “Subject to section 817X, this section  
shall not apply” for “This section shall not apply”,
- (g) in section 172D(2), by the substitution of “Subject to section 817X, section  
172B” for “Section 172B”,

- (h) in section 172E(1), by the substitution of “Subject to sections 172F(6) and 817X, section 172B shall not” for “Subject to section 172F(6), section 172B shall not”,
- (i) in section 198(1), in paragraph (c), by inserting “subject to section 817V and” after “Notwithstanding any other provision of the Income Tax Acts but”,
- (j) in section 242A— 5
  - (i) in subsection (3), by the substitution of “Subject to section 817W, where” for “Where”, and
  - (ii) in subsection (4), by the substitution of “Subject to section 817W, a company” for “A company”,
- (k) in section 246(3), by the substitution of “Subject to section 817V, subsection (2)” for “Subsection (2)”, 10
- (l) in section 246A(3), by the substitution of “Subject to section 817V, as respects” for “As respects”, and
- (m) in section 452A, by the insertion of the following subsection after subsection (2):
  - “(3) Section 130(2)(d)(iv) shall not apply to an amount of interest to which section 817V(1) applies from which tax has been properly deducted at the standard rate in force at the time of the payment in accordance with section 246(2) and such tax is not refundable.”. 15

**Amendment of Part 6 of Principal Act (company distributions, tax credits, etc.)**

- 37. (1)** Section 153 of the Principal Act is amended, in subsection (1)— 20
- (a) in the definition of “qualifying non-resident person”—
    - (i) by the deletion of “or” before paragraph (b),
    - (ii) in paragraph (b), by the substitution of “this section, or” for “this section;”, and
    - (iii) by the insertion of the following paragraph after paragraph (b): 25
      - “(c) a scheme referred to in section 172C(2)(bd);”,
  - (b) in the definition of “relevant territory”—
    - (i) in paragraph (a), by the insertion of “or an EEA state,” after “European Communities”, and
    - (ii) in paragraph (b), by the insertion of “or an EEA state” after “Member State”, 30
      - and
  - (c) by the insertion of the following definitions:
    - “ ‘EEA Agreement’ means the Agreement on the European Economic Area signed at Oporto on 2 May 1992, as adjusted by all subsequent amendments to that Agreement; 35
    - ‘EEA state’ means a state which is a contracting party to the EEA Agreement;”.

- (2) Section 172A of the Principal Act is amended, in subsection (1)(a), in the definition of “relevant territory”—
- (a) in subparagraph (i), by the insertion of “or an EEA state,” after “European Communities”, and
  - (b) in subparagraph (ii), by the insertion of “or an EEA state” after “Member State”. 5
- (3) Section 172C of the Principal Act is amended, in subsection (2), by the insertion of the following paragraph after paragraph (bc):
- “(bd) a scheme which—
- (i) would, if it were established in the State, be an approved scheme within the meaning of Chapter 1 of Part 30 (in this paragraph referred to as an ‘approved scheme’), 10
  - (ii) is authorised by a country, other than an EEA state, with which the State has entered arrangements pursuant to section 826(1B) and is subject to supervisory and regulatory arrangements at least equivalent to those applied to an approved scheme in the State, and 15
  - (iii) has made a declaration to the relevant person in relation to the relevant distribution in accordance with paragraph 13 of Schedule 2A,”.
- (4) Schedule 2A to the Principal Act is amended by the insertion of the following paragraph after paragraph 12: 20
- “Declaration to be made by an excluded person, being a non-resident pension scheme under section 172C(2)(bd)*
- 13.** The declaration referred to in section 172C(2)(bd) shall be a declaration in writing to the relevant person in relation to the relevant distributions which— 25
- (a) is made by the person (in this paragraph referred to as ‘the declarer’) beneficially entitled to the relevant distributions in respect of which the declaration is made,
  - (b) is signed by the declarer, 30
  - (c) is made in such form as may be prescribed or authorised by the Revenue Commissioners,
  - (d) declares that, at the time when the declaration is made, the person beneficially entitled to the relevant distributions is a person referred to in section 172C(2)(bd), 35
  - (e) contains the name of the person referred to in subparagraph (d) and the country in which that person is authorised,
  - (f) contains a statement that, at the time when the declaration is made, the relevant distributions in respect of which the declaration is made will be applied as income of a scheme referred to in section 172C(2)(bd), 40

- (g) contains an undertaking by the declarer that, if the person referred to in subparagraph (d) ceases to be an excluded person, the declarer will, by notice in writing, advise the relevant person in relation to the relevant distributions accordingly, and 5
- (h) contains such other information as the Revenue Commissioners may reasonably require for the purposes of Chapter 8A of Part 6.”.

CHAPTER 5

*Corporation Tax* 10

**Taxation of leases**

38. The Principal Act is amended—

- (a) by the substitution of the following section for section 76D:

**“Computation of income and expenses from leases**

**76D.** (1) In this section and sections 299 and 403— 15

‘finance lease’ means a lease which, under generally accepted accounting practice, falls to be treated as a finance lease;

‘lease’ means a finance lease or an operating lease;

‘leased asset’ in relation to a lease, means an asset that is the subject of the lease; 20

‘lease payments’, in relation to a lease, means amounts payable under the lease to the lessor in relation to the leased asset, and includes—

- (a) any residual amount to be paid to the lessor at or after the end of the lease term and guaranteed by the lessee or by a person connected with the lessee or under the terms of any scheme or arrangement between the lessee and any other person, and 25

- (b) any amount to be refunded by the lessor at or after the end of the lease term and guaranteed by the lessor or by a person connected with the lessor or under the terms of any scheme or arrangement between the lessor and any other person; 30

‘lease term’, in respect of a company, has the meaning given to it by the generally accepted accounting practice in accordance with which that company prepares its accounts;

‘lessee’ and ‘lessor’, in relation to machinery or plant provided for leasing, mean respectively the person to whom the machinery or plant is or is to be leased and the person providing the machinery or plant for leasing, and ‘lessee’ and ‘lessor’ include respectively the successors in title of a lessee or a lessor; 35

‘operating lease’ means a lease which, under generally accepted

accounting practice, does not fall to be treated as a finance lease.

- (2) Subject to sections 80A and 299, Chapter 8 of Part 4, and subsection (4), for the purposes of computing income of a company from a trade of leasing, the income of a lessor from a lease—
- (a) shall not be the amount of income from the lease computed in accordance with generally accepted accounting practice, and 5
  - (b) shall be computed, subject to the provisions of the Corporation Tax Acts other than section 76A, by treating—
    - (i) the total lease payments receivable in respect of the lease as trading receipts of the trade arising evenly over the lease term, and 10
    - (ii) as trading expenses of the trade any disbursements or expenses laid out or expended for the purposes of earning those lease payments.
- (3) Subject to sections 80A and 299, Chapter 8 of Part 4, and subsection (4), for the purposes of computing the trading profits of a company which is the lessee in respect of a leased asset that is employed in that trade, the amount to be deducted in computing the profits or gains of a lessee— 15
- (a) shall not be the lease related expenses or charges in respect of the lease computed in accordance with generally accepted accounting practice, and 20
  - (b) shall be computed, subject to the provisions of the Corporation Tax Acts other than section 76A, by treating the total lease payments payable in respect of the lease as an expense of the trade laid out or expended evenly over the lease term, and no amount shall be prevented from being deducted by virtue only of the fact that for accounting purposes it was taken into account in determining the value of an asset. 25
- (4) Where during the lease term, there is a change to the lease term or the amount of the lease payments, then in the accounting period in which the change occurs— 30
- (a) the amount of income under subsection (2), or
  - (b) the amount to be deducted under subsection (3),
- shall be recalculated as if the change occurred on the first day of that accounting period such that the remaining lease payments, or amended lease payments, as the case may be, are spread evenly over the remaining lease term. 35
- (5) Notwithstanding subsections (2) and (3), where a rebate of lease payments, other than as referred to in paragraph (b) of the definition of 'lease payments', is payable or receivable on the termination of a lease, the amount of that rebate shall be— 40

- (a) in respect of the lessor, deductible in the year in which it is paid or accrued, whichever is the later, and
  - (b) in respect of the lessee, taxable in the year in which it is received or accrued, whichever is the earlier.”,
- (b) in section 288— 5
- (i) by the insertion of the following subsection after subsection (1):
    - “(1A) Notwithstanding subsection (1) and subject to this section, where either of the following events occur in the case of any machinery or plant in respect of which an initial allowance or a wear and tear allowance has been made for any chargeable period to a person carrying on a trade— 10
      - (a) after the setting up and before the permanent discontinuance of the trade, the entering into a lease of machinery or plant, as lessor, on the terms described in section 299(1), notwithstanding the fact that the machinery or plant has not ceased to belong to the person carrying on the trade, or 15
      - (b) after the setting up and before the permanent discontinuance of the trade the right to use the machinery or plant reverts to a lessor following the conclusion of a relevant lease (within the meaning of section 299) in respect of which a valid election or claim under section 299 was made, notwithstanding the fact that the machinery or plant belonged to the lessor— 20
        - (i) prior to entering into the relevant lease,
        - (ii) during the term of the relevant lease, and
        - (iii) following the conclusion of the relevant lease, 25
          - and did not belong to the person carrying on the trade,
          - a balancing allowance or a balancing charge shall, in the circumstances mentioned in this section, be made to or, as the case may be, on that person for the chargeable period related to that event.”,
  - (ii) in subsection (2), by the substitution of “Subject to subsection (6B), where there are no sale” for “Where there are no sale”, and 30
  - (iii) by the insertion of the following subsection after subsection (6A):
    - “(6B) (a) For the purposes of subsection (2), in the case of an event referred to in subsection (1A)(a) occurring, an amount calculated as the higher of— 35
      - (i) the open-market price (within the meaning of section 289(1)) of the machinery or plant, and
      - (ii) the discounted present value of the lease payments under the lease, where the payments are discounted at the interest rate implicit in the lease under generally accepted accounting practice, 40

- shall be deemed to be sale, insurance, salvage or compensation moneys arising on entering into the lease.
- (b) For the purposes of subsection (2), in the case of an event referred to in subsection (1A)(b) occurring, an amount calculated as the higher of— 5
- (i) the open-market price (within the meaning of section 289(1)) of the machinery or plant, and
- (ii) the amount payable or expected to be payable under a residual value guarantee in respect of the machinery or plant which forms part of a lease accounted for under generally accepted accounting practice at the end of the lease term, 10
- shall be deemed to be sale, insurance, salvage or compensation moneys arising on the transfer.”,
- (c) in section 299—
- (i) in subsection (1), by the substitution of “relevant lease” for “finance lease (within the meaning of section 76D)”, 15
- (ii) by the insertion of the following subsection after subsection (1):
- “(1A) For the purpose of this section, a lease shall be a relevant lease where—
- (a) the lease is a finance lease, or 20
- (b) the lease is an operating lease, and each of the following criteria apply at the inception of the lease:
- (i) under the terms of the lease, the discounted present value of the lease payments which are payable during the lease term amounts to 80 per cent or more of the fair value of the leased asset where the payments are discounted at the relevant rate; 25
- (ii) the lease term is greater than or equal to 65 per cent of the predictable useful life (within the meaning of section 80A) of the leased asset;
- (iii) the lease is granted on such terms that the use and enjoyment of the leased asset is obtained by the lessee for a period at the end of which it is considered likely that the leased asset will pass to the lessee. 30
- (c) For the purposes of paragraph (b)(i), the relevant rate shall be the interest rate implicit in the lease under generally accepted accounting practice, but where such rate is unknown to a lessee, the lessee may use the incremental borrowing rate under generally accepted accounting practice.”, 35
- (iii) in subsection (3)—
- (I) by the substitution of the following paragraph for paragraph (a): 40

- “(a) In this section, ‘fair value’, in relation to a leased asset, means an amount equal to such consideration as might be expected to be paid for the asset at the inception of the lease on a sale negotiated on an arm’s length basis, less any grants receivable by the lessor towards the purchase of the asset.”, 5
- (II) in paragraph (b), by the substitution of “Where the lessee is an individual, subsection (1)” for “Subsection (1)”, and
- (III) in paragraph (c)—
- (A) in subparagraph (i), by the substitution of “relevant lease” for “finance lease”, and 10
- (B) by the substitution of “lease term” for “term of the lease” in each place where it occurs,
- and
- (iv) by the insertion of the following subsections after subsection (3):
- “(4) (a) Subject to paragraph (b), where this section applies and the lessor is a company, the amount to be included in the income of the lessor in respect of a relevant lease shall be— 15
- (i) where the relevant lease is a finance lease, the amount of income from such a lease computed in accordance with generally accepted accounting practice, or 20
- (ii) where the relevant lease is an operating lease, the amount of income from such a lease as would be computed in accordance with generally accepted accounting practice if the relevant lease was a finance lease.
- (b) Where the lessor referred to in paragraph (a) is not carrying on a trade of leasing, then in calculating the profits arising from its leasing activities no sum shall be deducted in respect of any disbursement or expense. 25
- (5) Subsection (4) shall only apply to a lessor, in respect of a relevant lease, where— 30
- (a) notwithstanding the provisions of subsection (1), the leased asset belongs to the lessor—
- (i) immediately prior to the lessor entering into the relevant lease, and
- (ii) throughout the relevant lease term, 35
- (b) the lease is on the terms described in subsection (1),
- (c) the lessor acquired the leased asset by way of a bargain made at arm’s length,
- (d) the leased asset is not new machinery or plant for the purposes of an election by the lessor under section 290, 40



- (e) the relevant lease has been entered into by way of a bargain made at arm's length,
  - (f) where the lessee is not tax resident in the State, it is reasonable to consider that the amount which may be taken into account by the lessee as an expenditure or expense, or which may otherwise be deducted, allowed or relieved in computing the profits or gains on which tax falls finally to be borne for the purposes of foreign tax (within the meaning of section 835Z(1)) is similar to that calculated under subsection (3) and not similar to that calculated under section 76D,
  - (g) it is reasonable to consider that the relevant lease—
    - (i) has been entered into for bona fide commercial reasons, and
    - (ii) does not form part of any arrangement or scheme of which the main purpose, or one of the main purposes, is the avoidance of tax,
 and
  - (h) the lessee—
    - (i) is an individual, an election is made under subsection (3)(b) and the information specified in subsection (9) is provided in the return required to be delivered under Part 41A, or
    - (ii) is not an individual, a claim is made in the return required to be delivered under Part 41A and, where the lessor and lessee are both within the charge to tax under Schedule D, the lessor and lessee jointly agree in writing at the commencement of the relevant lease that, under the terms of the relevant lease, the burden of wear and tear of the machinery or plant in fact falls directly on the lessee.
- (6) Subsection (3)(c) shall only apply to a lessee, in respect of a relevant lease, where—
- (a) the relevant lease is—
    - (i) an operating lease and the conditions specified in paragraphs (a) to (g) of subsection (5) are satisfied, or
    - (ii) a finance lease,
 and
  - (b) the lessee—
    - (i) is an individual, an election is made under subsection (3)(b) and the information specified in subsection (9) is provided in the return required to be filed under Part 41A, or
    - (ii) is not an individual, a claim is made in the return required to be delivered under Part 41A and, where the lessor and lessee are both within the charge to tax under Schedule D, the lessor and

lessee jointly agree in writing at the commencement of the relevant lease that, under the terms of the relevant lease, the burden of wear and tear of the machinery or plant in fact falls directly on the lessee.

- (7) In making a claim under subsection (5)(h)(ii) the lessor shall provide the following information in respect of each relevant lease: 5
- (a) the name of the lessee;
  - (b) where—
    - (i) the lessee is resident in the State, the tax reference number (within the meaning of section 891B) of the lessee, 10
    - (ii) the lessee is not resident in the State but is, under arrangements that have the force of law by virtue of section 826(1), regarded as being a resident of a territory with the government of which such arrangements have been made, the name of that territory,
    - (iii) the lessee is not resident in the State or a territory referred to in paragraph (ii) but is, by virtue of the law of another territory regarded as a resident in that other territory, the name of that other territory, or 15
    - (iv) an entity is not regarded as resident in any territory in accordance with subparagraph (i), (ii) or (iii), the name of the territory under whose laws it was created; 20
  - (c) whether the lessee is an associated enterprise of the lessor for the purposes of Chapter 4 of Part 35C;
  - (d) the open-market price (within the meaning of section 289(1)) of the leased asset; 25
  - (e) the discounted present value of the lease payments under the lease and the discount rate used;
  - (f) the amount of the capital allowances foregone by the lessor.
- (8) In making a claim under subsection (6)(b)(ii) the lessee shall provide the following information in respect of each relevant lease: 30
- (a) the name of the lessor;
  - (b) where—
    - (i) the lessor is resident in the State, the tax reference number (within the meaning of section 891B) of the lessor,
    - (ii) the lessor is not resident in the State but is, under arrangements that have the force of law by virtue of section 826(1), regarded as being a resident of a territory with the government of which such arrangements have been made, the name of that territory, 35
    - (iii) the lessor is not resident in the State or a territory referred to in subparagraph (ii) but is, by virtue of the law of another territory 40

- regarded as a resident in that other territory, the name of that other territory, or
- (iv) an entity is not regarded as resident in any territory in accordance with subparagraph (i), (ii) or (iii), the name of the territory under whose laws it was created; 5
- (c) whether the lessor is an associated enterprise of the lessee for the purposes of Chapter 4 of Part 35C;
- (d) the open-market price (within the meaning of section 289(1)) of the leased asset;
- (e) the discounted present value of the lease payments under the lease and the discount rate used; 10
- (f) the amount to be deducted in computing the profits or gains to be charged to tax under Case I of Schedule D in the period in respect of which the return is made;
- (g) the amount of the capital expenditure deemed to have been incurred by the lessee by reason of the relevant lease; 15
- (h) the wear and tear allowance claim made by the lessee in the period in respect of which the return is made;
- (i) confirmation that a joint agreement has been made in respect of the relevant lease. 20
- (9) Where an election is made under subsection (3)(b), both the lessor and the lessee shall include the following details in the return required to be made under Part 41A:
- (a) in respect of each relevant lease—
- (i) confirmation that an election under subsection (3)(b) was made, 25
- (ii) whether the lessor is an associated enterprise of the lessee for the purpose of Chapter 4 of Part 35C, and
- (iii) the open-market price (within the meaning of section 289(1)) of the leased asset;
- (b) the total number of relevant leases to which these provisions apply in the chargeable period (within the meaning of section 959A) to which the return relates; 30
- (c) the total value of machinery or plant allowances transferred in relation to the leases referred to in paragraph (d);
- (d) the total open-market price (within the meaning of section 289(1)) of the leased asset at the time the allowances referred to in paragraph (c) were originally transferred. 35
- (10) Notwithstanding the generality of this section, section 539 shall not apply to a lease of machinery or plant other than a lease in respect of which a valid election or claim under this section was made.” 40

- (d) in section 396A(1), by the deletion of paragraph (b) of the definition of “relevant trading loss”,
- (e) in section 402(2), by the insertion of the following paragraph after paragraph (c):
- “(d) Where an amount unallowed is carried forward to a succeeding accounting period under section 308(3), and that allowance has been computed in terms of the company’s functional currency pursuant to this subsection, then that allowance in that succeeding accounting period shall be expressed in terms of the currency of the State by reference to the rate of exchange which—
- (i) is used to express in terms of the currency of the State the amount of the profits from the leasing activity for the accounting period in which the allowance is to be set off, or
- (ii) would be so used if there were such income.”,
- (f) in section 403—
- (i) in subsection (1)—
- (I) in paragraph (a), by the insertion of the following definition:
- “ ‘lease adjacent activities’, in relation to a company, means the activities referred to in clauses (II) to (V) of paragraph (d)(ii),”,
- (II) in paragraph (d)(i)—
- (A) in clause (II), by the deletion of “or”,
- (B) in clause (III), by the substitution of “(within the same meaning), or” for “(within the same meaning)”, and
- (C) by the insertion of the following clause after clause (III):
- “(IV) of the company and all companies that are members of the same group of companies construed in accordance with section 411(1),”,
- (III) in paragraph (d)(ii)—
- (A) by the insertion of the following clause after clause (II):
- “(IIA) the provision of finance to a member of the leasing business group (in this clause referred to as ‘the intermediate financing company’) that carries on the activity referred to in clause (II), subject to the following requirements:
- (A) the provision of finance and guarantees by the intermediate financing company is to a member of the leasing business group who carries on activities referred to in clause (I) (in this clause referred to as ‘the borrower company’);
- (B) the moneys provided by the intermediate financing company are moneys which it has borrowed from persons who are not connected with any member of the

- leasing business group;
- (C) the moneys so provided as referred to in subclause (B) are repaid by the borrower company on the disposal of the machinery or plant.”,
- (B) by the substitution of the following clause for clause (IV): 5
- “(IV) the disposal of machinery or plant acquired by the company for the purpose of carrying on the activity referred to in clause (I);”,
- (C) by the insertion of the following clauses after clause (IV):
- “(IVA) the disposal of the right to acquire machinery or plant (or an interest therein) of a type which is similar to the type of machinery or plant leased by the leasing business group where, at the time that the contract giving rise to the right to acquire the machinery or plant was entered into it was intended that the machinery or plant would be— 10
- (A) acquired by the leasing business group, and 15
- (B) used by the leasing business group for the activity referred to in clause (I);
- (IVB) the disposal by a company of any part of an item of plant or machinery, not including the creation of an interest or a right in or over the plant or machinery, where that plant or machinery was in use by that company for the activity referred to in clause (I);” 20
- (D) in clause (V), by the substitution of “clauses (I) to (IVB)” for “clauses (I) to (IV)”, and 25
- (E) by the substitution for all of the words from and including “then, subject to section 80A(2)(c)” down to and including “adjustment made under section 556(2).” of the following:
- “then, subject to paragraph (c) and section 80A(2)(c), the activities referred to in clause (I) and the lease adjacent activities carried on by such a company shall, for the purposes of this section, be regarded as the leasing business of that company, and references in this section to profits of the leasing business shall be construed as references to the profits arising directly from these activities.”, 30
- and 35
- (IV) by the insertion of the following paragraph after paragraph (d):
- “(e) For the purposes of this section, where a company carries on a leasing business, that company shall form a leasing business group with those companies that are relevant to determining its status as a company carrying on a leasing business under paragraph (d).”, 40
- (ii) by the insertion of the following subsection after subsection (2):

- “(2A) Where the person carrying on the trade of leasing is a company, any lease adjacent activities carried on by that company which would, but for subsection (2), be part of the same trade as the leasing of machinery or plant, shall, for the purposes of subsection (2), be treated as part of the separate trade of leasing.”, 5
- (iii) in subsection (4)—
- (I) by the substitution of the following paragraph for paragraph (a):
- “(a) A company shall have incurred a relevant leasing loss where—
- (i) the company is carrying on a trade of leasing and incurs a loss in that trade, and 10
- (ii) any specified capital allowances have been treated by virtue of section 307 or 308 as trading expenses in arriving at the amount of the loss.”,
- (II) in paragraph (b), by the substitution of “For the purposes of paragraph (c)” for “For the purposes of paragraph (a)”, and 15
- (III) by the insertion of the following paragraph after paragraph (b):
- “(c) Where in an accounting period a company incurs a relevant leasing loss, the relevant amount of that loss shall not be available for relief under—
- (i) section 396A(3), except to the extent that the amount can be used to reduce the income of the leasing business of the company, 20
- (ii) section 396B, except to the extent that the amount can be used to reduce the relevant corporation tax chargeable on the profits of the leasing business of the company, 25
- (iii) section 420A, except to the extent the amount can be surrendered by the company for set off against the relevant trading income arising from—
- (I) the leasing of machinery or plant by a company, or
- (II) the leasing business of a member of the company’s leasing business group, 30
- or
- (iv) section 420B, except to the extent that the amount can be surrendered by the company to reduce the relevant corporation tax chargeable on the profits of the leasing business of a member of the company’s leasing business group.”, 35
- (iv) by the substitution of the following subsection for subsection (5):
- “(5) (a) Section 305(1)(b) shall not apply in relation to capital allowances other than capital allowances in respect of machinery or plant to which subsection (6) or (7) applies. 40

- (b) Where a capital allowance in respect of machinery or plant to be made to a company in an accounting period is a specified capital allowance, arising other than in the course of a trade, to which sections 308(4) and 420(2) apply, those allowances shall not be available— 5
- (i) for relief under section 308(4), except to the extent that the amount can be used against profits of the leasing business of the company, or
- (ii) for relief under section 420(2), except to the extent that the amount can be set off against profits of— 10
- (I) the leasing of machinery or plant by a company, or
- (II) the leasing business of a member of the company’s leasing business group.”,
- and
- (v) by the insertion of the following subsection after subsection (10): 15
- “(11) A company, the capital allowances of which are subject to the restrictions in subsection (4) or (5), shall provide the following information, where it is required by the return required under Part 41A:
- (a) details of the specified capital allowances claimed in the period to which the return relates including— 20
- (i) the amounts claimed, both in the course of a trade and otherwise than in the course of a trade, and
- (ii) where an event referred to in section 288 occurs in relation to an asset on which specified capital allowances are made in the period, details relating to that event including the amount of any balancing allowance or charge made on the asset; 25
- (b) the amount of any relevant leasing loss, within the meaning of this section, available for set off at the commencement of the period to which the return relates; 30
- (c) details of any claims of relevant losses made for set off in the period to which the return relates, under section 396(1), 396A or 396B, as the case may be, insofar as those losses pertain to relevant leasing losses;
- (d) details in respect of relevant leasing losses surrendered under section 420A or 420B insofar as those losses pertain to relevant leasing losses, in the period to which the return relates, including details of the relationship between the claimant company and the surrendering company (both within the meaning of section 411(2)); 35
- (e) details of any claims made under section 308(4) in the period to which the return relates, insofar as the capital allowances concerned pertain to specified capital allowances; 40

- (f) details in respect of capital allowances surrendered under section 420(4) in the period to which the return relates, insofar as those capital allowances pertain to specified capital allowances, including details of the relationship between the claimant company and the surrendering company (both within the meaning of section 411(2)); 5
  - (g) where, in the period to which the return relates, a company disposes of machinery or plant in respect of which specified capital allowances were claimed details—
    - (i) in respect of any chargeable gain or capital loss arising, or 10
    - (ii) in relation to the appropriation of that asset into trading stock under section 596.”,
  - (g) in section 420A(1), by the deletion of paragraph (b) of the definition of “relevant trading loss”,
  - (h) in section 555, by the insertion of the following subsection after subsection (3): 15
    - “(4) Where the disposal is of an asset of machinery or plant that is, or has previously been, the subject of a lease on the terms described in section 299(1), the amount of capital allowances to be excluded from the sums allowable as a deduction shall also include the capital allowances that would have been, or may have been, made in respect of that expenditure, but for the transfer of that burden of wear and tear to the lessee.”, 20
- and
- (i) in section 603—
    - (i) in subsection (2)(a), by the substitution of “subject to subsection (5), from the beginning” for “from the beginning”, and 25
    - (ii) by the insertion of the following subsection after subsection (4):
      - “(5) Subsection (1) shall not apply to the disposal of machinery or plant, or an interest in machinery or plant, where—
      - (a) the machinery or plant was previously the subject of a lease, on the terms described in section 299(1), and 30
      - (b) the person disposing of the asset is or was the lessor in respect of that lease.”.

**Taxation of certain qualifying financing companies**

- 39. The Principal Act is amended— 35
  - (a) by the insertion of the following section after section 76D:
    - “Computation of profits and gains: deductions for interest paid by qualifying financing companies**
    - 76E. (1) In this section—**



‘arrangements’ includes any agreement, understanding, scheme, transaction or series of transactions (whether enforceable or not);

‘associated enterprise’, in respect of a company, means an enterprise that is an associated enterprise of that company for the purposes of Chapter 4 of Part 35C; 5

‘control’ shall be construed in accordance with section 432;

‘EEA state’ means a state, not being a Member State or the State, which is a contracting party to the Agreement on the European Economic Area signed at Oporto on 2 May 1992 as adjusted by the Protocol signed at Brussels on 17 March 1993; 10

‘enterprise’ has the same meaning as in Part 35C;

‘external interest’ means the amount of interest payable on an external loan;

‘external loan’, subject to subsection (11), in respect of a company, means a loan from a person who— 15

(a) does not have the beneficial ownership of, or the ability to control, directly or through the medium of a connected company or connected companies or by any other indirect means, more than 5 per cent of the ordinary share capital of the company, and

(b) is not an associated enterprise of the company; 20

‘qualifying financing company’ means a company that—

(a) holds a direct ownership of 75 per cent or more of the ordinary share capital of one or more than one qualifying subsidiary,

(b) borrows money for the purpose of on-lending that money by way of the making of relevant loans to one or more than one qualifying subsidiary, and 25

(c) apart from activities ancillary to those specified in subparagraphs (a) and (b), carries on no other activities;

‘qualifying subsidiary’ means a company—

(a) that exists wholly or mainly for the purpose of carrying on any trade or trades, 30

(b) that is tax resident in a Member State or an EEA State, and

(c) in which a qualifying financing company holds a direct ownership of 75 per cent or more of the ordinary share capital of the company;

‘relevant loan’ means a loan of money— 35

(a) entered into by way of a bargain made at arm’s length,

(b) advanced by a qualifying financing company to a qualifying subsidiary in which it holds 75 per cent or more of the ordinary share capital, and

- (c) where the money so advanced has been used by the qualifying subsidiary referred to in paragraph (b) wholly and exclusively for the purpose of carrying on a trade or trades, and not for the redemption of or subscription for shares, or any other payments relating to shares or the capital structure of any company. 5
- (2) References in this section to a relevant loan being repaid, in whole or in part, shall include any of the following:
- (a) the repayment, in whole or in part, of the principal amount of money advanced under the relevant loan;
- (b) the disposal, in whole or in part, of, or the disposal of an interest in or over, the relevant loan, and references in subsection (5)(a) to the repayment of the principal amount of money advanced shall be to the higher of— 10
- (i) the outstanding principal so disposed of, and
- (ii) the market value of the loan so disposed of; 15
- (c) the write off or forgiveness of a relevant loan, in whole or in part, and references in subsection (5)(a) to the repayment of the principal amount advanced shall be construed as references to the amount so written off or forgiven;
- (d) the disposal of any shares in a company to which a relevant loan was made such that the disposal causes the company to no longer be a qualifying subsidiary, and references in subsection (5)(a) to the repayment of the principal amount advanced shall be to the higher of— 20
- (i) the outstanding principal on the loan, and 25
- (ii) the market value of the shares so disposed of.
- (3) For the purposes of subsection (6)(b), the reference to the money received by the qualifying financing company is, for each of the events referred to in paragraphs (a), (b) and (c) of subsection (2), the lower of the amount of money received by that qualifying financing company and the amount treated as the repayment of the principal amount advanced for the purposes of subsection (5)(a). 30
- (4) For each chargeable period, for the purposes of computing the profits of a qualifying financing company chargeable to tax under Case III or IV of Schedule D in respect of each relevant loan, notwithstanding section 70(2) and section 76(5)(b), the company shall be entitled to deduct the amount of external interest paid by that company in that chargeable period as has arisen in relation to such portion of the external loan that is, in accordance with subsection (6), matched with that relevant loan. 35 40
- (5) (a) Subject to paragraph (b), where the principal amount of a relevant loan is repaid, in whole or in part, then no deduction shall be available under subsection (4) in respect of any external interest

arising after that repayment on the portion of the external loan that is, or was, matched to the relevant loan or that portion of that relevant loan, represented by the amount that was repaid.

- (b) Where a replacement loan is made, external interest arising after the making of the replacement loan on the portion of the external loan that is matched to that replacement loan may be deductible under subsection (4) against interest from that replacement loan. 5
- (6) (a) Subject to paragraphs (c) and (d), where the moneys advanced under an external loan, or a portion of those moneys, are, at or about the time of the borrowing of the moneys under the external loan, on-lent under a relevant loan, the relevant loan shall be matched to that external loan, or that portion of that external loan. 10
- (b) Subject to paragraph (c), where a repayment of the principal amount of a relevant loan (in this paragraph referred to as ‘the first-mentioned loan’) occurs, in whole or in part, in accordance with paragraph (a), (b) or (c) of subsection (2), and the money received by the qualifying financing company is used to make another relevant loan (in this section referred to as the ‘replacement loan’), then that replacement loan shall be matched to the lowest of the following: 15  
20
  - (i) the amount of the external loan against which the first-mentioned loan, or the part of the first-mentioned loan as appropriate, was matched;
  - (ii) the portion of the external loan against which the first-mentioned loan, or the part of the first-mentioned loan as appropriate, was matched that is not matched against any other relevant loan at the time of the making of the replacement loan; 25
  - (iii) the money actually received by the qualifying company in respect of the repayment.
- (c) The total amount of moneys advanced under a relevant loan that is matched with an external loan shall not exceed the total amount of moneys borrowed under the external loan. 30
- (d) For the purposes of paragraph (a), where an external loan was in place on 1 January 2024, any relevant loans also in place on that date shall be matched against the external loan as if, at or about the time the moneys were borrowed under that external loan, they were on-lent under those relevant loans. 35
- (7) Where a qualifying financing company refinances an external loan (referred to in this subsection as ‘the refinanced external loan’) in respect of which relevant loans were matched in accordance with subsection (6) with another external loan (referred to in this subsection as ‘the second external loan’), the relevant loans shall be matched to the second external loan as they were matched to the refinanced external loan. 40

- (8) No deduction shall be available under subsection (4) in respect of interest on any relevant loan unless, had the qualifying subsidiary borrowed the matched external loan, or portion thereof, as the case may be, directly, the qualifying subsidiary would be entitled to deduct interest on that loan under section 81, and where the qualifying subsidiary is not within the charge to tax in the State it would be, if it was so chargeable, entitled to such a deduction. 5
- (9) No deduction shall be available under subsection (4) in respect of interest that is deductible under any other provision of the Tax Acts.
- (10) This section shall not apply to the payment of interest by a qualifying financing company where it is reasonable to consider that any arrangement entered into in relation to the payment of that interest was not for bona fide commercial reasons and forms part of any arrangement or scheme of which the main purpose, or one of the main purposes, is the avoidance of tax. 10 15
- (11) A loan shall not be an external loan where any of the following arrangements are in place:
- (a) arrangements pursuant to which—
- (i) interest is payable by a qualifying financing company to another person such that this section does not apply by virtue only of the fact that the qualifying financing company and the person concerned are not associated, and 20
- (ii) interest is payable by some other enterprise not associated with the qualifying financing company to an enterprise associated with the qualifying financing company; 25
- (b) arrangements pursuant to which—
- (i) interest is payable by a qualifying financing company to another enterprise (in this paragraph referred to as ‘the first-mentioned enterprise’) where the qualifying financing company and the first-mentioned enterprise concerned are not associated, and 30
- (ii) the first-mentioned enterprise—
- (I) has been advanced an amount by another enterprise that is an associate of the qualifying financing company, or
- (II) has received a deposit from another enterprise that is an associate of the qualifying financing company, 35
- equal to some or all of the principal amount of the loan in respect of which the interest referred to in subparagraph (i) is payable;
- (c) arrangements entered into in relation to a qualifying financing company the effect of which is that any amount has been advanced, or funds have been made available, indirectly from an associate of a qualifying financing company to the qualifying financing 40

company, or interest is payable by a qualifying financing company indirectly to an associate of that qualifying financing company, in circumstances other than those referred to in paragraph (a) or (b);

(d) arrangements pursuant to which—

(i) associates of a qualifying financing company (in this paragraph referred to as ‘the first-mentioned qualifying financing company’) advance amounts, or make funds available, directly or indirectly to a qualifying financing company with whom they are not associated (in this paragraph referred to as ‘the second-mentioned qualifying financing company’), and 5 10

(ii) associates of the second-mentioned qualifying financing company advance amounts, or make funds available, directly or indirectly to the first-mentioned qualifying financing company,

and those qualifying financing companies, or those associates, are acting in concert or under arrangements made by any enterprise. 15

(12) Subsection (4) shall only apply to interest paid on an external loan (or a portion thereof) by a qualifying financing company where the company provides details of the relevant loan to which the external loan (or a portion thereof) is matched in the return required to be delivered under Part 41A.”, 20

and

(b) in section 840A, by the substitution of the following subsection for subsection (7):

“(7) This section shall not apply to interest payable to a company (in this subsection referred to as ‘the first-mentioned company’) by an investing company in either of the following circumstances: 25

(a) where the sole business of the first-mentioned company is the on-lending to the investing company of moneys which the first-mentioned company has borrowed from persons who are not connected with either or both the first-mentioned company and the investing company; 30

(b) where the first-mentioned company is a qualifying financing company within the meaning of section 76E.”.

**Amendment of section 481 of Principal Act (relief for investment in films)**

40. (1) Section 481 of the Principal Act is amended, in subsection (1), in paragraph (c) of the definition of “film corporation tax credit”, by the substitution of “€125,000,000” for “€70,000,000”. 35

(2) *Subsection (1)* shall apply to a qualifying film (within the meaning of section 481 of the Principal Act) in respect of which the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media issues a certificate (within the said meaning) after the coming into operation of this section. 40

- (3) This section shall come into operation on such day as the Minister for Finance may appoint by order which day shall not be earlier than 1 January 2024.

**Amendment of section 82 of Principal Act (pre-trading expenditure)**

41. (1) Section 82 of the Principal Act is amended, in subsection (3), by the substitution of “396(2), 396A, 396B, 420, 420A or 420B” for “396(2) or 420”. 5
- (2) *Subsection (1)* shall apply for accounting periods commencing on or after 1 January 2024.

**Amendment of Chapter 5 of Part 12 of Principal Act (group relief)**

42. (1) The Principal Act is amended in Chapter 5 of Part 12—
- (a) in section 422, by the substitution of the following subsection for subsection (2): 10
- “(2) Where an accounting period of the surrendering company and a corresponding accounting period of the claimant company do not coincide—
- (a) the amount which may—
- (i) be set off against the total profits under section 420, 15
- (ii) under subsection (3) of section 420A, be set off against income specified in subparagraph (i), (ii) or (iii) of paragraph (a) of that subsection, or
- (iii) reduce the relevant corporation tax under subsection (3) of section 420B, 20
- of the claimant company for the corresponding accounting period, shall be reduced by applying the fraction—
- $$\frac{A}{B}$$
- (if that fraction is less than unity), and 25
- (b) the amount of—
- (i) the total profits against which the amount mentioned in paragraph (a)(i) (as reduced where so required) may be set off,
- (ii) the income against which the amount mentioned in paragraph (a)(ii) (as reduced where so required) may be set off, and 30
- (iii) the relevant corporation tax (within the meaning of section 420B) which may be reduced by the amount mentioned in paragraph (a)(iii) (as reduced where so required),
- shall be reduced by applying the fraction—
- $$\frac{A}{C}$$
- 35

(if that fraction is less than unity),

where—

A is the length of the period common to the 2 accounting periods,

B is the length of the accounting period of the surrendering company, and

5

C is the length of the corresponding accounting period of the claimant company.”,

(b) in section 423—

(i) in subsection (2), by the substitution of the following paragraph for paragraph (b):

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“(b) that the amount of total profits, income or relevant corporation tax for the true accounting period of the company against which group relief may be allowed in accordance with section 421(2), 420A(3) or 420B(3), as the case may be, is also so apportioned to the component accounting periods.”,

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and

(ii) in subsection (3)—

(I) by the substitution of the following paragraph for paragraph (a):

“(a) references in—

(i) section 420 to accounting periods, profits, losses, allowances, expenses of management and charges on income of the surrendering company,

20

(ii) section 420A to accounting periods, relevant trading loss, relevant trading charges on income (or an excess thereof) and income (against which amounts may be set off under section 420A(3)), and

25

(iii) section 420B to accounting periods, relevant trading loss, relevant trading charges on income (or an excess thereof), relevant corporation tax and relievable loss,

shall be construed in accordance with subsection (2);”;

30

and

(II) by the substitution of the following paragraph for paragraph (c):

“(c) references in section 422 to—

(i) the amount which may—

(I) be set off against the total profits under section 420,

35

(II) under subsection (3) of section 420A, be set off against income specified in paragraph (a)(i), (a)(ii) or (a)(iii) of that subsection, or

(III) reduce the relevant corporation tax under subsection (3) of section 420B,

and

(ii) total profits, income and relevant corporation tax,

shall be so construed that an amount apportioned under subsection (2) to a component accounting period may fall to be reduced under section 422(2).”,

and

(c) in section 428(4)—

(i) by the deletion of “to be set off against its total profits”, and

(ii) by the deletion of “to be set off against its profits”.

(2) This section shall apply for accounting periods commencing on or after 1 January 2024.

**Amendment of section 835YA of Principal Act (non-cooperative jurisdictions: modified application of sections 835T, 835U and 835V)**

**43.** Section 835YA of the Principal Act is amended by the substitution of the following subsection for subsection (1):

“(1) In this section, ‘listed territory’ means—

- (a) in relation to an accounting period beginning on or after 1 January 2021 but before 1 January 2022, a territory included in Annex 1 of the Council conclusions on the revised EU list of non-cooperative jurisdictions for tax purposes<sup>7</sup>, as replaced by the EU list of non-cooperative jurisdictions for tax purposes Report by the Code of Conduct Group (business taxation) suggesting amendments to the Annexes to the Council conclusions of 18 February 2020<sup>8</sup>,
- (b) in relation to an accounting period beginning on or after 1 January 2022 but before 1 January 2023, a territory included in Annex 1 of the Council conclusions on the revised EU list of non-cooperative jurisdictions for tax purposes<sup>9</sup>,
- (c) in relation to an accounting period beginning on or after 1 January 2023 but before 1 January 2024, a territory included in Annex 1 of the Council conclusions on the revised EU list of non-cooperative jurisdictions for tax purposes<sup>10</sup>, and
- (d) in relation to an accounting period beginning on or after 1 January 2024, a territory included in Annex 1 of the Council conclusions on the revised EU list of non-cooperative jurisdictions for tax purposes<sup>11</sup>.”.

7 OJ No. C64, 27.2.2020, p.8

8 OJ No. C331, 7.10.2020, p.3

9 OJ No. C413 I, 12.10.2021, p.1

10 OJ No. C391, 12.10.2022, p.2

11 OJ No. C64, 21.02.2023, p.17



**Amendment of Part 35C of Principal Act (Implementation of Council Directive (EU) 2016/1164 of 12 July 2016 as regards hybrid mismatches)**

44. Part 35C of the Principal Act is amended—

(a) in section 835Z(1), in the definition of “entity”, by the substitution of the following paragraph for paragraph (e): 5

“(e) any other legal arrangement, of whatever nature or form, that is within the charge to any of the taxes covered by this Part;”,

and

(b) in section 835AVB—

(i) by the substitution of the following subsection for subsection (6): 10

“(6) In a case in which a relevant investment undertaking, has not satisfied the conditions in paragraphs (a) and (b) of the definition of ‘collective investment scheme’ in subsection (1), the relevant investment undertaking will be treated as satisfying those conditions in the period of 24 months from the date on which the undertaking makes its first investment (in this subsection referred to as the ‘relevant period’) where it would be reasonable to consider that— 15

(a) the conditions will be satisfied within the relevant period, and

(b) the failure to satisfy the conditions is temporary and unavoidable, having regard to— 20

(i) the means through which the investment objective of the relevant investment undertaking is to be achieved, as set out in its prospectus,

(ii) the circumstances giving rise to the conditions not being satisfied, and 25

(iii) the steps taken, if any, to ensure the conditions will be satisfied.”,

and

(ii) by the substitution of the following subsection for subsection (7):

“(7) In a case in which a relevant investment undertaking, having satisfied the conditions in paragraphs (a) and (b) of the definition of ‘collective investment scheme’ in subsection (1)— 30

(a) ceases to satisfy one or both of those conditions, and

(b) the failure to satisfy the condition or both of those conditions, as the case may be, is due to the commencement of the winding down of the relevant investment undertaking, 35

the relevant investment undertaking will be treated as satisfying those conditions in the period of 12 months from the date on which the condition or both of those conditions, as the case may be, first ceased to be satisfied as a result of the winding down.”. 40

*Capital Gains Tax***Relief for investment in innovative enterprises**

45. (1) The Principal Act is amended—

(a) in Part 19, by the insertion of the following Chapter after section 600A: 5

“CHAPTER 6A

*Relief for investment in innovative enterprises*

**Interpretation**

**600B.** In this Chapter—

‘accounting period’ shall be determined in accordance with section 27; 10

‘arrangement’ includes any agreement, understanding, scheme, transaction or series of transactions (whether enforceable or not);

‘associate’ has the same meaning in relation to a person as it has by virtue of subsection (3) of section 433 in relation to a participator;

‘authorised officer’ means an officer of the Revenue Commissioners authorised under section 600P(1); 15

‘business plan’ has the same meaning as in section 493;

‘certificate of going concern’ has the meaning given to it by section 600F(3);

‘certificate of commercial innovation’ has the meaning given to it by section 600F(4); 20

‘certificates of qualification’ means—

(a) a certificate of going concern, and

(b) a certificate of commercial innovation;

‘control’ shall be construed in accordance with subsections (2) to (6) of section 432; 25

‘date of investment’ means the date of the issue of the eligible shares;

‘director’ shall be construed in accordance with section 433(4);

‘EEA State’ has the same meaning as in section 489;

‘employee’ has the same meaning as in section 983; 30

‘eligible shares’ shall be construed in accordance with section 494;

‘expansion risk finance investment’ has the same meaning as in section 493;

‘follow-on risk finance investment’ has the same meaning as in section 493; 35

‘General Block Exemption Regulation’ has the same meaning as in Part 16;	
‘innovative enterprise’ has the meaning given to it by Article 2(80) of the General Block Exemption Regulation;	
‘linked businesses’ has the same meaning as in Part 16;	5
‘partner businesses’ has the same meaning as in Part 16;	
‘qualifying company’ shall be construed in accordance with section 600C;	
‘qualifying investment’ shall be construed in accordance with section 600J;	
‘qualifying partnership’ shall be construed in accordance with section 600N;	10
‘qualifying subsidiary’ shall be construed in accordance with section 600D;	
‘relevant trading activities’ has the same meaning as in Part 16;	
‘relief group’ means a company, its partner businesses and linked businesses, taken together, and includes any relief group of which a company is a member and any company that was, at any time, a member of a relief group with a qualifying company or its qualifying subsidiaries;	15
‘SME’ has the same meaning as in Part 16;	
‘undertaking in difficulty’ has the same meaning as in the General Block Exemption Regulation;	20
‘unlisted’ has the same meaning as in Part 16.	

**Qualifying company**

**600C.** For the purposes of this Chapter, a company shall be a qualifying company if it holds certificates of qualification. 25

**Qualifying subsidiary**

**600D.** For the purposes of this Chapter, a subsidiary shall be a qualifying subsidiary where it is a company to which section 600F(2)(a)(ii) applies and satisfies the following conditions:

- (a) the subsidiary is a 51 per cent subsidiary of the qualifying company; 30
- (b) no other person has control of the subsidiary;
- (c) no arrangements are in existence by virtue of which the conditions specified in paragraphs (a) and (b) could cease to be satisfied.

**Qualifying investment (company perspective)**

**600E.** (1) An investment shall not be a qualifying investment unless it is based on a business plan. 35

- (2) An investment shall not be a qualifying investment if it is an expansion risk finance investment or a follow-on risk finance investment.

## Certificates of qualification

- 600F.** (1)(a) Subject to subsection (2), a company (in this section referred to as the ‘applicant company’) that is seeking to raise investments from qualifying investors or qualifying partnerships may apply to the Revenue Commissioners for the purpose of obtaining— 5
- (i) a certificate of going concern, and
  - (ii) a certificate of commercial innovation.
- (b) An application under paragraph (a) shall include—
- (i) a business plan in respect of which the company is seeking investment, 10
  - (ii) details of each of the shareholders of the company including each shareholder’s name and address and shareholdings or ownership interests, as the case may be, in linked businesses or partner businesses, and
  - (iii) such other information and explanations as may be requested by the Revenue Commissioners for the purposes of making a determination as to whether the company complies with the conditions specified in subsection (2). 15
- (2) A company shall not make an application under subsection (1) unless the following conditions are satisfied: 20
- (a) the applicant company—
    - (i) is incorporated in the State, another EEA State or the United Kingdom,
    - (ii) is tax resident in the State, another EEA State or the United Kingdom and carries on, or intends to carry on, relevant trading activities from a fixed place of business in the State, 25
    - (iii) holds a tax clearance certificate within the meaning of section 1095,
    - (iv) is a company which—
      - (I) does not control (or together with any person connected with the company does not control) another company other than a qualifying subsidiary, and 30
      - (II) is not under the control of another company (or of another company and any person connected with that other company), unless such control is exercised by the National Asset Management Agency, or by a company referred to in section 616(1)(g), 35
- and no arrangements are in existence by virtue of which the applicant company would fall within clause (I) or (II) in the period of 3 years following the issue of a certificate of commercial innovation, 40

- (v) is a company—
  - (I) which exists wholly for the purpose of carrying on relevant trading activities, or
  - (II) whose business consists, or will consist, wholly of—
    - (A) the holding of shares or securities of, or the making of loans to, one or more qualifying subsidiaries of the company, or 5
    - (B) both the holding of such shares or securities or the making of such loans and the carrying on of relevant trading activities where relevant trading activities are carried on from a fixed place of business in the State, 10
 

and where a company raises any amount through the issue of eligible shares for the purposes of raising money for relevant trading activities which are being carried on by a qualifying subsidiary or which such a qualifying subsidiary intends to carry on, the amount so raised shall be used for the purpose of acquiring eligible shares in the qualifying subsidiary and for no other purpose, 15
- (vi) is an innovative enterprise, and
- (vii) is a company that it is reasonable to consider intends to, and has sufficient expertise and experience to, implement the business plan; 20
- (b) each company that is a member of the relief group of which the applicant company is a member—
  - (i) is unlisted, and no arrangements are in existence in relation to the company becoming a listed company, 25
  - (ii) is not subject to an outstanding recovery order following a previous decision of the European Commission that declared an aid illegal and incompatible with the internal market, and
  - (iii) has all of its issued shares fully paid up; 30
- (c) no company that is a member of the relief group of which the applicant company is a member has been registered, or where any company that is a member of the relief group was formed by way of merger no company that was party to the merger has been registered, more than 5 years prior to the date of the certificate of innovation issued under this section; 35
- (d) the relief group of which the applicant company is a member—
  - (i) is an SME, and
  - (ii) is not an undertaking in difficulty.
- (3) (a) Subject to paragraphs (b) and (c), the Revenue Commissioners shall issue— 40

- (i) a certificate (in this Chapter referred to as a ‘certificate of going concern’) to a company where the company demonstrates to the satisfaction of the Revenue Commissioners that the relief group of which the applicant company is a member satisfies the conditions specified in subsection (2)(d), or 5
- (ii) a determination that the applicant company has not demonstrated to the satisfaction of the Revenue Commissioners that the relief group of which the applicant company is a member satisfies the condition specified in paragraph (i) or (ii), as the case may be, of subsection (2)(d) and the reasons for the determination. 10
- (b) The Revenue Commissioners may issue to the applicant company a certificate, or renewal of a certificate, of going concern, as the case may be, having taken account of any recommendations or report which Enterprise Ireland may make to the Revenue Commissioners following such consultation by them with Enterprise Ireland as they consider appropriate for those purposes (including by the provision to Enterprise Ireland of such information in relation to the application as is necessary for the purposes of such consultation). 15
- (c) The Revenue Commissioners shall not issue a certificate, or a renewal of a certificate, of going concern, as the case may be, if they have reason to believe that any condition specified in subparagraphs (i) to (v) of paragraph (a), or paragraphs (b) and (c) of subsection (2) is not, or, in the case of the renewal of a certificate, is no longer, satisfied by the relief group or any company that is a member of the relief group, as the case may be. 20 25
- (d) A person aggrieved by a determination issued under paragraph (a)(ii) may appeal the determination to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of the notice of that determination. 30
- (e) Where a company holds a valid certificate of commercial innovation but the certificate of going concern has expired or is about to expire, the company may apply to the Revenue Commissioners for a renewal of its certificate of going concern and the provisions of this section shall, with any necessary modifications, apply to an application for a renewal of a certificate of going concern as those provisions apply to an application for a certificate of going concern. 35
- (f) A certificate of going concern shall be valid until the later of—
  - (i) the day which is 3 years from the date of registration of the first so registered company that is a member of the relief group, or, if earlier, where any company that is a member of the relief group was formed by way of merger, the day which is 3 years from the date of registration of any company that was party to the merger, or 40 45

- (ii) the earlier of—
  - (I) the last day of the accounting period, of the company to which the certificate was issued, in which that certificate was issued, or
  - (II) where the certificate was renewed in accordance with paragraph (e), the day on which the certificate of commercial innovation referred to in that paragraph ceases to be valid. 5
- (4) (a) Subject to paragraphs (b) and (c), the Revenue Commissioners shall issue— 10
  - (i) a certificate (in this Chapter referred to as a ‘certificate of commercial innovation’) to a qualifying company where the company demonstrates to the satisfaction of the Revenue Commissioners that it satisfies the conditions specified in subparagraphs (vi) and (vii) of subsection (2)(a), or 15
  - (ii) a determination that the applicant company has not demonstrated to the satisfaction of the Revenue Commissioners that it satisfies the conditions specified in subparagraphs (vi) and (vii) of subsection (2)(a) and the reasons for the determination. 20
- (b) The Revenue Commissioners may issue to the applicant company a certificate of commercial innovation having taken account of any recommendations or report which Enterprise Ireland may make to the Revenue Commissioners following such consultation by them with Enterprise Ireland as they consider appropriate for those purposes (including by the provision to Enterprise Ireland of such information in relation to the application as is necessary for the purposes of such consultation). 25
- (c)(i) The Revenue Commissioners shall not issue a certificate of commercial innovation if they have reason to believe that any condition specified in paragraphs (a) to (d) of subsection (2) is not satisfied by the relief group of which the applicant company is a member, or any company that is a member of that relief group, as the case may be. 30
- (ii) Where a certificate of commercial innovation is not issued because a condition specified in subparagraph (i) or (ii), as the case may be, of subsection (2)(d), is not satisfied, then the Revenue Commissioners shall issue a determination that the applicant company has not demonstrated to the satisfaction of the Revenue Commissioners that the relief group of which the applicant company is a member satisfies the condition concerned and the reasons for the determination. 35 40
- (d) A person aggrieved by a determination issued under paragraph (a)(ii) or (c)(ii), as the case may be, may appeal the determination

to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of the notice of that determination.

- (e) A certificate of commercial innovation shall be valid until the first date that is the fifth anniversary of the registration of any company that is a member of the relief group of which the applicant company is a member, or, if earlier, where any company that is a member of that relief group was formed by way of merger, the date that is the first date that is the fifth anniversary of the registration of any company that was party to the merger. 5 10
- (5) Certificates of qualification shall include the following information:
  - (a) the type of certificate;
  - (b) the name, address and company registration number, or equivalent in the case of a company incorporated outside of the State, of the qualifying company to which the certificate was issued; 15
  - (c) the date of issue of the certificate;
  - (d) the period of validity of the certificate;
  - (e) a unique, sequential certificate identification number assigned to the certificate by the Revenue Commissioners.
- (6) (a) The Revenue Commissioners shall establish and maintain a register of companies to which certificates of qualification have been issued (in this subsection referred to as the ‘register’). 20
- (b) The Revenue Commissioners shall publish the register on a website maintained by them or on their behalf.
- (c) The register shall contain only the following information specified in subsection (5) in respect of each certificate of qualification. 25

### **Subscription for shares**

- 600G.** (1) For the purposes of this Chapter, an individual subscribes for a share in a company if the individual subscribes for and is issued the share by the company— 30
- (a) for consideration consisting wholly of cash,
  - (b) for bona fide commercial reasons and not as part of an arrangement that it is reasonable to consider the main purpose, or one of the main purposes, of such arrangement is to secure a tax advantage to any person, and 35
  - (c) by way of a bargain at arm’s length,
- and references in this Chapter to ‘subscribes for’ shall be construed accordingly.
- (2) In this Chapter, a share subscribed for, issued to, held by, or disposed of for, an individual by a nominee shall be treated for the purposes of this Chapter as subscribed for, issued to, held by, or disposed of by, the 40



individual where the nominee has complied with the requirements of sections 892 and 894 in respect of the share.

- (3) In this Chapter, references to an individual having subscribed for a share include the individual having subscribed for the share jointly with any other individual (and references to an individual holding a share or to a share being issued to an individual shall be construed accordingly). 5

### **Qualifying investor**

**600H.** (1) For the purposes of this Chapter, a ‘qualifying investor’ is an individual who on his or her own behalf subscribes for eligible shares in a qualifying company and complies with this section. 10

(2)(a) An individual shall not be a qualifying investor if at the date of investment the individual is connected, as determined in accordance with this section and section 600I, with the company.

(b) In this Chapter, an individual shall be connected with a company if the individual or an associate of the individual— 15

(i) is a partner of the company, or of any company that is a member of the relief group of which that company is a member,

(ii) is a director or employee of the company, or of any company that is a member of the relief group of which that company is a member, or 20

(iii) subject to subsection (3), has an interest in the capital of the company, or of any company that is a member of the relief group of which that company is a member.

(3)(a) Subject to subsection (4), for the purposes of this section, an individual shall have an interest in the capital of a company that is a member of the relief group if that individual, or that individual’s associate, directly or indirectly possesses or is entitled to acquire— 25

(i) any of the issued share capital,

(ii) any of the loan capital, 30

(iii) any of the voting power, or

(iv) rights to the assets on a winding up,  
of any such company.

(b) For the purposes of paragraph (a)(ii), the loan capital of a company shall be treated as including any debt incurred by the company— 35

(i) for any money borrowed or capital assets acquired by the company,

(ii) for any right to receive income created in favour of the company, or

(iii) for consideration the value of which to the company was, at the 40

- time when the debt was incurred, substantially less than the amount of the debt (including any premium on the debt),
- but shall not include a debt incurred by the company by overdrawing an account with a person carrying on a business of banking if the debt arose in the ordinary course of that business. 5
- (c) (i) For the purposes of paragraph (a)(iv), an individual shall have a right to the assets on a winding up if that individual, or an associate of the individual, has rights as would, in the event of the winding up of a company or in other circumstances, entitle the individual to receive any assets of the company which would at that time be available for distribution to equity holders of the company, and for the purposes of this subsection— 10
- (I) the persons who are equity holders of the company, and
- (II) the percentage of the assets of the company to which the individual would be entitled, 15
- shall be determined in accordance with sections 413 and 415, with references in section 415 to the first company being construed as references to an equity holder and references to a winding up being construed as including references to any other circumstances in which assets of the company are available for distribution to its equity holders. 20
- (ii) In applying sections 413 and 415 in determining the percentage of share capital or other amount which a shareholder beneficially owns or is beneficially entitled to under subparagraph (i), no regard shall be had to the provisions of section 411(1)(c). 25
- (d) (i) For the purposes of this section, an individual shall have an interest in the capital of the company if the individual has control of it.
- (ii) For the purposes of this section, an individual shall be treated as having an interest in the capital of the company if the individual has, at the date of investment, control of another company which is a subsidiary of the company. 30
- (4) For the purposes of subsection (3), no account shall be taken of shares in a company which are held by the individual concerned, or an associate of that individual, where— 35
- (a) that individual or that associate, as the case may be, may be entitled to relief under section 600M on the disposal of those shares, and
- (b) that individual, or a person connected with that individual, did not, at the date of investment, control the company concerned. 40
- (5) For the purposes of this section an individual shall be treated as entitled to acquire anything which the individual is entitled to acquire at a future date or will at a future date be entitled to acquire, and there

shall be attributed to any person any rights or powers of any other person who is an associate of that person.

(6) For the purposes of subsection (2), an individual shall not be connected with a company by reason that an associate of the individual—

5

(a) has an interest in the share capital of that company, and

(b) is a partner of the individual solely by virtue of their both being partners in a qualifying investment fund within the meaning of section 508IA or a qualifying partnership.

**Anti-avoidance: qualifying investor**

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**600I.** Where an individual subscribes for shares in a company with which the individual is not connected, then the individual shall nevertheless be treated as connected with it if the individual subscribes for the shares as part of any arrangement which provides for another person to subscribe for shares in another company with which the individual or any other individual who is a party to the arrangement is connected.

15

**Qualifying investment (investor perspective)**

**600J.** (1) Subject to sections 600K and 600L, for the purposes of this Chapter, an investment shall be a qualifying investment where—

(a) an individual subscribes for eligible shares in a qualifying company, and

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(b) the investment complies with this section and section 600E.

(2) An investment shall be a qualifying investment where—

(a) the eligible shares held by the individual have been held for a period of at least 3 years from the date of investment,

25

(b) the value of the eligible shares in a qualifying company subscribed by the individual on the date of investment—

(i) is not less than €20,000, or

(ii) is not less than €10,000, and at the time of the investment—

(I) the eligible shares held by the individual represent not less than 5 per cent of the qualifying company's ordinary share capital, and

30

(II) the eligible shares held by the individual entitle the individual to not less than 5 per cent of—

(A) the profits available for distribution to equity holders of the qualifying company,

35

(B) the voting rights of the qualifying company, and

(C) the assets of the qualifying company available for distribution to equity holders,

and

40

- (III) there exist no arrangements which could reasonably be considered to—
  - (A) cause the individual’s holding of eligible shares to fall below 5 per cent, or
  - (B) reduce the individual’s entitlements, referred to in clause (II) in respect of the eligible shares, below 5 per cent, 5
- (c) throughout the period referred to paragraph (a), the total shares, including the eligible shares, held by the individual in the qualifying company or any company that is a member of the relief group of which the qualifying company is a member— 10
  - (i) represent not more than 49 per cent of the company’s ordinary share capital, and
  - (ii) do not entitle the individual to more than 49 per cent of—
    - (I) the profits available for distribution to equity holders of the company, 15
    - (II) the voting rights of the company, and
    - (III) the assets of the company available for distribution to equity holders,
- and
- (d) the investor retains a copy of certificates of qualification in respect of the qualifying company that were valid on the date of investment. 20

**Anti-avoidance: qualifying investment (shares)**

- 600K.** (1) In this section, ‘distribution’ has the same meaning as in the Corporation Tax Acts. 25
- (2) For the purposes of this section, an amount specified or implied shall include an amount specified or implied in a foreign currency.
  - (3) This section applies to shares in a company where any arrangement exists which could reasonably be considered to substantially reduce the risk that the person beneficially owning those shares— 30
    - (a) might, at or after a time specified in or implied by that arrangement, be unable to realise directly or indirectly in money or money’s worth an amount so specified or implied, other than a distribution, in respect of those shares, or
    - (b) might not receive an amount so specified or implied of distributions in respect of those shares. 35
  - (4) The reference in this section to the person beneficially owning shares shall be deemed to be a reference to both that person and any person connected with that person.
  - (5) An investment in shares to which this section applies shall not be 40

qualifying investment for the purposes of this Chapter.

- (6) Without prejudice to the generality of subsection (3), such arrangements may include any rights associated with the shares as set out in the company's constitution.

**Anti-avoidance: qualifying investment (investor perspective) 5**

**600L.** (1)(a) For the purposes of this Chapter, an investment shall not be a qualifying investment in respect of an individual to whom this subsection applies where at any time in the period referred to in section 600J(2)(a) the company or any of its qualifying subsidiaries— 10

(i) begins to carry on a business previously carried on at any time in that period otherwise than by the company or any of its qualifying subsidiaries, or

(ii) acquires the whole or greater part of the assets used for the purposes of a business previously so carried on. 15

(b) This subsection applies to an individual where—

(i) any person or group of persons to whom an interest amounting in the aggregate to more than a 50 per cent share in the business (as previously carried on) belonged at any time in the period referred to in section 600J(2)(a) is a person or a group of persons to whom such an interest in the business carried on by the company, or any of its subsidiaries, belongs or has at any such time belonged, or 20

(ii) any person or group of persons who controls or at any such time has controlled the company is a person or a group of persons who at any such time controlled another company which previously carried on the business, 25

and the individual is that person or one of those persons.

(2) An investment shall not be a qualifying investment in respect of any shares in a company where— 30

(a) the company comes to acquire all of the issued share capital of another company at any time in the period referred to in section 600J(2)(a), and

(b) any person or group of persons who controls or has at any such time controlled the company is a person or a group of persons who at any such time controlled that other company, 35

and the individual is that person or one of those persons.

(3) For the purposes of subsection (1)(b)—

(a) the person or persons to whom a business belongs, and, where a business belongs to 2 or more persons, their respective shares in that business, shall be determined in accordance with paragraphs (a) and (b) of subsection (1) and subsections (2) and (3) of section 40

400, and

- (b) any interest, rights or powers of a person who is an associate of another person shall be treated as those of that other person.

### **Relief**

**600M.** (1)(a) Subject to paragraph (b), a qualifying investor who disposes of a qualifying investment in a qualifying company shall be entitled to claim relief under this section. 5

- (b) This section shall not apply to a disposal that constitutes—

- (i) the redemption, repayment or repurchase of shares by a company, or 10

- (ii) a disposal within the meaning of section 534(b).

(2) The amount of the chargeable gain to which this section applies is the lowest of—

- (a) the chargeable gain,

- (b) twice the amount of the qualifying investment in the eligible shares disposed of, and 15

- (c) an amount calculated under subsection (4)(a).

(3) Notwithstanding section 28, where an individual makes a claim under this section, the rate of capital gains tax chargeable on the amount of the chargeable gain to which this section applies shall be the rate specified in section 28 minus 17 per cent. 20

(4) (a) The amount calculated under this paragraph is the amount calculated by the following formula:

$$€3,000,000 - (G \times 17 \text{ per cent})$$

where 'G' is the total amount of the chargeable gains in respect of which a claim or claims were made under this section. 25

- (b) Where, in the return made under Part 41A in respect of a year, an individual is making a claim under this section in respect of more than one disposal of eligible shares, the amount calculated under paragraph (a) shall be calculated in respect of the earlier disposals in advance of the later disposals, and the amount calculated in respect of those earlier disposals shall be included in 'G' in the formula in paragraph (a) in respect of those later disposals. 30

(5) In making a claim under this section, an individual shall, in the return required to be made under Part 41A in respect of the year in which the disposal was made, provide the following information: 35

- (a) the name and address of the qualifying company that issued the shares;

- (b) the date on which the investment was made;

- (c) the value and number of shares subscribed for as part of the qualifying investment;
- (d) the unique, sequential certificate identification number of the certificate of commercial innovation assigned by the Revenue Commissioners.

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### **Qualifying partnership**

**600N.** (1) For the purposes of this Chapter, a ‘qualifying partnership’ is a partnership—

- (a) in which an individual is a partner and has contributed a minimum of €20,000 to the partnership prior to the date of investment by the partnership in a qualifying company, and
- (b) that complies with subsection (2).

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(2) A partnership shall be a qualifying partnership for the purposes of this Chapter if—

- (a) it is established under a partnership agreement and has as its principal business, to be expressed in the partnership agreement establishing the qualifying partnership, the investment of its funds in accordance with a defined investment policy for the benefit of its investors, and
- (b) under the terms of the partnership agreement it is provided that—
  - (i) the funds to be invested in eligible shares are to be invested without undue delay,
  - (ii) pending investment in eligible shares, any moneys subscribed for the purchase of shares are to be placed on deposit in a separate account with a bank licensed to transact business in the State,
  - (iii) any amounts received by means of dividends or interest are, subject to a commission in respect of management expenses at a rate not exceeding a rate which shall be specified in the partnership agreement, to be paid without undue delay to the partners,
  - (iv) any charges to be made by means of management or other expenses in connection with the establishment, running, winding down or termination of the partnership shall be at a rate not exceeding a rate which shall be specified in the partnership agreement, and
  - (v) audited accounts of the partnership are prepared annually and submitted to the Revenue Commissioners when requested.

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(3) (a) Where a qualifying partnership makes an investment of at least €20,000 in eligible shares in a qualifying company that would be, if it were made directly by an individual, a qualifying investment subject to the modifications set out in paragraph (b), then, section

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600M shall apply to the disposal of those eligible shares apportionable to a partner referred to in subsection (1)(a) subject to the modifications set out in subsection (4).

(b) The modifications set out in this paragraph are that section 600J applies to an investment by a qualifying partnership as if— 5

(i) subparagraph (ii) of subsection (2)(b) of that section were deleted, and

(ii) references to ‘the individual’ in paragraph (c) of subsection (2) of that section were references to ‘the qualifying partnership’.

(4) In applying section 600M to the disposal of an investment in eligible shares which was made by an individual through a qualifying partnership, subsections (3) and (4) of that section shall apply as if references to ‘17 per cent’ were references to ‘15 per cent’. 10

### **Interaction of relief with other provisions of this Act**

**600O.** (1) (a) Section 597AA shall apply to a disposal, in whole or in part, of eligible shares subscribed for by, and issued to, a qualifying investor where the amount of capital gains tax payable in respect of the disposal under this Chapter is greater than the amount of capital gains tax that would be payable in respect of the disposal were section 597AA to apply. 15  
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(b) Section 600M shall not apply to a disposal referred to in paragraph (a) to which section 597AA applies.

(2) (a) Section 598 or 599, as the case may be, shall apply to a disposal, in whole or in part, of eligible shares subscribed for by, and issued to, a qualifying investor where the amount of capital gains tax payable in respect of the disposal under this Chapter is greater than the amount of capital gains tax that would be payable in respect of the disposal were section 598 or 599, as the case may be, to apply. 25

(b) Section 600M shall not apply to a disposal referred to in paragraph (a) to which section 598 or 599, as the case may be, applies. 30

(3) Section 600M shall not apply to a disposal, in whole or in part, of the eligible shares subscribed for by, and issued to, a qualifying investor where that individual has made, or intends to make, a claim for relief within the meaning of Part 16 in respect of those eligible shares.

### **Powers**

**600P.** (1) The Revenue Commissioners may nominate in writing any of their officers to perform any acts and discharge any functions authorised by this Chapter to be performed or discharged by the Revenue Commissioners. 35

(2) An authorised officer may make such enquiries as the authorised officer considers necessary for the purpose of being satisfied as to whether information included in an application made by a company in accordance with section 600F(1) was correct and complete. 40



(3) An authorised officer may, at all reasonable times, enter any premises or place of business of a company for the purpose of carrying out the enquiries referred to in subsection (2).

(4) An authorised officer may, in respect of an applicant company, require a linked business or a partner business to produce books, records or other documents and to furnish information, explanations and particulars and to give all assistance which the authorised officer may reasonably require for the purposes of his or her enquiries. 5

#### **Application of this Chapter**

**600Q.** Section 600M shall apply only in respect of the disposal of eligible shares that are issued on or before 31 December 2026.” 10

and

(b) in section 851A(8)—

(i) in paragraph (n), by the deletion of “and” after “functioning of the European Union,”, 15

(ii) in paragraph (o), by the substitution of “European Union, and” for “European Union.”, and

(iii) by the insertion of the following paragraph after paragraph (o):

“(p) where the taxpayer information is disclosed to Enterprise Ireland for the sole purpose of the consultation referred to in subsection (3)(b) or (4)(b), as the case may be, of section 600F.” 20

(2) *Subsection (1)* shall come into operation on such day as the Minister for Finance may appoint by order.

#### **Amendment of section 536 of Principal Act (capital sums: receipt of compensation and insurance moneys not treated as a disposal in certain cases) 25**

**46.** (1) Section 536 of the Principal Act is amended by the insertion of the following subsection after subsection (4):

“(5) This section shall not apply to a disposal or deemed disposal of, or of an interest in, property situate in the State to an authority possessing compulsory purchase powers, where the disposal or deemed disposal, as the case may be, would not have been made but for— 30

(a) the exercise of those powers, or

(b) the giving by the authority of formal notice of its intention to exercise those powers.”.

(2) *Subsection (1)* applies to disposals and deemed disposals referred to in that subsection made on or after the date of the passing of this Act. 35

#### **Amendment of section 597AA of Principal Act (revised entrepreneur relief)**

**47.** Section 597AA of the Principal Act is amended, in subsection (1)(a), by the substitution of the following definition for the definition of “holding company”:

“ ‘holding company’ means a company—

- (i) that holds shares in other companies, all of which are its 51 per cent subsidiaries, and
- (ii) whose business consists wholly or mainly of the holding of shares in the subsidiaries referred to in subparagraph (i);”.

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

**48.** Section 598 of the Principal Act is amended—

(a) in subsection (1)(a)—

- (i) in the definition of “payment entitlement”, by the substitution of “Regulation (EU) 2021/2115 of the European Parliament and of the Council of 2 December 2021<sup>12</sup>” for “Regulation (EU) No. 1307/2013 of the European Parliament and of the Council of 17 December 2013”, and
- (ii) by the insertion of the following definition:

“ ‘relevant year of assessment’ means the year of assessment in which the disposal for which relief is claimed under this section or section 599 is made;”,

(b) in subsection (2)—

- (i) in paragraph (a), by the insertion of “on or before 31 December 2024” after “qualifying assets”,
- (ii) in paragraph (c), by the insertion of “and on or before 31 December 2024” after “2014”,
- (iii) by the insertion of the following paragraphs after paragraph (c):

“(ca) Subject to this section, where an individual who has attained the age of 55 years but has not attained the age of 70 years disposes of the whole or part of his or her qualifying assets on or after 1 January 2025, then—

(i) if the amount or value of the consideration for the disposal does not exceed €750,000, relief shall be given in respect of the full amount of capital gains tax chargeable on any gain accruing on the disposal, and

(ii) if the amount or value of the consideration for the disposal exceeds €750,000, the amount of capital gains tax chargeable on the gain accruing on the disposal shall not exceed 50 per cent of the difference between the amount of that consideration and €750,000.

(cb) Subject to this section, where an individual who has attained the age of 70 years disposes of the whole or part of his or her qualifying assets on or after 1 January 2025, then—

12 OJ No. L435, 6.12.2021, p.1

- (i) if the amount or value of the consideration for the disposal does not exceed €500,000, relief shall be given in respect of the full amount of capital gains tax chargeable on any gain accruing on the disposal, and
  - (ii) if the amount or value of the consideration for the disposal exceeds €500,000, the amount of capital gains tax chargeable on the gain accruing on the disposal shall not exceed 50 per cent of the difference between the amount of that consideration and €500,000.”, 5
- and 10
- (iv) in paragraph (d), by the substitution of “paragraphs (a) to (cb)” for “paragraphs (a), (b) and (c)”,
  - (c) in subsection (3A), by the substitution of “the reference to 55 years in paragraphs (a) and (ca) of subsection (2) were a reference to” for “the age referred to in subsection (2) were”, 15
  - (d) in subsection (3B)(b)(ii)(II), by the substitution of “in paragraphs (a) and (ca) of subsection (2)” for “in subsection (2)(a)”, and
  - (e) by the insertion of the following subsection after subsection (8):
    - “(9) A claim for relief under this section shall be made by the individual making the claim in the return required to be delivered by that individual under Chapter 3 of Part 41A for the relevant year of assessment.”. 20

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

**49. Section 599 of the Principal Act is amended—**

- (a) in subsection (1)— 25
  - (i) in paragraph (b)—
    - (I) in subparagraph (i), by the insertion of “on or before 31 December 2024” after “his or her child”,
    - (II) in subparagraph (ia), by the insertion of “and on or before 31 December 2024” after “2014”, 30
    - (III) in subparagraph (iii), by the insertion of “and on or before 31 December 2024” after “2014”, and
    - (IV) by the insertion of the following subparagraphs after subparagraph (iii):
      - “(iv) where an individual who has attained the age of 55 years but has not attained the age of 70 years disposes of the whole or part of his or her qualifying assets to his or her child on or after 1 January 2025, and the market value of the qualifying assets is €10,000,000 or less, relief shall be given in respect of the capital gains tax chargeable on any gain accruing on the disposal; 35
  - (v) where an individual who has attained the age of 55 years but has 40

- not attained the age of 70 years disposes of the whole or part of his or her qualifying assets to his or her child on or after 1 January 2025, and the market value of the qualifying assets is greater than €10,000,000, relief shall be given in respect of the capital gains tax chargeable on any gain accruing on the disposal as if the consideration for the disposal had been €10,000,000; 5
- (vi) where an individual who has attained the age of 70 years disposes of the whole or part of his or her qualifying assets to his or her child on or after 1 January 2025 and the market value of the qualifying assets is €3,000,000 or less, relief shall be given in respect of the capital gains tax chargeable on any gain accruing on the disposal; 10
- (vii) where an individual who has attained the age of 70 years disposes of the whole or part of his or her qualifying assets to his or her child on or after 1 January 2025 and the market value of the qualifying assets is greater than €3,000,000, relief shall be given in respect of the capital gains tax chargeable on any gain accruing on the disposal as if the consideration for the disposal had been €3,000,000.”; 15 20
- (b) by the substitution of the following subsection for subsection (2):
- “(2) (a) Where an individual who, having attained the age of 66 years, disposes of qualifying assets to his or her child in the period commencing on 1 January 2014 and ending on 31 December 2024, the consideration for each such disposal shall be aggregated for the purposes of subparagraphs (iia) and (iii) of subsection (1)(b). 25
- (b) Where an individual who, having attained the age of 66 years, disposes of qualifying assets to his or her child—
- (i) in the period commencing on 1 January 2014 and ending on 31 December 2024, and 30
- (ii) on or after 1 January 2025,
- then, the consideration for all such disposals shall be aggregated for the purposes of subparagraphs (iv), (v), (vi) and (vii) of subsection (1)(b).
- (c) Where an individual who, having attained the age of 55 years, disposes of qualifying assets to his or her child on or after 1 January 2025, then, the consideration for each such disposal shall be aggregated for the purposes of subparagraphs (iv), (v), (vi) and (vii) of subsection (1)(b).” 35
- (c) in subsection (7)— 40
- (i) by the substitution for all of the words from and including “Where” down to and including “her child” of the following:
- “(a) Where an individual—

- (i) who, having attained the age of 66 years—
    - (I) disposes of shares or securities of a family company to his or her child in the period commencing on 1 January 2014 and ending on 31 December 2024, or
    - (II) disposes of shares or securities of a family company to his or her child—
      - (A) in the period commencing on 1 January 2014 and ending on 31 December 2024, and
      - (B) on or after 1 January 2025,
  - or
  - (ii) who, having attained the age of 55 years, disposes of shares or securities of a family company to his or her child on or after 1 January 2025,”
- and
- (ii) in paragraph (b), by the insertion of “there is” before “a disposal”,
- and
- (d) by the insertion of the following subsection after subsection (7):
    - “(8) A claim for relief under this section shall be made by the individual making the claim in the return required to be delivered by that individual under Chapter 3 of Part 41A for the relevant year of assessment.”.

**Amendment of section 604A of Principal Act (relief for certain disposals of land or buildings)**

**50.** (1) Section 604A of the Principal Act is amended—

- (a) in subsection (2)—
    - (i) in paragraph (a)—
      - (I) by the insertion of “, notwithstanding any provision in the Capital Gains Tax Acts fixing the amount of the consideration deemed to be received on a disposal or given on acquisition” after “which”,
      - (II) in subparagraph (i), by the substitution of “purchased” for “acquired”,
      - and
      - (III) in subparagraph (ii), by the substitution of “purchased” for “acquired”,
      - and
      - (ii) in paragraph (b), by the substitution of “purchased” for “acquired”,
  - (b) in subsection (2A), by the substitution of “purchased” for “acquired”,
  - (c) in subsection (4)(a), by the substitution of “purchased” for “acquired”.
- (2) *Subsection (1)* shall be deemed to have effect in relation to disposals made on or after

1 January 2018.

PART 2

EXCISE

**Amendment of Schedule 2 to Finance Act 1999 (rates of mineral oil tax)**

51. The Finance Act 1999 is amended with effect as on and from 11 October 2023 by the substitution of the following Schedule for Schedule 2 (amended by section 4 of the Finance Act 2023):

“SCHEDULE 2  
RATES OF MINERAL OIL TAX

With effect as on and from:	Light Oil: Rates per 1,000 litres		Heavy Oil: Rates per 1,000 litres						Liquefied Petroleum Gas: Rates per 1,000 litres		Vehicle gas: Rate per megawatt hour at gross calorific value
	Petrol	Aviation gasoline	Used as a propellant	Used for air navigation	Used for private pleasure navigation	Kerosene used other than as a propellant	Fuel oil	Other heavy oil	Used as a propellant	Other liquefied petroleum gas	
10 March 2022	€474.11	€474.11	€413.51	€413.51	€413.51	€84.84	€118.01	€120.55	€118.27	€54.68	€9.36
1 April 2022	€465.98	€465.98	€405.38	€405.38	€405.38	€84.84	€118.01	€120.55	€118.27	€54.68	€9.36
1 May 2022	€465.98	€465.98	€405.38	€405.38	€405.38	€103.83	€141.12	€111.14	€130.52	€66.93	€9.36
12 October 2022	€483.34	€483.34	€425.45	€425.45	€425.45	€103.83	€141.12	€111.14	€130.52	€66.93	€9.36
1 May 2023	€483.34	€483.34	€425.45	€425.45	€425.45	€122.83	€164.23	€131.47	€142.76	€79.17	€9.36
1 June 2023	€532.12	€532.12	€466.10	€466.10	€466.10	€122.83	€164.23	€140.28	€142.76	€79.17	€9.36
1 September 2023	€589.03	€589.03	€506.75	€506.75	€506.75	€122.83	€164.23	€149.09	€142.76	€79.17	€9.36
11 October 2023	€606.39	€606.39	€526.83	€526.83	€526.83	€122.83	€164.23	€149.09	€142.76	€79.17	€9.36
1 April 2024	€638.91	€638.91	€551.22	€551.22	€551.22	€122.83	€164.23	€163.96	€142.76	€79.17	€9.36
1 May 2024	€638.91	€638.91	€551.22	€551.22	€551.22	€141.82	€187.34	€184.30	€155.01	€91.42	€10.13
1 August 2024	€671.43	€671.43	€575.61	€575.61	€575.61	€141.82	€187.34	€199.17	€155.01	€91.42	€10.13
9 October 2024	€688.78	€688.78	€595.68	€595.68	€595.68	€141.82	€187.34	€199.17	€155.01	€91.42	€10.13
1 May 2025	€688.78	€688.78	€595.68	€595.68	€595.68	€160.81	€210.45	€219.50	€167.25	€103.66	€11.48
8 October 2025	€706.14	€706.14	€615.76	€615.76	€615.76	€160.81	€210.45	€219.50	€167.25	€103.66	€11.48
1 May 2026	€706.14	€706.14	€615.76	€615.76	€615.76	€179.81	€233.57	€239.83	€179.49	€115.90	€12.84
14 October 2026	€723.49	€723.49	€635.83	€635.83	€635.83	€179.81	€233.57	€239.83	€179.49	€115.90	€12.84
1 May 2027	€723.49	€723.49	€635.83	€635.83	€635.83	€198.80	€256.68	€260.16	€191.74	€128.15	€14.20
13 October 2027	€740.85	€740.85	€655.90	€655.90	€655.90	€198.80	€256.68	€260.16	€191.74	€128.15	€14.20
1 May 2028	€740.85	€740.85	€655.90	€655.90	€655.90	€217.80	€279.79	€280.49	€203.98	€140.39	€15.56
11 October 2028	€758.21	€758.21	€675.98	€675.98	€675.98	€217.80	€279.79	€280.49	€203.98	€140.39	€15.56
1 May 2029	€758.21	€758.21	€675.98	€675.98	€675.98	€236.79	€302.90	€300.83	€216.23	€152.64	€16.91
10 October 2029	€773.25	€773.25	€693.38	€693.38	€693.38	€236.79	€302.90	€300.83	€216.23	€152.64	€16.91
1 May 2030	€773.25	€773.25	€693.38	€693.38	€693.38	€253.25	€322.93	€318.45	€226.84	€163.25	€18.09

**Amendment of Schedule 2 to Finance Act 2005 (rates of tobacco products tax)**

52. The Finance Act 2005 is amended with effect as on and from 11 October 2023 by the substitution of the following Schedule for Schedule 2 to that Act:

“SCHEDULE 2

RATES OF TOBACCO PRODUCTS TAX

(With effect as on and from 11 October 2023)

Description of Product	Rate of Tax	
Cigarettes .....	Rate of tax at—	5
	(a) except where paragraph (b) applies, €428.48 per thousand together with an amount equal to 8.85 per cent of the price at which the cigarettes are sold by retail, or	10
	(b) €479.37 per thousand in respect of cigarettes sold by retail where the rate of tax would be less than that rate had the rate been calculated in accordance with paragraph (a).	15
Cigars .....	Rate of tax at €483.343 per kilogram.	
Fine-cut tobacco for the rolling of cigarettes .....	Rate of tax at €465.003 per kilogram.	
Other smoking tobacco .....	Rate of tax at €335.322 per kilogram.	

”.

**Amendment of Chapter 1 of Part 2 of, and Schedule 2 to, Finance Act 2003 (Alcohol Products Tax)**

53. The Finance Act 2003 is amended—

(a) in Chapter 1 of Part 2—

- (i) in section 73(2A), by the insertion of “(other than in section 78B)” after “Chapter”, and 25
- (ii) in section 78B(2), by the substitution of “or the electronic simplified administrative document (within the meaning of Chapter 2B of Part 2 of the Finance Act 2001)” for “or the simplified accompanying document (within the meaning of Part 2 of the Finance Act 2001)”, 30

and

(b) with effect as on and from 1 January 2024, by the substitution of the following Schedule for Schedule 2:

“SCHEDULE 2

RATES OF ALCOHOL PRODUCTS TAX

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(With effect as on and from 1 January 2024)

Description of Product	Rate of Tax
<i>Spirits:</i>	€42.57 per litre of alcohol in the spirits

<i>Beer:</i>		
Exceeding 0.5% vol but not exceeding 1.2% vol	€0.00	
Exceeding 1.2% vol but not exceeding 2.8% vol	€11.27 per hectolitre per cent of alcohol in the beer	
Exceeding 2.8% vol	€22.55 per hectolitre per cent of alcohol in the beer	5
<i>Wine:</i>		
Still and sparkling, not exceeding 5.5% vol	€141.57 per hectolitre	
Still, exceeding 5.5% vol but not exceeding 15% vol	€424.84 per hectolitre	10
Still, exceeding 15% vol	€616.45 per hectolitre	
Sparkling, exceeding 5.5% vol	€849.68 per hectolitre	
<i>Other Fermented Beverages:</i>		
<i>(1) Cider and Perry:</i>		
Still and sparkling, not exceeding 2.8% vol	€47.23 per hectolitre	15
Still and sparkling, exceeding 2.8% vol but not exceeding 6.0% vol	€94.46 per hectolitre	
Still and sparkling, exceeding 6.0% vol but not exceeding 8.5% vol	€218.44 per hectolitre	
Still, exceeding 8.5% vol	€424.84 per hectolitre	20
Sparkling, exceeding 8.5% vol	€849.68 per hectolitre	
<i>(2) Other than Cider and Perry:</i>		
Still and sparkling, not exceeding 5.5% vol	€141.57 per hectolitre	
Still, exceeding 5.5% vol	€424.84 per hectolitre	
Sparkling, exceeding 5.5% vol	€849.68 per hectolitre	25
<i>Intermediate Beverages:</i>		
Still, not exceeding 15% vol	€424.84 per hectolitre	
Still, exceeding 15% vol	€616.45 per hectolitre	
Sparkling	€849.68 per hectolitre	

”. 30

**Amendment of section 135C of Finance Act 1992 (remission or repayment in respect of vehicle registration tax, etc.)**

54. Section 135C of the Finance Act 1992 is amended—

(a) in subsection (3)(b), by the substitution of “31 December 2025” for “31



December 2023”, and

- (b) in subsection (4), by the substitution of “31 December 2025” for “31 December 2023”.

### **Amendment of Part 2 of Finance Act 2001**

**55.** The Finance Act 2001 is amended—

5

(a) in section 96(1)—

- (i) by the substitution of the following definition for the definition of “Commission Regulation”:

“ ‘Commission Regulation’ means Commission Delegated Regulation (EU) 2022/1636 of 5 July 2022<sup>13</sup>;”,

10

and

- (ii) by the insertion of the following definition:

“ ‘electronic simplified administrative document’ means the electronic simplified administrative document referred to in Article 36(1) of the Directive;”,

15

(b) in section 109H—

- (i) in subsection (2), by the substitution of “Article 6 of the Commission Regulation” for “Article 5 of the Commission Regulation”, and

- (ii) in subsection (3A)(a)(ii), by the substitution of “Article 7 of the Commission Regulation” for “Article 6(1) of the Commission Regulation”,

20

(c) in section 109O(1)—

- (i) by the substitution of “the Commission Regulation” for “Article 5 of Commission Regulation (EEC) No. 3649/92”, and

- (ii) by the substitution of “electronic simplified administrative document” for “simplified accompanying document”,

25

(d) in section 109Q, by the deletion of the definition of “electronic simplified administrative document”,

(e) in section 109X(1), by the substitution of “electronic simplified administrative document” for “simplified accompanying document”,

(f) in section 135(1)(b)(ii), by the substitution of “simplified accompanying document, electronic simplified administrative document, or” for “simplified accompanying document, or”, and

30

(g) in section 153(2)(j), by the substitution of “electronic simplified administrative document” for “simplified accompanying document”.

13 OJ No. L247, 23.9.2022, p.2

## PART 3

### VALUE-ADDED TAX

#### **Interpretation (*Part 3*)**

**56.** In this Part, “Principal Act” means the Value-Added Tax Consolidation Act 2010.

#### **Amendment of section 2 of Principal Act**

5

**57.** Section 2 of the Principal Act is amended, in subsection (1), with effect from 1 January 2024—

(a) in the definition of “goods threshold”, by the substitution of “€80,000” for “€75,000”, and

(b) in the definition of “services threshold”, by the substitution of “€40,000” for “€37,500”. 10

#### **Amendment of section 46 of Value-Added Tax Consolidation Act 2010**

**58.** Section 46 of the Principal Act is amended with effect as on and from 11 October 2023, in subsection (1)(caa), by the substitution of “31 October 2024” for “31 October 2023”.

#### **Repeal of section 51 of Principal Act (determination on rates and exemptions)**

15

**59.** (1) Section 51 of the Principal Act is repealed.

(2) Section 120 of the Principal Act is amended, in subsection (6)—

(a) in paragraph (c), by the substitution of “section 47.” for “section 47,”, and

(b) by the deletion of paragraph (d).

#### **Deposit Return Scheme**

20

**60.** The Principal Act is amended—

(a) in Part 10, by the insertion of the following Chapter after section 92:

“CHAPTER 4

#### *Deposit Return Scheme*

**92A.** (1) In this Chapter—

25

‘approved body’ has the same meaning as in the Regulations of 2021;

‘deposit’ shall be construed in accordance with the Regulations of 2021;

‘deposit return scheme’ means a deposit return scheme established pursuant to Regulation 4 of the Regulations of 2021 and references to ‘scheme’ shall be construed accordingly;

30

‘in-scope bottle’, ‘in-scope container’ and ‘in-scope product’ have the

same meaning, respectively, as in the Regulations of 2021;

‘operator’, in relation to the deposit return scheme, means an approved body that is operating the scheme;

‘Regulations of 2021’ means the Separate Collection (Deposit Return Scheme) Regulations 2021 (S.I. No. 599 of 2021); 5

‘tax due and payable’, means the amount of tax, calculated in accordance with regulations made under section 120(10)(l), that is due and payable in respect of a deposit.

(2) For the purposes of giving effect to Article 92 of the VAT Directive, where— 10

(a) a supply is made of an in-scope product, and

(b) a deposit is chargeable in accordance with the Regulations of 2021 in relation to the supply referred to in paragraph (a),

then, the taxable amount referable to the deposit shall be deemed to be reduced to nil. 15

(3) Notwithstanding subsection (2) and for the purposes of giving effect to Article 92 of the VAT Directive, where—

(a) a supply is made of an in-scope product,

(b) a deposit is chargeable in accordance with the Regulations of 2021 in relation to the supply referred to in paragraph (a), and 20

(c) the in-scope bottle or in-scope container concerned has not been returned in accordance with the Regulations of 2021,

then—

(i) the taxable amount referable to the deposit shall be the amount of that deposit, and 25

(ii) the operator shall be deemed to be the accountable person in respect of the tax due and payable and shall comply with the provisions of Chapter 3 of Part 9 in relation to that tax.”,

and

(b) in section 120(10)— 30

(i) in paragraph (k), by the substitution of “operate,” for “operate.”, and

(ii) by the insertion of the following paragraph after paragraph (k):

“(l) the accounting for tax due and payable pursuant to section 92A in relation to the deposit return scheme (within the meaning of section 92A), including the method for calculating that tax.”. 35

**Amendment of section 86 of Principal Act (special provisions for tax invoiced by flat-rate farmers)**

61. Section 86 of the Principal Act is amended, in subsection (1), with effect from 1 January

2024, by the substitution of “4.8 per cent” for “5 per cent”.

**Amendment of paragraph 6(1) of Schedule 1 to Principal Act (financial services)**

62. The Principal Act is amended, in Part 2 of Schedule 1, in paragraph 6(1), in clause (a), by the deletion of “issuing,”.

**Amendment of paragraph 11 of Schedule 1 to Principal Act (letting of immovable goods) 5**

63. The Principal Act is amended, in Part 2 of Schedule 1, in subparagraph (1) of paragraph 11—

- (a) by the substitution of “, including a letting of emergency accommodation, but excluding any of the following:” for “, but not including any of the following:”, and 10
- (b) by the substitution of the following clause for clause (b):

“(b) supplies of the kind to which paragraph 11 of Schedule 3 relates, except where such supplies are used or to be used as emergency accommodation;”.

**Amendment of Schedules 2 and 3 to Principal Act (zero-rated goods and services) 15**

64. The Principal Act is amended with effect from 1 January 2024—

- (a) in Part 2 of Schedule 2—

- (i) in paragraph 9, by the insertion of “and audiobooks supplied on physical means of support,” after “atlases and newspapers,”, and
- (ii) by the substitution of the following paragraph for paragraph 9A: 20

*“Certain electronically supplied matter*

- 9A. The electronic supply of books, newspapers and audiobooks, but excluding—

- (a) such books, newspapers and audiobooks which are wholly or predominantly devoted to advertising or consist wholly or predominantly of video content or audible music, 25
- (b) the items specified in subparagraphs (b) to (e) of paragraph 9, and
- (c) the items specified in subparagraphs (a) to (f) of paragraph 7A of Schedule 3.”,

and 30

- (b) in Part 2 of Schedule 3, by the substitution of the following paragraph for paragraph 7A:

*“Certain electronically supplied matter*

- 7A. The electronic supply of—

- (a) periodicals, 35
- (b) brochures, leaflets and programmes,

- (c) catalogues, including directories, and similar printed matter,
- (d) maps, hydrographic and similar charts,
- (e) children’s picture, drawing or colouring books, or
- (f) music printed or in manuscript form,

but excluding the supply of any such material which is wholly or predominantly devoted to advertising or consists wholly or predominantly of audible music or video content.”. 5

**Amendment of Schedule 2 to Principal Act (zero-rated goods and services)**

65. Schedule 2 to the Principal Act is amended, in Part 2, in paragraph 14, by the insertion of “or buildings used wholly or predominantly for the provision of primary or post-primary education by recognised schools within the meaning of the Education Act 1998” after “private dwellings”. 10

PART 4

STAMP DUTIES

**Interpretation (*Part 4*)**

15

66. In this Part, “Principal Act” means the Stamp Duties Consolidation Act 1999.

**Exemption for short-term residential leases**

67. Schedule 1 to the Principal Act is amended, in the heading “LEASE.”, in paragraph (1), by the substitution of “€50,000” for “€40,000”.

**Amendment of section 81AA of Principal Act (transfers to young trained farmers)**

20

68. Section 81AA of the Principal Act is amended, in subsection (7A), by the substitution of “€100,000” for “€70,000”.

**Consanguinity relief**

69. Schedule 1 to the Principal Act is amended, in the heading “CONVEYANCE or TRANSFER on sale of any property other than stocks or marketable securities or a policy of insurance or a policy of life assurance.”, in paragraph (5)(a)(ii), by the substitution of “1 January 2029” for “1 January 2024”. 25

**Amendment of section 101A of Principal Act (single farm payment entitlement)**

70. Section 101A of the Principal Act is amended, in subsection (1), by the substitution of “Regulation (EU) 2021/2115 of the European Parliament and of the Council of 2 December 2021<sup>14</sup>” for “Regulation (EU) No. 1307/2013 of the European Parliament and of the Council of 17 December 2013<sup>15</sup>”. 30

14 OJ No. L435, 6.12.2021, p.1

15 OJ No. L347, 20.12.2013, p.608

**Amendment of section 81C of Principal Act (further farm consolidation relief)**

71. Section 81C of the Principal Act is amended, in subsection (10)(a), by the substitution of “spouse or civil partner” for “spouse” in each place where it occurs.

**Further levy on certain financial institutions**

72. The Principal Act is amended— 5

- (a) by the insertion of the following section after section 126AA:

**“Further levy on certain financial institutions**

**126AB.** (1) In this section—

‘assessable amount’ means an amount equal to the total value of relevant deposits held by a relevant person on 31 December in the base year; 10

‘base year’, in respect of the year 2024, means the year 2022;

‘deposit’ and ‘eligible deposit’ have the same meaning, respectively, as they have in the European Union (Deposit Guarantee Schemes) Regulations 2015 (S. I. No. 516 of 2015); 15

‘due date’, in relation to a year, means 20 October in that year;

‘relevant deposit’ means a deposit which—

(a) is held by a relevant person, and

(b) is an eligible deposit;

‘relevant person’ means— 20

(a) Allied Irish Banks plc;

(b) EBS DAC;

(c) permanent tsb plc;

(d) The Governor and Company of the Bank of Ireland.

(2) A relevant person shall, for the year 2024, not later than the due date, deliver to the Commissioners a statement showing the assessable amount. 25

(3) There shall be charged on every statement delivered under subsection (2) a stamp duty of an amount equal to 0.112 per cent of the assessable amount shown in the statement. 30

(4) The stamp duty charged by subsection (3) on a statement delivered by a relevant person under subsection (2) shall be paid by the person on delivery of the statement.

(5) In the case of failure by a relevant person—

(a) to deliver any statement required to be delivered by the person under subsection (2) by the due date, or 35

(b) to pay any duty chargeable on a statement referred to in paragraph

- (a) on the delivery of the statement,  
the relevant person shall be liable to pay, in addition to the duty,  
interest on the duty, calculated in accordance with section 159D, for  
the period commencing on the due date and ending on the date on  
which the duty was paid. 5
- (6) Any statement required to be delivered to the Commissioners under  
subsection (2) shall be delivered in such form and manner as may be  
specified by the Commissioners.
- (7) There shall be provided to the Commissioners by a relevant person  
such particulars as the Commissioners may require in relation to any 10  
statement required by this section to be delivered by the person.
- (8) Any duty or interest charged under this section, or any penalty applied  
under section 134A in relation to a statement required to be delivered  
under this section, shall not be allowed as a deduction for the purposes 15  
of the computation of any tax or duty under the care and management  
of the Commissioners that is payable by the relevant person.”
- (b) in section 126B—
- (i) by the substitution of the following subsection for subsection (1):  
“(1) In this section, 'relevant person' means a person that is required to  
deliver a statement to the Commissioners under a provision of this 20  
Part.”,  
and
- (ii) in subsection (2), by the substitution of “under a provision of this Part” for  
“under a specified section”,
- (c) in section 126C(1)— 25
- (i) in the definition of “due date”, by the substitution of “under a provision of this  
Part” for “under a specified section”,
- (ii) in the definition of “relevant person”, by the substitution of “under a provision  
of this Part.” for “under a specified section;”, and
- (iii) by the deletion of the definition of “specified section”, 30  
and
- (d) in section 134A(1), in the definition of “relevant statement”, by the substitution  
of “a provision of Part 9” for “section 123B, 123C, 123D, 124, 124A, 124B, 125  
or 125C”.

**Amendment of Chapter 2 of Part 6 of Principal Act (special provisions relating to 35  
dematerialised securities)**

73. The Principal Act is amended in Chapter 2 of Part 6—

- (a) in section 78B, by the insertion of the following subsection after subsection (3):  
“(4) This section shall not apply in respect of a transfer order effecting the

transfer of an interest in securities through a relevant system where—

- (a) the securities are dealt in on a recognised stock exchange located in the United States of America or Canada, and
- (b) the relevant system is operated by a CSD located in the United States of America or Canada.”,

5

and

- (b) by the repeal of section 78I.

#### **Amendment of section 75 of Principal Act (relief for intermediaries)**

74. Section 75 of the Principal Act is amended, in subsection (1), by the substitution of the following definition for the definition of “Directive”:

10

“ ‘Directive’ means Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014<sup>16</sup> on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU;”.

#### **Provisions in relation to repayment of stamp duty**

15

75. The Principal Act is amended—

- (a) in section 18, by the insertion of “, subject to section 159A,” after “the Commissioners shall”,
- (b) in section 29—

- (i) in subsection (4)(b), by the substitution for all of the words from and including “on an application to the Commissioners within 3 years after the date of stamping of the instrument,” down to and including “prescribed by the Minister by regulations,” of the following:

20

“on an application to the Commissioners within 3 years after the date of stamping of the instrument, and subject to section 159A, be repaid to the person or persons by whom the stamp duty was paid and such repayment shall bear interest calculated in accordance with section 159B”,

25

and

- (ii) in subsection (7)—
    - (I) by the insertion of “and subject to section 159A,” after “was paid,”, and
      - (II) by the substitution of “shall bear interest calculated in accordance with section 159B” for “shall bear simple interest at the rate of 0.0161 per cent, or such other rate (if any) as stands prescribed by the Minister by regulations,”,

30

35

- (c) in section 31(4), by the substitution of “shall, on an application to the Commissioners and subject to section 159A, be repaid” for “shall be returned by

16 OJ No. L173, 12.6.2014, p.349



the Commissioners”,

- (d) in section 33(2), by the insertion of “, subject to section 159A,” after “the Commissioners shall”,
- (e) in section 50A(2), by the substitution of “shall, on an application to the Commissioners and subject to section 159A, be repaid by the Commissioners” for “shall be returned”, 5
- (f) in section 53—
  - (i) in subsection (4)(b), by the substitution for all of the words from and including “on an application to the Commissioners within 3 years after the date of stamping of the instrument,” down to and including “prescribed by the Minister by regulations,” of the following: 10  
“on an application to the Commissioners within 3 years after the date of stamping of the instrument, and subject to section 159A, be repaid to the person or persons by whom the stamp duty was paid and such repayment shall bear interest calculated in accordance with section 159B”, 15
- and
- (ii) in subsection (7)—
  - (I) by the insertion of “and subject to section 159A,” after “was paid,” and
  - (II) by the substitution of “shall bear interest calculated in accordance with section 159B” for “shall bear simple interest at the rate of 0.0161 per cent, or such other rate (if any) as stands prescribed by the Minister by regulations,” 20
- (g) in section 78G(1), by the insertion of “, subject to section 159A,” after “shall”,
- (h) in section 80(9), by the insertion of “subject to section 159A,” after “be acquired by the acquiring company,”— 25
- (i) in section 81AA(11)(d), by the insertion of “, subject to section 159A,” after “then”,
- (j) in section 81C(5), by the insertion of “and to section 159A” after “conditions set out in subsection (6)”, 30
- (k) in section 83D—
  - (i) in subsection (8)(c), by the substitution of “declaration” for “statutory declaration”, and
  - (ii) in subsection (10), by the insertion of “and section 159A” after “this section”,
- (l) in section 83DA(5), by the insertion of “and section 159A” after “this section”, 35
- (m) in section 83DB(10), by the insertion of “and section 159A” after “this section”,
- (n) in section 84(2), by the insertion of “, subject to section 159A,” after “shall”,
- (o) in section 151(2)—

- (i) in paragraph (c), by the substitution of “conveyed or transferred by that instrument, and” for “conveyed or transferred by that instrument.”, and
- (ii) by the insertion of the following paragraph after paragraph (c):
  - “(d) all of the requirements of section 159A are met.”,
- (p) by the substitution of the following section for section 152: 5

**“Repayment of overpaid stamp duty**

**152.** (1) In this section—

  - ‘relevant statement’ means—
  - (a) an account delivered to the Commissioners under section 5, or
  - (b) a statement delivered to the Commissioners under Part 9; 10

‘return’ means an electronic return or a paper return made to the Commissioners in relation to an instrument.

(2) Where a person has made a payment of stamp duty, including any interest charged, surcharge imposed or penalty incurred, under any provision of this Act, in relation to— 15

  - (a) an instrument, or
  - (b) a relevant statement,

which—

  - (i) was not due, or
  - (ii) but for an error or mistake made by the person in the return to which the instrument relates or, as the case may be, in the relevant statement, would not have been due, 20

the person shall, on an application to the Commissioners and subject to section 159A, be entitled to a repayment of the payment concerned.”, 25
- (q) by the substitution of the following section for section 159A:
 

**“General provisions on claims for repayment of stamp duty**

**159A.** (1) In this section—

  - ‘relevant statement’ and ‘return’ have the same meaning, respectively, as in section 152; 30
  - ‘repayment’ means a repayment of stamp duty including any—
  - (a) interest charged,
  - (b) surcharge imposed, or
  - (c) penalty incurred,

in relation to stamp duty under any provision of this Act; 35

‘valid claim’ shall be construed in accordance with subsection (3).

- (2) The Commissioners shall not make a repayment to a person unless—
- (a) such repayment is provided for by this Act,
  - (b) a valid claim has been made to them for that purpose, and
  - (c) without prejudice to any other provision of this Act containing a shorter time limit for the making of a claim for repayment, the valid claim concerned has been made within the period of 4 years from, as the case may be—
    - (i) in respect of an instrument stamped by the Commissioners, the latest date the instrument was required to be stamped under section 2,
      - (I) in the case of an account delivered to the Commissioners under section 5, the latest date the account was required to be delivered to the Commissioners in accordance with the agreement entered into under that section, or
      - (II) in the case of a statement delivered to the Commissioners under Part 9, the latest date the statement was required to be delivered to the Commissioners under that Part,
    - (ii) the date the transfer order referred to in section 78B was executed,
    - (iii) the date the person achieved the standard within the meaning of section 81AA(11)(a),
    - (iv) the date of acknowledgement referred to in section 83D(10)(c) in relation to a relevant residential development within the meaning of that section,
    - (v) the date the condition specified in section 83DA(2)(b) is satisfied, or
    - (vi) the qualifying date within the meaning of section 83DB.
- (3) For the purposes of this section, a claim for repayment shall be treated as a valid claim where—
- (a) it is made in the form and manner specified (if any) by the provision, or provisions, of this Act under which such claim is made,
  - (b) all information which the Commissioners may reasonably require to enable them to determine if, and to what extent, a repayment is due, has been furnished to them, and
  - (c) if the claim relates to a repayment under section 152, the return or, as the case may be, the relevant statement, has been amended to reflect the correct amount of stamp duty payable, if any.

(4) Where the Commissioners determine that any of the requirements specified in subsection (2) or (3), as the case may be, have not been met in relation to a claim for repayment, they shall decide to refuse the claim for repayment and shall notify the claimant in writing of the decision and the reason or reasons for that decision. 5

(5) Any person aggrieved by a decision of the Commissioners under subsection (4) to refuse a claim for repayment may appeal to the Appeal Commissioners against the decision in accordance with section 949I of the Taxes Consolidation Act 1997 within the period of 30 days after the date of the notification of the decision.”, 10

and

(r) by the substitution of the following section for section 159B:

**“Interest on repayment of stamp duty**

**159B.** (1) In this section—

‘relevant date’, in relation to a repayment, means— 15

(a) the date which is 93 days after the date on which a valid claim in respect of the repayment is made to the Commissioners, or

(b) if the repayment is due to a mistaken assumption in the operation of stamp duty on the part of the Commissioners, the date which is the date of payment of the stamp duty, interest, surcharge or penalty, as the case may be, which has given rise to that repayment; 20

‘repayment’ has the same meaning as in section 159A;

‘valid claim’ shall be construed in accordance with section 159A(3).

(2) Subject to the provisions of this section, where a person is entitled to a repayment in accordance with any provision of this Act, the amount of the repayment shall, subject to a valid claim in respect of the repayment being made to the Commissioners, unless the contrary intention appears and subject to section 960H(4) of the Taxes Consolidation Act 1997, carry simple interest at the rate of 0.011 per cent (or such other rate (if any) prescribed by the Minister by order under subsection (5)(a) for each day or part of a day for the period commencing on the relevant date and ending on the date upon which the repayment is made. 25 30

(3) Interest shall not be payable under this section if it would amount to €10 or less. 35

(4) Income tax shall not be deductible on any payment of interest under this section and such interest shall not be reckoned in computing income for the purposes of the Tax Acts.

(5) (a) The Minister may, from time to time, make an order prescribing a rate for the purposes of subsection (2). 40

(b) Every order made by the Minister under paragraph (a) shall be laid before Dáil Éireann as soon as may be after it is made and, if a

resolution annulling the order is passed by Dáil Éireann within the next 21 days on which Dáil Éireann has sat after the order is laid before it, the order shall be annulled accordingly, but without prejudice to the validity of anything previously done under it.”.

## PART 5

5

### CAPITAL ACQUISITIONS TAX

#### **Interpretation (*Part 5*)**

76. In this Part, “Principal Act” means the Capital Acquisitions Tax Consolidation Act 2003.

#### **Amendment of Schedule 2 to Principal Act (computation of tax)**

77. Schedule 2 to the Principal Act is amended, in Part 1, by the substitution of the following paragraph for paragraph 9: 10

“9. (1) In this paragraph—

‘Child Care Regulations’ means the Child Care (Placement of Children in Foster Care) Regulations 1995 (S.I. No. 260 of 1995) or the Child Care (Placement of Children with Relatives) Regulations 1995 (S.I. No. 261 of 1995), as the case may be; 15

‘specified relative’, in relation to a person, means—

- (a) a lineal ancestor of the person,
- (b) a child of the person or of the person’s civil partner, or
- (c) a brother or sister of the person. 20

(2) Where a person (referred to in this subparagraph as ‘the first-mentioned person’) has been placed in the foster care of another person (referred to in this subparagraph as ‘the second-mentioned person’) under the Child Care Regulations, the first-mentioned person is deemed to bear to the second-mentioned person the relationship of a child for the purpose of computing the tax payable on— 25

- (a) a gift or inheritance taken by the first-mentioned person from the second-mentioned person, or
- (b) a gift or inheritance taken by the first-mentioned person from a specified relative of the second-mentioned person, 30

where a claim is made to the Commissioners in that regard.

(3) Where two or more persons (referred to in this subparagraph as ‘the first-mentioned persons’) have been placed in the foster care of another person under the Child Care Regulations, the first-mentioned persons are deemed to bear to each other the relationship of a brother or sister, as the case may be, for the purpose of computing the tax payable on a gift or inheritance taken by any of the first-mentioned 35

persons from any of the other first-mentioned persons, where a claim is made to the Commissioners in that regard.

- (4) Where a person (referred to in this subparagraph as ‘the first-mentioned person’)—
- (a) resided with another person (referred to in this subparagraph as ‘the second-mentioned person’), and 5
  - (b) was under the care of, and maintained by, the second-mentioned person at the expense of the second-mentioned person, 10
- for periods which together comprised at least 5 years falling within the period of 18 years immediately following the birth of the first-mentioned person, the first-mentioned person is deemed to bear to the second-mentioned person the relationship of a child for the purpose of computing the tax payable on—
- (i) a gift or inheritance taken by the first-mentioned person from the second-mentioned person, or 15
  - (ii) a gift or inheritance taken by the first-mentioned person from a specified relative of the second-mentioned person, 20
- where a claim is made to the Commissioners in that regard.
- (5) Where two or more persons (referred to in this subparagraph as ‘the first-mentioned persons’)—
- (a) resided with another person (referred to in this subparagraph as ‘the second-mentioned person’), and 25
  - (b) were under the care of, and maintained by, the second-mentioned person at the expense of the second-mentioned person, 30
- for periods which together comprised at least 5 years falling within the period of 18 years immediately following the birth of each of the first-mentioned persons, the first-mentioned persons are deemed to bear to each other the relationship of a brother or sister, as the case may be, for the purpose of computing the tax payable on a gift or inheritance taken by any of the first-mentioned persons from any of the other first-mentioned persons, where a claim is made to the Commissioners in that regard.”.

#### **Amendment of Principal Act in relation to section 4B of Succession Act 1965**

**78.** The Principal Act is amended—

- (a) in section 2— 35
  - (i) in subsection (1)—
    - (I) by the deletion of the definition of “affected person”,
    - (II) in the definition of “child”, by the deletion of paragraph (c), and
    - (III) by the deletion of the definitions of “social father”, “social mother” and

- “social parent”,
- (ii) by the deletion of subsection (1C),
  - (iii) in subsection (4), by the substitution of “Subject to section 2A, for the purposes of this Act” for “Subject to subsection (10), for the purposes of this Act”, and 5
  - (iv) by the deletion of subsection (10),
- (b) by the insertion of the following section after section 2:
- “Provisions relating to affected persons**
- 2A. (1)** In this section—
- ‘Act of 1965’ means the Succession Act 1965; 10
  - ‘affected person’ shall be construed in accordance with section 4B(11) of the Act of 1965;
  - ‘social father’ and ‘social mother’ have the same meaning, respectively, as they have in section 4B(12) of the Act of 1965.
- (2) For the purposes of subsection (3), the relationship— 15
- (a) between an affected person and his or her father and mother, and
  - (b) between an affected person and his or her social father and social mother,
- shall be deduced, and all other relationships determined accordingly, in accordance with section 4B(1) of the Act of 1965. 20
- (3) Where a person takes a benefit from a disponent to whom he or she is related by virtue of section 4B(1) of the Act of 1965 as applied by subsection (2), the person shall make an election as to whether or not the relationship that arises by virtue of the said section 4B(1) as so applied by subsection (2) shall apply for the purposes of this Act. 25
- (4) Where a person makes an election under subsection (3) for the relationship that arises by virtue of section 4B(1) of the Act of 1965 as applied by subsection (2) to apply for the purposes of this Act, that relationship shall apply for the purposes of this Act in respect of any benefit the person takes from the same disponent.” 30
- and
- (c) in Schedule 2, in Part 1, by the deletion of paragraph 12.

**Amendment of section 46 of Principal Act (delivery of returns)**

- 79. (1)** Section 46 of the Principal Act is amended— 35
- (a) in subsection (2A)—
    - (i) in paragraph (a), by the substitution of “tax (if any)” for “tax”, and
    - (ii) in paragraph (b), by the substitution of “tax (if any)” for “tax”,

- (b) in subsection (4)—
- (i) in paragraph (aa), by the deletion of “or” where it occurs after “section 93(1),”, and
  - (ii) by the insertion of the following paragraph after paragraph (aa):
    - “(ab) the gift is in respect of the use or enjoyment of a specified loan to which subsection (4A) applies, or”,
- (c) by the insertion of the following subsection after subsection (4):
- “(4A) (a) In this subsection—
- ‘beneficial owner’, in relation to a company, means any person that is a beneficial owner of—
    - (i) the shares in the company, or
    - (ii) the entitlements under any liability incurred by the company (otherwise than for the purposes of the business of the company, wholly and exclusively);
  - ‘close relative’, in relation to a person, means—
    - (i) a parent of the person,
    - (ii) the civil partner of a parent of the person,
    - (iii) a lineal ancestor of the person,
    - (iv) a lineal descendant of the person,
    - (v) a brother or sister of the person,
    - (vi) a brother or sister of a parent of the person, or
    - (vii) a brother or sister of the civil partner of a parent of the person;
  - ‘company’ has the same meaning as in section 43;
  - ‘loan’ means any loan, advance or any form of credit;
  - ‘relevant period’ has the meaning given to it by section 40(1);
  - ‘share’ has the same meaning as in section 27;
  - ‘specified loan’, in relation to a person, means a loan made—
    - (i) to the person by a close relative of that person,
    - (ii) by a company to the person, where a beneficial owner of the company is a close relative of that person,
    - (iii) to a company, where the person is a beneficial owner of the company and the person making the loan is a close relative of that person, or
    - (iv) by a company (in this subparagraph referred to as ‘the first-mentioned company’) to another company (in this subparagraph referred to as ‘the second-mentioned company’),



where the person is a beneficial owner of the second-mentioned company and a beneficial owner of the first-mentioned company is a close relative of that person;

‘tax reference number’ has the same meaning as in section 172A of the Taxes Consolidation Act 1997. 5

(b) This subsection shall apply to a specified loan where—

(i) a person is deemed under section 40(2) to have taken a gift in respect of the use or enjoyment of the specified loan,

(ii) within 6 months of the end of the relevant period in which the gift referred to in subparagraph (i) is so deemed to have been taken, no interest has been paid in respect of the specified loan, and 10

(iii) the balance outstanding on the specified loan, when aggregated with the balance outstanding on any other specified loan to which subparagraphs (i) and (ii) apply in the relevant period, exceeds €335,000 on at least 1 day in the relevant period. 15

(c) For the purposes of this subsection—

(i) where any beneficial owner of a company (in this subparagraph referred to as ‘the first-mentioned company’), is itself a company (in this subparagraph referred to as ‘the second-mentioned company’), any beneficial owner of the second-mentioned company is deemed to be a beneficial owner of the first-mentioned company, and 20

(ii) where the shares and entitlements of a company are held in trust and have no ascertainable beneficial owners, a loan made by such a company is deemed to be made by the disponent who made the disposition under which the shares and entitlements are so held on trust, and a loan made to such a company is deemed to be made to the beneficiaries of the trust. 25

(d) A return to be delivered in accordance with subsection (2) shall include the following particulars in relation to each specified loan to which this subsection applies: 30

(i) the name, address and tax reference number of the person who made the loan;

(ii) the balance outstanding on the loan; 35

(iii) such other information as the Commissioners may reasonably require for the purposes of this Act.”,

and

(d) in subsection (14)—

(i) in paragraph (c), by the substitution of “disponent,” for “disponent, or”, 40

(ii) in paragraph (d)(ii), by the substitution of “section 93(1), or” for “section

93(1).”, and

(iii) by the insertion of the following paragraph after paragraph (d):

“(e) the gift is in respect of the use or enjoyment of a specified loan to which subsection (4A) applies.”.

(2) *Subsection (1)* shall come into effect on 1 January 2024. 5

### **Amendment of Part 10 of Principal Act (agricultural relief and business relief)**

**80.** (1) Section 89 of the Principal Act is amended—

(a) in subsection (1)—

(i) in the definition of “agricultural property”, by the substitution of the following paragraph for paragraph (b): 10

“(b) a payment entitlement (within the meaning of Regulation (EU) 2021/2115 of the European Parliament and of the Council of 2 December 2021<sup>17</sup>);”,

and

(ii) in the definition of “farmer”, in paragraph (b)(ii), by the substitution of “object (within the meaning of Chapter 2 of Part 3) of the trust” for “object of the trust”, 15

(b) in subsection (4)—

(i) in paragraph (a)—

(I) in subparagraph (i)— 20

(A) by the substitution of “in whole or in part, other than by way of a lease referred to in paragraph (iii) of the definition of ‘farmer’ in subsection (1),” for “or compulsorily acquired”, and

(B) by the substitution of “valuation date of the gift or inheritance or, where subsection (3) applies, the date the taxable gift or inheritance is invested in agricultural property” for “date of the gift or inheritance”, 25

(II) by the substitution of the following subparagraph for subparagraph (ii):

“(ii) the proceeds from such disposal are not fully expended in acquiring other agricultural property within— 30

(I) one year of the disposal, or

(II) where the disposal arises as a consequence of a compulsory acquisition, within 6 years of the compulsory acquisition,”,

and

(III) by the substitution of “before the property is disposed of” for “before the property is disposed of or compulsorily acquired”, 35

17 OJ No. L435, 6.12.2021, p.1

(ii) in paragraph (aa)—

(I) in subparagraph (i), by the deletion of “or compulsory acquisition” in both places where it occurs, and

(II) by the substitution of the following subparagraph for subparagraph (ii):

“(ii) the proceeds from a disposal— 5

(I) shall include an amount equal to the market value of the consideration (not being cash) received for the disposal, where full consideration is received for the disposal, or

(II) shall be an amount equal to the market value of the agricultural property immediately before the disposal, where less than full consideration is received for the disposal.” 10

(c) by the substitution of the following subsection for subsection (4B):

“(4B) Where a donee, successor or lessee ceases to qualify as a farmer, because he or she no longer satisfies the conditions specified in paragraph (i), (ii) or (iii), as the case may be, of the definition of ‘farmer’ in subsection (1), within the period of 6 years commencing on the valuation date of the gift or inheritance, or, where subsection (3) applies, the date the taxable gift or inheritance is invested in agricultural property, all or, as the case may be, part of the agricultural property shall for the purposes of subsection (2), otherwise than on the death of the donee, successor or lessee, be treated as property comprised in the gift or inheritance that is not agricultural property, and the taxable value of the gift or inheritance shall be determined accordingly and tax shall be payable accordingly.” 15 20

and 25

(d) by the insertion of the following subsection after subsection (4B):

“(4C) Where, pursuant to subsection (4)(a) or (4B), as the case may be, all or part of the property comprised in a gift or inheritance is to be treated as property that is not agricultural property then, by virtue of the return delivered in respect of the gift or inheritance being defective in a material respect, an additional return shall be delivered to the Commissioners, and any outstanding tax paid, in accordance with section 46(9).” 30

(2) Section 101 of the Principal Act is amended—

(a) in subsection (1), by the substitution of “valuation date” for “date”, 35

(b) in subsection (2)(b), by the substitution of “is disposed of in whole or in part within the relevant period and is not replaced, within a year of the disposal,” for “is sold, redeemed or compulsorily acquired within the relevant period and is not replaced, within a year of the sale, redemption or compulsory acquisition,”, and

(c) by the insertion of the following subsection after subsection (3): 40

“(3A) Where, pursuant to subsection (2), the reduction in value in respect of

all or part of the property comprised in a gift or inheritance ceases to be applicable then, by virtue of the return delivered in respect of the gift or inheritance being defective in a material respect, an additional return shall be delivered to the Commissioners, and any outstanding tax paid, in accordance with section 46(9).”.

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(3) Section 102A(2) of the Principal Act is amended—

(a) in subparagraph (c)—

(i) by the deletion of “by the donee or successor”, and

(ii) by the substitution of “the valuation date of the gift or inheritance” for “the date of the gift or inheritance”,

10

and

(b) by the substitution of “, by virtue of the return delivered in respect of the gift or inheritance being defective in a material respect, an additional return shall be delivered to the Commissioners, and any outstanding tax paid, in accordance with section 46(9)” for “tax shall be payable accordingly”.

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(4) *Subsection (1)(b)(i)(I)(B), paragraphs (a) and (b) of subsection (2) and subsection (3)(a)(ii)* shall not apply in relation to gifts or inheritances taken before 1 January 2024.

## PART 6

### MISCELLANEOUS

20

#### **Interpretation (*Part 6*)**

**81.** In this Part, “Principal Act” means the Taxes Consolidation Act 1997.

#### **Amendment of section 895 of Principal Act (returns in relation to foreign accounts)**

**82.** Section 895 of the Principal Act is amended—

(a) in subsection (1), by the insertion of the following definitions:

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“ ‘specified foreign account’ means a foreign account, opened in a territory outside the State that is not a listed territory within the meaning of section 835YA, the details of which are required to be—

(a) in the case of a foreign account opened in the United States of America, exchanged with the State under the Agreement (within the meaning of section 891E),

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(b) in the case of a foreign account opened in a jurisdiction that has entered into an agreement with the State pursuant to Article 6 of the Convention on Mutual Administrative Assistance in Tax Matters done at Strasbourg on 25 January 1988 and the Protocol amending the Convention done at Paris on 27 May 2010, exchanged with the State in accordance with the standard (within the meaning of

35

section 891F), or

- (c) in the case of a foreign account opened in a Member State other than the State, communicated to the State under the Directive (within the meaning of section 891G);

‘specified individual’, in respect of a year in which a specified foreign account is opened, means an individual who— 5

- (a) but for the provisions of this section, would not be a chargeable person (within the meaning of Part 41A),

- (b) is not an accountable person (within the meaning of section 1 of the Stamp Duties Consolidation Act 1999), and 10

- (c) is not accountable for the payment of gift tax or inheritance tax in accordance with section 45 of the Capital Acquisitions Tax Consolidation Act 2003;”,

and

- (b) by the insertion of the following subsection after subsection (6): 15

“(7) Subsection (6) shall not apply to a specified individual in respect of the opening of a specified foreign account.”.

### **Amendment of section 3 of Principal Act (Interpretation of Income Tax Acts)**

**83.** Section 3 of the Principal Act is amended—

- (a) in subsection (1), by the substitution of the following definition for the definition of “incapacitated person”: 20

“ ‘incapacitated person’ shall be construed in accordance with subsection (5);”,

and

- (b) by the insertion of the following subsection after subsection (4): 25

“(5) References in the Income Tax Acts to an incapacitated person shall, except where the contrary intention appears, be construed as references to a person who is—

- (a) a person who lacks capacity within the meaning of the Assisted Decision-Making (Capacity) Act 2015, or 30

- (b) a minor.”.

### **Amendment of section 92 of Finance Act 1989**

**84.** Section 92 of the Finance Act 1989 is amended, in subsection (1), by the substitution of “the Minister for Transport” for “the Minister for the Environment”.

**Amendment of Part 38 of Principal Act (returns of income and gains, other obligations, etc.)**

**85.** Part 38 of the Principal Act is amended—

(a) in section 891E—

(i) in subsection (8)—

(I) in paragraph (a), by the substitution of “Subject to subsection (8A), section 898O” for “Section 898O”, and

(II) in paragraph (b), by the substitution of “Subject to subsection (8A), a person who” for “A person who”,

and

(ii) by the insertion of the following subsection after subsection (8)—

“(8A) (a) Where a trust or partnership would, but for the operation of this subsection, be liable to a penalty pursuant to paragraph (a) or (b) of subsection (8), the liable person of the trust or partnership shall be liable to the penalty.

(b) For the purpose of paragraph (a), and subject to paragraph (c), ‘liable person’ means, in relation to—

(i) a partnership, the precedent partner (within the meaning of section 1007) of the partnership,

(ii) a trust which is not an investment undertaking, the trustees of the trust, and

(iii) a trust which is an investment undertaking, the trustees of the trust, the management company or other such person, as the case may be, who, in the circumstances of the investment undertaking concerned—

(I) is authorised to act on behalf, or for the purposes, of the investment undertaking in respect of its investment activities, and

(II) habitually does so.

(c) Where a liable person identified pursuant to paragraph (b) is a partnership or trust, paragraph (b) shall be applied in respect of the partnership or trust until a liable person who is not a partnership or trust is identified pursuant to that paragraph.

(d) In this subsection, ‘investment undertaking’ has the same meaning as it has in section 739B.”,

(b) in section 891F—

(i) in subsection (7)—

(I) in paragraph (a), by the substitution of “Subject to subsection (7A), section 898O” for “Section 898O”, and

(II) in paragraph (b), by the substitution of “Subject to subsection (7A), a person who” for “A person who”,

and

(ii) by the insertion of the following subsection after subsection (7)—

“(7A) (a) Where a trust or partnership would, but for the operation of this subsection, be liable to a penalty pursuant to paragraph (a) or (b) of subsection (7), the liable person of the trust or partnership shall be liable to the penalty. 5

(b) For the purpose of paragraph (a), and subject to paragraph (c), ‘liable person’ means, in relation to— 10

(i) a partnership, the precedent partner (within the meaning of section 1007) of the partnership,

(ii) a trust which is not an investment undertaking, the trustees of the trust, and

(iii) a trust which is an investment undertaking, the trustees of the trust, the management company or other such person, as the case may be, who in the circumstances of the investment undertaking concerned— 15

(I) is authorised to act on behalf, or for the purposes, of the investment undertaking in respect of its investment activities, and 20

(II) habitually does so.

(c) Where a liable person identified pursuant to paragraph (b) is a partnership or trust, paragraph (b) shall be applied in respect of the partnership or trust until a liable person who is not a partnership or trust is identified pursuant to that paragraph. 25

(d) In this subsection, ‘investment undertaking’ has the same meaning as it has in section 739B.”,

and

(c) in section 891G— 30

(i) in subsection (7)—

(I) in paragraph (a), by the substitution of “Subject to subsection (7A), section 898O” for “Section 898O”, and

(II) in paragraph (b), by the substitution of “Subject to subsection (7A), a person who” for “A person who”, 35

and

(ii) by the insertion of the following subsection after subsection (7)—

“(7A) (a) Where a trust or partnership would, but for the operation of this subsection, be liable to a penalty pursuant to paragraph (a) or (b) of

- subsection (7), the liable person of the trust or partnership shall be liable to the penalty.
- (b) For the purpose of paragraph (a), and subject to paragraph (c), ‘liable person’ means, in relation to—
- (i) a partnership, the precedent partner (within the meaning of section 1007) of the partnership, 5
  - (ii) a trust which is not an investment undertaking, the trustees of the trust, and
  - (iii) a trust which is an investment undertaking, the trustees of the trust, the management company or other such person, as the case may be, who in the circumstances of the investment undertaking concerned— 10
    - (I) is authorised to act on behalf, or for the purposes, of the investment undertaking in respect of its investment activities, and 15
    - (II) habitually does so.
- (c) Where a liable person identified pursuant to paragraph (b) is a partnership or trust, paragraph (b) shall be applied in respect of the partnership or trust until a liable person who is not a partnership or trust is identified pursuant to that paragraph. 20
- (d) In this subsection, ‘investment undertaking’ has the same meaning as it has in section 739B.”.

### **Administrative cooperation**

**86.** The Principal Act is amended—

- (a) in section 817REA— 25
  - (i) by the substitution of the following subsection for subsection (1):
    - “(1) Subject to subsections (2) and (3), an authorised officer may make such enquiries as he or she considers necessary for the purpose of satisfying himself or herself as to whether information—
    - (a) included in a return made in accordance with section 817RC or 817RD, as appropriate, was correct and complete, or 30
    - (b) not included in such a return was correctly not so included.”,
  - and
  - (ii) by the insertion of the following subsection after subsection (1) (as amended by *subparagraph (i)*): 35
    - “(1A) An authorised officer may, at all reasonable times, enter any premises or place of business of an intermediary or relevant taxpayer for the purpose of carrying out the enquiries referred to in subsection (1).”,
- and



- (b) in section 89II—
- (i) in subsection (2)—
- (I) by the insertion of “ ‘effective qualifying competent authority agreement’,” after “ ‘consideration’,”, and
- (II) by the insertion of “ ‘qualified relevant activities’,” after “ ‘qualified non-union platform operator’,”, 5
- (ii) in subsection (3)—
- (I) by the insertion of the following paragraphs after paragraph (c):
- “(ca) A platform operator shall, when registering with the Revenue Commissioners pursuant to paragraph (c), provide the following: 10
- (i) the name of the platform operator;
- (ii) the postal address of the platform operator;
- (iii) the electronic address, including website addresses, of the platform operator;
- (iv) any TIN that has been issued to the platform operator; 15
- (v) a statement with information about the identification of that platform operator for VAT purposes within the European Union, pursuant to Title XII, Chapter 6, Sections 2 and 3 of Council Directive 2006/112/EC<sup>18</sup>;
- (vi) the Member States in which reportable sellers are resident. 20
- (cb) Where a platform operator has registered with the Revenue Commissioners pursuant to paragraph (c) prior to 1 January 2024, the platform operator shall provide the information specified in paragraph (ca) to the Revenue Commissioners not later than 31 January 2024. 25
- (cc) Where there is a change in any of the information specified in paragraph (ca) provided to the Revenue Commissioners by a platform operator, the platform operator shall notify the Revenue Commissioners of the change not later than the last day of the month following the month in which the change occurred.”, 30
- and
- (II) by the substitution of the following paragraph for paragraph (g):
- “(g) Where—
- (i) a platform operator’s Platform Operator ID has been revoked under paragraph (e), or 35
- (ii) the equivalent of a Platform Operator ID assigned by the competent authority of another Member State has been revoked under a provision similar to paragraph (e) in force in the other

Member State,

the Platform Operator ID shall not be reinstated, or a new Platform Operator ID shall not be issued to the platform operator, until the platform operator demonstrates, by way of documentary evidence to the satisfaction of the Revenue Commissioners, and provides the Revenue Commissioners with a written assurance, that it will comply with the obligations imposed under this section, the regulations made under this section and such similar provisions as may be in force in any other Member State.” 5

(iii) in subsection (5), by the substitution of “Subject to subsection (5A), a return made under subsection (4)” for “A return made under subsection (4)”, 10

(iv) by the insertion of the following subsection after subsection (5):

“(5A) Notwithstanding subsection (5), a reporting platform operator that has registered with the Revenue Commissioners as a platform operator under subsection (3)(c) shall not be required to provide the information specified in subsection (5) with respect to qualified relevant activities covered by an effective qualifying competent authority agreement that provides for the automatic exchange of equivalent information with a Member State on reportable sellers in the Member State.” 15 20

(v) in subsection (7)—

(I) by the substitution of the following paragraph for paragraph (b):

“(b) Where a reportable seller does not provide the relevant information to the reporting platform operator, the reporting platform operator shall on the day immediately following the expiration of the period referred to in paragraph (c)(ii) (referred to in paragraph (ba) as ‘the relevant date’) and until such time as the relevant information has been provided— 25

(i) either—

(I) subject to paragraph (ba), withhold payment of any consideration due to the reportable seller, or 30

(II) close the account of the reportable seller and prevent the reportable seller from reopening the account,

and

(ii) prevent the reportable seller from opening a new account with the reporting platform operator.” 35

and

(II) by the insertion of the following paragraph after paragraph (b) (amended by *clause (I)*):

“(ba) Where a reporting platform operator has withheld payment of consideration due to a reportable seller pursuant to clause (I) of 40

paragraph (b)(i), and the reportable seller does not provide the relevant information to the reporting platform operator within 24 months of the relevant date, the reporting platform operator shall pay to the reportable seller any consideration withheld in accordance with that clause and, until such time as the relevant information has been provided, take the actions specified in clause (II) of paragraph (b)(i) in respect of the reportable seller concerned.”,

(vi) in subsection (10)(d)—

(I) by the substitution of the following subparagraph for subparagraph (ii): 10

“(ii) closes the account of a reportable seller and prevents a reportable seller from reopening the account pursuant to paragraph (b)(i)(II) or (ba) of subsection (7)”,

(II) in subparagraph (iii), by the substitution of “subsection (7)(b)(ii), or” for “subsection (7)(b)(i)(III),”, 15

(III) in subparagraph (iv), by the substitution of “subsection (7)(ba)” for “subsection (7)(b)(i)(A)”, and

(IV) by the deletion of subparagraphs (v) and (vi),

and

(vii) in subsection (16)(b)(ii), by the substitution of “paragraphs (b) and (ba) of subsection (7)” for “subsection (7)(b)”.

### **Implementation of Council Directive (EU) 2021/514 of 22 March 2021 amending Directive 2011/16/EU on administrative cooperation in the field of taxation in relation to joint audits**

87. Part 38 of the Principal Act is amended by the insertion of the following section after section 891K: 25

“891L. (1) In this section—

‘authorised officer’ means an authorised officer within the meaning of section 905;

‘competent authority’ means the authority designated as such by a Member State for the purposes of the Directive and, in relation to the State, means the Revenue Commissioners; 30

‘Directive’ means Council Directive 2011/16/EU of 15 February 2011<sup>19</sup> as amended by Council Directive 2014/107/EU of 9 December 2014<sup>20</sup>, Council Directive (EU) 2015/2376 of 8 December 2015<sup>21</sup>, Council Directive (EU) 2016/881 of 25 May 2016<sup>22</sup>, Council Directive (EU) 2016/2258 of 6 December 2016<sup>23</sup>, Council Directive (EU) 35

19 OJ No. L64, 11.3.2011, p.1

20 OJ No. L359, 16.12.2014, p.1

21 OJ No. L332, 18.12.2015, p.1

22 OJ No. L146, 3.6.2016, p.8

23 OJ No. L342, 16.12.2016, p.1

2018/822 of 25 May 2018<sup>24</sup>, Council Directive (EU) 2020/876 of 24 June 2020<sup>25</sup> and Council Directive (EU) 2021/514 of 22 March 2021<sup>26</sup>;

‘foreign tax official’ means an official of a requesting authority who is—

- (a) authorised by the requesting authority to exercise the power specified in paragraph (3)(a) of Article 12a of the Directive to interview individuals and examine records on behalf of the Member State concerned, or 5
- (b) authorised by the requesting authority under the Directive to assist or represent the official referred to in paragraph (a) in the performance of his or her functions; 10

‘joint audit’ means an administrative enquiry—

- (a) jointly conducted by the Revenue Commissioners and the competent authority of another Member State, and
- (b) linked to one or more persons of common or complementary interest to the Revenue Commissioners and that competent authority; 15

‘nominated officer’ means a foreign tax official authorised by the Revenue Commissioners under subsection (5) to be a nominated officer; 20

‘records’ has the same meaning as it has in section 905;

‘Revenue officer’ means an officer of the Revenue Commissioners.

- (2) A requesting authority may request the Revenue Commissioners to conduct a joint audit.
- (3) The Revenue Commissioners shall respond to a request under subsection (2) within 60 days of the date of receipt of that request. 25
- (4) Where a joint audit is requested under subsection (2), the Revenue Commissioners may reject such a request where there are justified grounds for doing so.
- (5) The Revenue Commissioners may, by authorisation issued in writing (in this section referred to as a ‘written authorisation’), authorise a foreign tax official to be a nominated officer in respect of a joint audit and to perform any of the functions conferred on a nominated officer under this section for the purposes of the joint audit. 30
- (6) A written authorisation shall contain— 35
  - (a) the name of the foreign tax official,
  - (b) a statement to the effect that the foreign tax official is—
    - (i) a tax official of a specified requesting authority, and

24 OJ No. L139, 5.6.2018, p.1

25 OJ No. L204, 26.6.2020, p.46

26 OJ No. L104, 25.3.2021, p.1

- (ii) a nominated officer,
  - (c) a photograph and signature of the foreign tax official,
  - (d) particulars of the authorisation under this section of the foreign tax official,
  - (e) the duration of the written authorisation, 5
  - (f) the name of the person who is the subject of the joint audit concerned,
  - (g) a hologram showing the logo of the Office of the Revenue Commissioners, and
  - (h) the facsimile signature of a Revenue Commissioner. 10
- (7) Where a request for a joint audit under subsection (2) is accepted by the Revenue Commissioners, the joint audit shall be conducted in a pre-agreed and coordinated manner, including linguistic arrangements, by the Revenue Commissioners and the competent authority of the requesting State, in accordance with this Act, any other law of the State and any procedural requirements applicable to such an audit in the State. 15
- (8) The Revenue Commissioners shall, for the purposes of a joint audit, appoint an authorised officer to be responsible for supervising and co-ordinating the joint audit in the State. 20
- (9) Subject to subsections (10), (11) and (12), a nominated officer may—
- (a) accompany an authorised officer during a joint audit, and
  - (b) for the purposes of conducting the joint audit—
    - (i) interview individuals, and
    - (ii) examine records. 25
- (10) A nominated officer shall not perform any function under this section that would exceed the scope of the functions granted to the nominated officer under the laws of the requesting authority.
- (11) Nothing in this section shall be construed as requiring any person to disclose to a nominated officer— 30
- (a) information with respect to which a claim to legal professional privilege could be maintained in legal proceedings,
  - (b) information of a confidential medical nature, or
  - (c) professional advice of a confidential nature given to a client (other than advice given as part of a dishonest, fraudulent or criminal purpose). 35
- (12) A nominated officer shall not, without the consent of the occupier, enter any premises, or that portion of any premises, which is occupied wholly and exclusively as a private residence, except on production by

an authorised officer of a warrant issued under subsection (2A) of section 905 in which the nominated officer is named pursuant to paragraph (c) of that subsection.

- (13) A person who does not comply with any requirement of a nominated officer in the performance of the nominated officer's functions under this section shall be liable to a penalty of €4,000. 5
- (14) A nominated officer when performing his or her functions under this section shall on request produce—
- (a) his or her written authorisation, and
  - (b) his or her authorisation from the requesting authority stating his or her identity and official capacity. 10
- (15) Where, in the performance of any functions under this section, a nominated officer is requested to produce or show his or her authorisation for the purposes of this section, the production by the nominated officer of his or her written authorisation— 15
- (a) shall be taken as evidence of authorisation under this section, and
  - (b) shall satisfy an obligation under this section which requires the nominated officer to produce such authorisation on request.
- (16) A written authorisation shall be valid for the duration specified in the authorisation, and in any event, for no longer than the duration of the joint audit in respect of which it is issued, and may at any time be withdrawn by the Revenue Commissioners. 20
- (17) The Revenue Commissioners and the competent authority of the requesting state shall, in relation to a joint audit, endeavour to agree—
- (a) the facts and circumstances relevant to the joint audit, and 25
  - (b) the tax position of the person the subject of the joint audit, based on the results of the joint audit.
- (18) (a) The authorised officer responsible for a joint audit and such nominated officer as may be authorised in respect of the joint audit, shall, at the conclusion of the joint audit, prepare a final report detailing the findings of the joint audit, including issues on which the authorised officer and the nominated officer agree. 30
- (b) The person the subject of a joint audit shall be informed of the outcome of the joint audit and provided with a copy of the final report in respect of the joint audit within 60 days of the issuance of the final report. 35
- (19) In determining the actions, if any, to be taken following the conclusion of a joint audit, the Revenue Commissioners shall take into account the issues on which agreement has been reached as part of the joint audit. 40
- (20) A person subject to a joint audit shall have the same rights and

obligations as in the case of an enquiry carried out by Revenue officers only, including in the course of any process of complaint, review or appeal relating to the joint audit.

- (21) The Revenue Commissioners may delegate to any of their officers any of the functions to be performed by the Revenue Commissioners under this section as the competent authority of the State. 5
- (22) A word or expression which is used in this section and which is also used in the Directive has, unless the context otherwise requires, the same meaning in this section as it has in the Directive.
- (23) (a) Section 851A shall apply to a nominated officer, or a person who was formerly a nominated officer, as it applies to an authorised officer, subject to the modification that references to a ‘Revenue officer’ in— 10
- (i) the definition, in subsection (1) of that section, of ‘taxpayer information’, 15
  - (ii) subsections (2), (3) and (4) of that section,
  - (iii) subsection (8) of that section, insofar as it applies to paragraphs (b), (c), (d) and (i) of that subsection, and
  - (iv) subject to paragraph (b), subsection (9) of that section,
- shall be construed as including a reference to a nominated officer (within the meaning of this section) and a person who was formerly a nominated officer (within the said meaning). 20
- (b) Paragraph (a)(iv) shall not operate to permit the due disclosure in the course of duties of taxpayer information (within the meaning of section 851A) by a service provider (within the said meaning) to a nominated officer or a person who was formerly a nominated officer. 25
- (24) This section shall apply in respect of periods (within the meaning of section 1077F) beginning on or after 1 January 2024.”.

**Amendment of references to credit institutions in certain provisions of Principal Act 30**

**88.** The Principal Act is amended—

- (a) in section 891B(1), in the definition of “financial institution”—
- (i) in paragraph (aa), by the substitution of “State savings products, or” for “State savings products,”,
  - (ii) in paragraph (b), by the substitution of “the Central Bank Act 1971;” for “the Central Bank Act 1971, or”, and 35
  - (iii) by the deletion of paragraph (c),
- (b) in section 906A(1), in the definition of “financial institution”—
- (i) in paragraph (a), by the substitution of “section 9, or” for “section 9,”,

- (ii) in paragraph (b), by the substitution of “the Central Bank Act 1971;” for “the Central Bank Act 1971, or”, and
- (iii) by the deletion of paragraph (c),
- (c) in section 908A(1), in the definition of “financial institution”—
  - (i) in paragraph (a), by the substitution of “section 9, or” for “section 9,” 5
  - (ii) in paragraph (b), by the substitution of “the Central Bank Act 1971;” for “the Central Bank Act 1971, or”, and
  - (iii) by the deletion of paragraph (c),
- (d) in section 908B(1), in the definition of “financial institution”—
  - (i) in paragraph (a), by the substitution of “section 9, or” for “section 9,” 10
  - (ii) in paragraph (b), by the substitution of “the Central Bank Act 1971;” for “the Central Bank Act 1971, or”, and
  - (iii) by the deletion of paragraph (c),
 and
- (e) in section 1002(1), in the definition of “financial institution”— 15
  - (i) in paragraph (b), by the substitution of “the Central Bank Act 1971, or” for “the Central Bank Act 1971,”, and
  - (ii) by the deletion of paragraph (c).

**Amendment of Part 22B of Principal Act (vacant homes tax)**

- 89.** (1) The Principal Act is amended by the substitution of the following section for section 653AP: 20

**“Amount of vacant homes tax**

- 653AP.** (1) The amount of vacant homes tax to be charged in respect of a residential property for the chargeable period commencing on 1 November 2022 shall be the amount represented by ‘A’ in the formula— 25

$$A = B \times 3$$

where ‘B’ is the amount of local property tax payable in respect of the residential property in relation to the liability date of 1 November 2022 calculated in accordance with section 17 of the Act of 2012 (before any adjustment is made in accordance with section 20 of that Act). 30

- (2) The amount of vacant homes tax to be charged in respect of a residential property for the chargeable period commencing on 1 November 2023 and for each subsequent chargeable period shall be the amount represented by ‘A’ in the formula— 35

$$A = B \times 5$$



where ‘B’ is the amount of local property tax payable in respect of the residential property in relation to the liability date falling in the year in which the chargeable period commences calculated in accordance with section 17 of the Act of 2012 (before any adjustment is made in accordance with section 20 of that Act).”.

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- (2) Section 653BH of the Principal Act is amended by the substitution of the following subsection for subsection (2):

“(2) Part 37 shall apply to vacant homes tax subject to the following modifications:

- (a) in sections 849, 861, 863, 864, 866, 872 and 874, a reference to income tax shall be construed as a reference to vacant homes tax; 10
- (b) in section 863, a reference to a year shall be construed as a reference to a chargeable period;
- (c) in sections 851, 852, 856, 860, 861, 862, 864, 867, 868, 869, 870, 873 and 874, a reference to the Tax Acts shall be construed as a reference to this Part; 15
- (d) in section 870, the reference to the Income Tax Acts shall be construed as a reference to this Part.”.

- (3) Section 653AN of the Principal Act is amended, in subsection (1), by the insertion of the following definition: 20

“ ‘chartered engineer’ means a chartered engineer included on the register referred to in section 7 of The Institution of Civil Engineers of Ireland (Charter Amendment) Act, 1969;”.

- (4) Section 653BC of the Principal Act is amended, in paragraph (f)(i), by the insertion of “or chartered engineer” after “registered professional”. 25

**Amendment of section 1003 of Principal Act (payment of tax by means of donation of heritage items)**

90. Section 1003 of the Principal Act is amended, in subsection (2)(c)(ii), by the substitution of “€8,000,000” for “€6,000,000”.

**Residential zoned land tax**

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91. (1) Section 653B of the Principal Act is amended by the insertion of the following paragraph after paragraph (ii):

“(iia) the development of which would not conform with—

- (I) in a case in which the land is zoned in a development plan, the phased basis in accordance with which development of land is to take place under the plan, as detailed in the core strategy included in that plan in accordance with section 10(2A)(d) of the Act of 2000, or 35

- (II) in a case in which the land is zoned in a local area plan, the

objective, consistent with the objectives and core strategy of the development plan for the area in respect of which the local area plan is prepared, of development of land on a phased basis, included in the local area plan in accordance with section 19(2) of the Act of 2000,

5

on the date on which satisfaction of the criteria in this section is being assessed.”.

(2) Section 653I of the Principal Act is amended—

(a) by the substitution of the following subsection for subsection (1):

“(1) A person, who is the owner of such lands, may make a submission in writing— 10

(a) before 1 January 2023, to a local authority on a draft map published in accordance with section 653C,

(b) before 1 June 2023, to a local authority on a supplemental map published in accordance with section 653F, or 15

(c) before 31 May 2024, to a local authority on a draft map published in accordance with section 653C(2), as applied, in accordance with section 653M(2)(a), for the purpose of the revision of a final map for the year 2025 in accordance with section 653M(1),

requesting a change to the zoning of lands included in the draft map or supplemental map, as the case may be.”. 20

and

(b) by the substitution of the following subsection for subsection (4):

“(4) Where a submission is made in accordance with subsection (1), the local authority shall— 25

(a) evaluate the submission,

(b) consider whether to propose to make a variation under section 13 of the Act of 2000 or to reject the request for a change to the zoning of the lands, and

(c) in a case in which a submission is made under subsection (1)(c), not later than 31 July 2024, notify the owner concerned of its decision to— 30

(i) reject the request for a change to the zoning of lands, or

(ii) propose to make a variation to a development plan under section 13 of the Act of 2000.”. 35

(3) The Principal Act is amended by the substitution of the following section for section 653K:

**“Final map**

**653K.** A local authority shall—

- (a) taking into account the inclusion of sites in the supplemental map prepared by it,
  - (b) having given due consideration to the submissions, if any, received by it in accordance with sections 653D and 653G regarding the date on which land constituting a site first satisfied the relevant criteria, 5
  - (c) reflecting the determinations, if any, made under section 653E and 653H or, where any such determination has been appealed under section 653J, the decision in the appeal relating to that determination, 10
  - (d) reflecting changes to the zoning of land as a result of—
    - (i) a review of the development plan concerned carried out under section 11 of the Act of 2000,
    - (ii) the variations, if any, made to the development plan concerned under section 13 of the Act of 2000, or 15
    - (iii) the making or amendment of a local area plan under section 20 of the Act of 2000,
      - since the publication by the local authority of a draft map in accordance with section 653C, as a result of which the land is no longer land which satisfies the relevant criteria, 20
  - (e) reflecting the determination of applications, if any, made—
    - (i) to retain unauthorised development, pursuant to section 34(12C) of the Act of 2000, or
    - (ii) for substitute consent, in accordance with section 177E of the Act of 2000, 25

and
  - (f) reflecting the effect of any changes in service capacity as regards water supply or wastewater treatment, as the case may be, as detailed in a register published by a statutory undertaker (within the meaning of the Act of 2000) since the publication by the local authority of a draft map in accordance with section 653C, as a result of which land having previously satisfied the relevant criteria no longer satisfies the relevant criteria, 30
- make such revisions to the draft map as it considers appropriate and publish, no later than 1 December 2023, a map (in this Part referred to as a ‘final map’) specifying— 35
- (I) the date on which land identified on the map first satisfied the relevant criteria, where that date is after 1 January 2022, and
  - (II) the total area, in hectares, of land identified on the map.”.
- (4) Section 653O(1) of the Principal Act is amended by the substitution of “published under section 653M” for “published under section 653K or 653M, as the case may 40

- be.”.
- (5) Section 653Q(1)(a) of the Principal Act is amended by the substitution of “2025” for “2024”.
- (6) Section 653X(1) of the Principal Act is amended—
- (a) by the substitution of the following paragraph for paragraph (e): 5
- “(e) for the purposes of section 653AH, in section 959AA(1)—
- (i) ‘after the end of 4 years commencing at the end of the year in which a certificate of completion is lodged’ shall be substituted for ‘after the end of 4 years commencing at the end of the chargeable period in which the return is delivered’, and 10
- (ii) in paragraph (ii), ‘after the end of 4 years commencing at the end of the year in which a certificate of completion is lodged’ shall be substituted for ‘after the end of a period of 4 years commencing at the end of the chargeable period for which the return is delivered’;”, 15
- and
- (b) by the substitution of the following paragraph for paragraph (f):
- “(f) for the purposes of section 653AHA, in section 959AA(1)—
- (i) ‘after the end of 4 years commencing at the end of the year in which the relevant contract (within the meaning of section 653AHA) expires’ shall be substituted for ‘after the end of 4 years commencing at the end of the chargeable period in which the return is delivered’, and 20
- (ii) in paragraph (ii), ‘after the end of 4 years commencing at the end of the year in which the relevant contract (within the meaning of section 653AHA) expires’ shall be substituted for ‘after the end of a period of 4 years commencing at the end of the chargeable period for which the return is delivered’.”. 25
- (7) Section 653Z(2) of the Principal Act is amended by the substitution of “due” for “due and payable”. 30
- (8) Section 653AC(5) is amended by the substitution of “the error in the return is remedied” for “the error in the return of income is remedied”.
- (9) Section 653AD is amended by the insertion of the following subsections after subsection (6):
- “(7) This subsection applies where— 35
- (a) this section and section 653AH apply in respect of a site, and
- (b) the date specified in the notification under subsection (2) is before the date on which the commencement notice referred to in section 653AH(1)(c) is lodged.
- (8) Where subsection (7) applies, on the making of a claim by the liable 40

person, residential zoned land tax deferred in accordance with section 653AH in respect of a site shall not be due and payable in respect of the site, or part of the site, affected in the manner described in subsection (1).

- (9) Where only part of the site is affected in the manner described in subsection (1), the amount of residential zoned land tax deferred in accordance with section 653AH that is not due and payable in accordance with subsection (8), shall be determined by the formula in subsection (6), subject to the following modifications: 5

C shall be the amount of deferred tax which is not due and payable, 10

T shall be the total amount of deferred residential zoned land tax in respect of the site,

$A_{\text{part}}$  shall be the area, in square metres, of the part of the site affected in the manner described in subsection (1), and

$A_{\text{total}}$  shall be the total area, in square metres, of the site.”. 15

- (10) Section 653AE(1) of the Principal Act is amended by the substitution of the following paragraph for paragraph (c):

“(c) a submission has been made under section 653I and the local authority has notified the owner concerned of its decision to propose to make a variation, but no variation has been made to the development plan as a consequence of that decision,”. 20

- (11) Section 653AF(4) of the Principal Act is amended by the substitution of “that arose from the date on which the relevant appeal was made until such time as the relevant appeal is determined” for “until such time as the relevant appeal is determined”.

- (12) Section 653AFA(4) of the Principal Act is amended by the substitution of “that arose from the date of the making of the application until such time as the application is determined” for “until such time as the application is determined”. 25

- (13) Section 653AFB is amended—

- (a) by the substitution of the following subsection for subsection (16):

“(16) Where— 30

(a) the application referred to in subsection (14) is determined by the local authority concerned such that permission to retain the unauthorised development is granted, or

(b) the application referred to in subsection (14) is determined by An Bord Pleanála such that substitute consent is granted, 35

the tax deferred on foot of the claim under subsection (6) or (7), as the case may be, shall not be due and payable.”,

and

- (b) in paragraph (b) of subsection (18), by the substitution of “relevant appeal or relevant petition” for “relevant appeal”. 40

(14) Section 653AH of the Principal Act is amended, in subsection (7A), by the substitution of “subsections (3) or (7)(b)” for “subsection (7)(b)”.

(15) Section 653AI of the Principal Act is amended—

(a) in paragraph (b) of subsection (10), by the substitution of “653AF(4)” for “653AF(3),”,

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(b) in paragraph (b) of subsection (11), by the substitution of “653AH(3)” for “653AH(4)”,

(c) by the substitution of the following subsection for subsection (12):

“(12) Notwithstanding subsection (9)(b), (10)(b), (10A)(b), (10B) or (11)(b), sections 653AE(4), 653AF(4), 653AFA(4), 653AFB(6) and (7) and 653AH(3) shall continue to apply to a beneficiary or beneficiaries, as the case may be, of a site to which section 653AE(4), or a relevant site to which section 653AF(4), 653AFA(4), 653AFB(6) or (7) or 653AH(3), was applicable at the end of the administration period, as if the beneficiary or beneficiaries were the liable person of that relevant site at the date of death of the deceased person.”,

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and

(d) by the substitution of the following subsection for subsection (13):

“(13) Any charge on the land arising under subsections (9)(b), (10)(b), (10A)(b), (10B) or (11)(b) shall cease to apply where the residential zoned land tax to which the charge relates would not be payable by a beneficiary or beneficiaries, as the case may be, of the relevant site to which the charge relates, under section 653AE(5), 653AF(4)(a), 653AFA(5), 653AFB(9), 653AFB(13) or 653AH(7), as the case may be, had they been the liable person with respect to that relevant site at the date of death of the deceased person.”.

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### **Amendment of Part 18E of Principal Act (defective concrete products levy)**

**92.** (1) Part 18E of the Principal Act is amended—

(a) in section 531AAG—

(i) in the definition of “concrete”, by the substitution of “coarse or fine aggregate (or a combination thereof)” for “coarse and fine aggregate”,

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(ii) in the definition of “concrete product”, by the substitution of the following paragraph for paragraph (b):

“(b) ready to pour concrete;”,

and

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(iii) by the insertion of the following definitions:

“ ‘precast concrete product’ is a product which—

(a) contains concrete,

(b) is manufactured in a specially equipped facility through a process

of—

- (i) casting the concrete in a reusable mould or form, and
- (ii) curing the concrete in a controlled environment,
- (c) following manufacture, is transported from the facility to a construction site or the final destination of use, and 5
- (d) is manufactured as part of a trade consisting of the manufacture of such products for supply to customers where that trade is ordinarily carried on in a facility in which the manufacturing process takes place;

‘specified person’ means a person who acquires a first supply of ready to pour concrete which is used by that person in the manufacture of a precast concrete product; 10

‘tax reference number’ means a tax reference number (within the meaning of section 891B) or a TIN (within the meaning of section 891F);” 15

- (b) in section 531AAJ(2)(b), by the deletion of “(within the meaning of section 891B) or TIN (within the meaning of section 891F)”,
- (c) by the insertion of the following sections after section 531AAJ:

**“First supply of ready to pour concrete to specified person**

**531AAJA.** (1) A specified person may make a declaration, satisfying the requirements specified in subsection (3), to a chargeable person in respect of— 20

- (a) the first supply of ready to pour concrete that will be utilised in the manufacture of precast concrete products, or
- (b) so much of the first supply of ready to pour concrete as will be so utilised. 25

(2) Where a declaration made under subsection (1) is made to the chargeable person concerned, the defective concrete products levy shall not be chargeable on the first supply or so much of that first supply as is utilised for the manufacture of precast concrete products, as the case may be, in respect of which the declaration is made. 30

(3) A declaration made under subsection (1) shall—

- (a) be in respect of the first supply of ready to pour concrete supplied in an accounting period commencing on or after 1 January 2024,
- (b) be in a form prescribed by the Revenue Commissioners, and 35
- (c) include the following:
  - (i) the name, address (including the Eircode) and tax reference number of the specified person;
  - (ii) the name, address (including the Eircode) and tax reference number of the chargeable person; 40

- (iii) the delivery address (including the Eircode) for the ready to pour concrete in respect of which the declaration is being made;
  - (iv) the date of supply of the ready to pour concrete in respect of which the declaration is being made;
  - (v) the amount of ready to pour concrete, in square cubic meters, in respect of which the declaration is being made; 5
  - (vi) the open market value of the ready to pour concrete in respect of which the declaration is being made;
  - (vii) a declaration that the supply of ready to pour concrete in respect of which the declaration is being made is to be used in the manufacture of a precast concrete product; 10
  - (viii) a declaration that the particulars shown on the form are correct and complete;
  - (ix) such other information as the Revenue Commissioners may prescribe. 15
- (4) Where requested to do so by the Revenue Commissioners, a specified person shall produce such documentary evidence as is necessary to verify to the satisfaction of the Revenue Commissioners that the ready to pour concrete in respect of which a declaration was made was used in the manufacture of precast concrete products. 20
- (5) A chargeable person shall retain an original declaration provided to them by a specified person.
- (6) A specified person shall retain a copy of a declaration provided by them to a chargeable person.
- (7) Where ready to pour concrete is supplied to a person without the defective concrete products levy having been charged, levied and paid on the concrete as a result of a false, incorrect or misleading declaration having been made by the person under subsection (1) in respect of the concrete, the person shall be liable— 25
- (a) to a penalty not exceeding €4,000, and 30
  - (b) to pay to the Revenue Commissioners an amount equal to the amount of the defective concrete products levy which would have been chargeable for the ready to pour concrete if a false, incorrect or misleading declaration had not been made.
- (8) A person shall, without prejudice to any other penalty to which the person may be liable, be guilty of an offence under this section if the person— 35
- (a) knowingly or wilfully delivers any incorrect declaration or statement, or knowingly or wilfully furnishes any incorrect information, in connection with the operation of this section or a declaration under subsection (1) in relation to any person, or 40



- (b) knowingly aids, abets, assists, incites, or induces another person to make or deliver knowingly or wilfully any incorrect declaration or statement, or knowingly or wilfully furnish any incorrect information, in connection with the operation of this section or a declaration under subsection (1) in relation to any person, 5
- and the provisions of subsections (3) to (10) of section 1078, and section 1079, shall, with any necessary modifications, apply for the purposes of this subsection as they apply for the purposes of offences in relation to tax within the meaning of section 1078.
- (9) (a) Where a Revenue officer determines that a person is liable under subsection (7), the Revenue officer shall notify the person in writing accordingly. 10
- (b) A person aggrieved by a determination under paragraph (a), may appeal the determination to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date on the notification of the determination. 15
- (c) The reference to the Tax Acts in paragraph (a) of the definition of ‘Acts’ in section 949A shall be read as including a reference to this section.
- Repayment of defective concrete products levy** 20
- 531AAJB.** (1) Where ready to pour concrete was utilised by a specified person in the manufacture of precast concrete products in the accounting period from 1 September 2023 to 31 December 2023, the specified person may make a claim to the Revenue Commissioners for a refund in the amount of the defective concrete products levy paid in respect of the ready to pour concrete. 25
- (2) Subject to subsection (4), where a person making a claim under subsection (1)—
- (a) establishes to the satisfaction of the Revenue Commissioners that— 30
- (i) the person is a specified person, and
- (ii) the person has utilised ready to pour concrete in the manufacture of precast concrete products in the accounting period from 1 September 2023 to 31 December 2023, 35
- and
- (b) has complied with the conditions specified in this section,
- the person shall be entitled to be refunded an amount equal to the defective concrete products levy paid in respect of the ready to pour concrete referred to in paragraph (a)(ii). 40
- (3) (a) A claim under subsection (1) shall be made by completing a form prescribed by the Revenue Commissioners.

- (b) The form prescribed under paragraph (a) shall include—
- (i) the name, address (including the Eircode) and tax reference number of the specified person,
  - (ii) the name of the chargeable person,
  - (iii) the date of supply of the ready to pour concrete in respect of which the claim is being made, 5
  - (iv) the amount of the refund being claimed,
  - (v) a declaration that the particulars shown on the form are correct and complete, and
  - (vi) such other information as the Revenue Commissioners may prescribe. 10
- (c) A person shall provide the following, in respect of the ready to pour concrete in respect of which a claim is made under subsection (1), with the form prescribed under paragraph (a):
- (i) the invoices or other documents, issued or given to the specified person for the purposes of Chapter 2 of Part 9 of the Value-Added Tax Consolidation Act 2010, in respect of each first supply; 15
  - (ii) the document issued under section 531AAH(3) or record made under section 531AAH(4), as the case may be, in respect of each such first supply. 20
- (d) If requested to do so by the Revenue Commissioners, a person shall produce such documentary evidence as is necessary to verify to the satisfaction of the Revenue Commissioners that the ready to pour concrete in respect of which a claim is made was used in the manufacture of precast concrete products. 25
- (4) A refund under subsection (2) shall not be made unless the claim is made within four calendar months of the end of the accounting period referred to in that subsection.
- (5) A person who— 30
- (a) makes a claim, under this section, for a refund in respect of ready to pour concrete which was not used in the manufacture of precast concrete products, or
  - (b) makes an incorrect or fraudulent claim under this section, shall be liable— 35
    - (i) to a penalty not exceeding €4,000 for each such claim, and
    - (ii) to pay to the Revenue Commissioners an amount equal to the amount the person received as a refund.
- (6) A claim under subsection (1) shall be made only in respect of outlay involving a total amount of more than €125. 40

- (7) A person shall, without prejudice to any other penalty to which the person may be liable, be guilty of an offence under this section if the person—
- (a) knowingly or wilfully delivers any incorrect claim or statement, or knowingly or wilfully furnishes any incorrect information, in connection with the operation of this section or a claim under subsection (1) in relation to any person, or 5
  - (b) knowingly aids, abets, assists, incites, or induces another person to make or deliver knowingly or wilfully any incorrect claim or statement, or knowingly or wilfully furnish any incorrect information in connection with the operation of this section or a claim under subsection (1) in relation to any person, 10
- and the provisions of subsections (3) to (10) of section 1078, and section 1079, shall, with any necessary modifications, apply for the purposes of this subsection as they apply for the purposes of offences in relation to tax within the meaning of section 1078. 15
- (8) Any amount payable by the Revenue Commissioners to a specified person by virtue of this section shall be deemed to be an overpayment of tax, for the purposes of section 960H(2).
  - (9) (a) Where a Revenue officer determines that a person is liable under subsection (5), the Revenue officer shall notify the person in writing accordingly. 20
  - (b) A person aggrieved by a determination under paragraph (a), may appeal the determination to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date on the notification of the determination. 25
  - (c) The reference to the Tax Acts in paragraph (a) of the definition of ‘Acts’ in section 949A shall be read as including a reference to this section.”,
- (d) in section 531AAK(2)— 30
- (i) in paragraph (a), by the deletion of “and”,
  - (ii) in paragraph (b), by the substitution of “period,” for “period.”, and
  - (iii) by the insertion of the following paragraphs after paragraph (b):
    - “(c) the sum of the open market values, on the supply dates, of supplies of ready to pour concrete supplied by the chargeable person, and in respect of which a declaration under section 531AAJA was made, in the accounting period, and 35
    - (d) the number of specified persons that made a declaration under section 531AAJA in the accounting period in respect of ready to pour concrete supplied by the chargeable person.”, 40
- (e) in section 531AAM—

- (i) by the insertion of the following subsections after subsection (1):
  - “(1A) Any amount payable by a person under section 531AAJA(7)(b) shall carry interest from the supply date of the ready to pour concrete in respect of which the declaration concerned was made until payment for any day or part of a day during which the amount remains unpaid, at a rate of 0.0219 per cent. 5
  - (1B) Any amount payable by a person under section 531AAJB(5)(ii) shall carry interest from the date the refund concerned was paid to the person until payment for any day or part of a day during which the amount remains unpaid, at a rate of 0.0219 per cent.”, 10
- and
- (ii) in subsection (2), by the substitution of “subsections (1), (1A) and (1B)” for “subsection (1)”,
- (f) in section 531AAN—
  - (i) by the substitution of the following subsection for subsection (1): 15
    - “(1) Chargeable persons and specified persons shall retain, or cause to be retained on behalf of the chargeable person or the specified person concerned, such records and linking documents as are required to enable a full and true return, claim or declaration to be made for the purposes of this Part.”, 20
  - (ii) in subsection (2)—
    - (I) in paragraph (b), by the deletion of “and”,
    - (II) in paragraph (c), by the substitution of “supply,” for “supply.”, and
    - (III) by the insertion of the following paragraphs after paragraph (c):
      - “(d) where applicable, a declaration made for the purposes of section 531AAJA(1), and 25
      - (e) where applicable, the documentary evidence that ready to pour concrete was used in the manufacture of precast concrete products in respect of which a declaration under section 531AAJA or a claim under section 531AAJB, as the case may be, was made.”, 30
  - (iii) in subsection (3), by the substitution of “this Part” for “this section”,
  - (iv) in subsection (4)—
    - (I) by the substitution of “the chargeable person or the specified person, as the case may be,” for “the chargeable person”, and
    - (II) by the substitution of “a return, claim or declaration, as the case may be,” for “a return”, 35
  - (v) in subsection (5), by the substitution of “the chargeable person or the specified person, as the case may be,” for “the chargeable person”, and
  - (vi) in subsection (6)—

- (I) by the substitution of “a chargeable person or a specified person” for “a chargeable person”, and
  - (II) by the substitution of “the chargeable person or the specified person, as the case may be” for “the chargeable person”,
- and
- (g) in Schedule 29, by the insertion of “section 531AAK” after “section 531AF” in column (1).

**Implementation of Council Directive (EU) 2022/2523 of 15 December 2022 on ensuring a global minimum level of taxation for multinational enterprise groups and large-scale domestic groups in the Union**

93. The Principal Act is amended by the insertion of the following Part after section 111:

“PART 4A

IMPLEMENTATION OF COUNCIL DIRECTIVE (EU) 2022/2523 OF 15 DECEMBER 2022 ON ENSURING A GLOBAL MINIMUM LEVEL OF TAXATION FOR MULTINATIONAL ENTERPRISE GROUPS AND LARGE-SCALE DOMESTIC GROUPS IN THE UNION

CHAPTER 1

*Interpretation and general (Part 4A)*

**Interpretation (Part 4A)**

111A. (1) In this Part—

‘acceptable financial accounting standard’ means International Financial Reporting Standards and the generally accepted accounting principles of Australia, Brazil, Canada, a Member State, an EEA state, Hong-Kong (China), Japan, Mexico, New-Zealand, the People’s Republic of China, the Republic of India, the Republic of Korea, Russia, Singapore, Switzerland, the United Kingdom and the United States of America;

‘the Acts’ means the Tax Acts and the Capital Gains Tax Acts;

‘adjusted covered taxes’ has the meaning assigned to it in section 111U;

‘authorised financial accounting standard’ means, in respect of an entity, a set of generally acceptable accounting principles permitted by an authorised accounting body in the jurisdiction where that entity is located, where that authorised accounting body has legal authority in that jurisdiction to prescribe, establish or accept accounting standards for financial reporting purposes;

‘consolidated financial statements’ means—

- (a) the financial statements prepared by an entity in accordance with an acceptable financial accounting standard, in which the assets, liabilities, income, expenses and cash flows of that entity, and of any entities in which it has a controlling interest are presented as

- those of a single economic unit,
- (b) the financial statements of a group to which paragraph (b) of the definition in this subsection of ‘group’ applies prepared by an entity in accordance with an acceptable financial accounting standard, 5
- (c) where an ultimate parent entity has prepared financial statements described in paragraphs (a) or (b), that are not prepared in accordance with an acceptable financial accounting standard, the financial statements of the ultimate parent entity that have been subsequently adjusted to prevent any material competitive distortions, and 10
- (d) where an ultimate parent entity does not prepare financial statements as described in paragraph (a), (b) or (c), the financial statements that would have been prepared if the ultimate parent entity were required to prepare such financial statements in accordance with— 15
- (i) an acceptable financial accounting standard, or
- (ii) another financial accounting standard, provided such financial statements have been adjusted to prevent any material competitive distortions; 20
- ‘consolidated revenue test’ has the meaning assigned to it in section 111C;
- ‘consolidated revenue threshold’—
- (a) in respect of a fiscal year of 12 months, means €750,000,000,
- (b) in respect of a fiscal year which is less than 12 months, the amount referred to in paragraph (a) shall be decreased pro rata, and 25
- (c) in respect of a fiscal year which is greater than 12 months, the amount referred to in paragraph (a) shall be increased pro rata;
- ‘constituent entity’ means—
- (a) an entity that is a member of an MNE group or of a large-scale domestic group, or 30
- (b) any permanent establishment of a main entity that is a member of an MNE group referred to in paragraph (a),
- but does not include an entity that is an excluded entity within the meaning of section 111C; 35
- ‘constituent entity-owner’ means a constituent entity that owns, directly or indirectly, an ownership interest in another constituent entity of the same MNE group or the same large-scale domestic group;
- ‘controlled foreign company tax regime’ means a set of tax rules, other than a qualified IIR, under which an entity with a direct or indirect ownership interest in another entity which is not tax resident in the 40

same jurisdiction as the first mentioned entity, or the main entity of a permanent establishment, is subject to taxation on its share of part or all of the income earned by that other entity or permanent establishment, irrespective of whether that income is distributed to the first mentioned entity;	5
‘controlling interest’ means an ownership interest in an entity whereby the interest holder—	
(a) is required to consolidate the assets, liabilities, income, expenses and cash flows of the entity on a line-by-line basis, in accordance with an acceptable financial accounting standard, or	10
(b) would have been required to consolidate the assets, liabilities, income, expenses and cash flows of the entity on a line-by-line basis if the interest holder had prepared consolidated financial statements;	
‘covered taxes’ has the meaning assigned to it in section 111T;	15
‘deferred tax expense’ means the amount of the net movement in the deferred tax assets and deferred tax liabilities of a constituent entity between the beginning and end of the fiscal year;	
‘designated filing entity’ means the constituent entity, other than the ultimate parent entity, that has been appointed by the MNE group or large-scale domestic group to fulfil the filing obligations set out in section 111AAI on behalf of the MNE group or the large-scale domestic group;	20
‘Directive’ means Council Directive 2022/2523 of 15 December 2022 <sup>27</sup> on ensuring a global minimum level of taxation for multinational enterprise groups and large-scale domestic groups in the Union;	25
‘disqualified refundable imputation tax’ means any tax, other than a qualified imputation tax, accrued, or paid by a constituent entity that is—	30
(a) refundable to the beneficial owner of a dividend distributed by such constituent entity in respect of that dividend or creditable by the beneficial owner against a tax liability other than a tax liability in respect of such dividend, or	
(b) refundable to the distributing company upon distribution of a dividend to a shareholder;	35
‘domestic top-up tax’ means a tax arising pursuant to section 111AAC;	
‘EEA Agreement’ means the Agreement on the European Economic Area signed at Oporto on 2 May 1992 as adjusted by all subsequent amendments to that Agreement;	40
‘EEA state’ means a state which is a contracting party to the EEA	

27 OJ No. L328, 22.12.2022, p.1

Agreement;

‘eligible distribution tax system’ means a corporate income tax system that—

- (a) imposes income tax on profits only when those profits are distributed or deemed to be distributed to shareholders, or when the company incurs certain non-business expenses, 5
- (b) imposes tax at a rate equal to, or in excess of, the minimum tax rate, and
- (c) was in force on or before 1 July 2021;

‘entity’ means— 10

- (a) any legal arrangement of whatever nature or form that prepares separate financial accounts, or
- (b) any legal person other than an individual,

but does not include central, state or local government, or their administration or agencies that carry out government functions; 15

‘excluded entities’ has the meaning assigned to it in section 111C;

‘financial accounting net income or loss’ means the net income or loss determined for a constituent entity in preparing consolidated financial statements of the ultimate parent entity for a fiscal year before any consolidation adjustments eliminating intra-group transactions; 20

‘filing constituent entity’ means an entity filing a top-up tax information return in accordance with section 111AAI;

‘fiscal year’ means—

- (a) the accounting period in respect of which the ultimate parent entity of an MNE group or of a large-scale domestic group prepares its consolidated financial statements, or 25
- (b) if the ultimate parent entity does not prepare consolidated financial statements, the calendar year;

‘flow-through entity’ means an entity to the extent that it is fiscally transparent with respect to its income, expenditure, profit or loss in the jurisdiction where it was created unless it is tax resident and subject to a covered tax on its income or profit in another jurisdiction; 30

‘governmental entity’ means an entity that meets all of the following criteria—

- (a) it is part of, or wholly-owned by, a government (including any political subdivision or local authority thereof), 35
- (b) it does not carry on a trade or business (other than that of carrying out the activities referred to in subparagraph (ii)) and has the principal purpose of—



- (i) fulfilling a government function, or
- (ii) managing or investing that government's or jurisdiction's assets through the making and holding of investments, asset management, and related investment activities for that government's or jurisdiction's assets, 5
- (c) it is accountable to a government on its overall performance, and provides annual information reporting to that government, and
- (d) its assets vest in a government upon dissolution and, to the extent that it distributes net earnings, such net earnings are distributed solely to that government with no portion of its net earnings inuring to the benefit of any private person; 10

'group' means—

- (a) all entities which are related through ownership or control for the purpose of the preparation of consolidated financial statements by the ultimate parent entity, including any entity that is excluded from the consolidated financial statements of the ultimate parent entity solely based on its small size, on materiality grounds, or on the grounds that it is held for sale, or 15
- (b) an entity that has one or more permanent establishments, provided that the entity is not part of another group referred to in paragraph (a); 20

'hybrid entity' means an entity not treated as fiscally transparent in the jurisdiction where it is located but as fiscally transparent in the jurisdiction in which its owner is located;

'income inclusion rule' means the rules laid down in the Directive or, as regarding third country jurisdictions, the OECD Model Rules in accordance with which the parent entity of an MNE group or of a large-scale domestic group calculates and pays its allocable share of top-up tax in respect of the low-taxed constituent entities of that group; 25  
30

'IIR' means the income inclusion rule;

'IIR top-up tax' means a tax arising pursuant to subsection (1) or (2) of section 111E, subsection (1) or (2) of section 111F, subsection (1) or (2) of section 111G or subsection (1) or (2) of section 111H, as the case may be; 35

'insurance investment entity' means an entity that would meet the definition in this subsection of an 'investment fund' or a 'real estate investment vehicle', if it had not been established in relation to liabilities under an insurance or annuity contract and if it were not wholly owned by an entity that is subject to regulation in the jurisdiction where it is located as an insurance company; 40

'intermediate parent entity' means a constituent entity that—

- (a) owns, directly or indirectly, an ownership interest in another constituent entity in the same MNE group or large-scale domestic group, and
  - (b) is not an ultimate parent entity, a partially-owned parent entity, a permanent establishment or an investment entity; 5
- ‘International Financial Reporting Standards’ means International Financial Reporting Standards as adopted by the Union pursuant to Regulation (EC) No. 1606/2002 of the European Parliament and of the Council of 19 July 2002<sup>28</sup> on the application of international accounting standards; 10
- ‘international organisation’ means an intergovernmental organisation, including a supranational organisation, or wholly-owned agency or instrumentality thereof, that—
- (a) is comprised primarily of governments,
  - (b) has in effect a headquarters or substantially similar agreement with the jurisdiction in which it is established, such as arrangements that entitle the organisation’s offices or establishments in that jurisdiction to privileges and immunities, and 15
  - (c) law or its governing documents prevent its income inuring to the benefit of any private person; 20
- ‘investment entity’ means—
- (a) an investment fund or a real estate investment vehicle,
  - (b) an entity that is at least 95 per cent owned directly by an entity referred to in paragraph (a) or through a chain of such entities and that operates exclusively or almost exclusively to hold assets or invest funds for their benefit, 25
  - (c) an entity where a minimum of 85 per cent of its value is owned by an entity referred to in paragraph (a), provided that substantially all of its income is derived from dividends or equity gains or losses that are excluded from the calculation of the qualifying income or loss for the purposes of this Part, or 30
  - (d) an insurance investment entity;
- ‘investment fund’ means an entity or arrangement that—
- (a) is designed to pool financial or non-financial assets from a number of investors, some of which are not connected, 35
  - (b) invests in accordance with a defined investment policy,
  - (c) allows investors to reduce transaction, research and analytical costs or to spread risk collectively,
  - (d) has as its main purpose the generation of investment income or gains, or protection against a particular or general event or 40

28 OJ No. L243, 11.09.2002, p.1

- outcome,
- (e) its investors have a right to return from the assets of the fund or income earned on those assets, based on the contribution they made,
  - (f) is, or its management is, subject to the regulatory regime, including appropriate anti-money laundering and investor protection regulation for investment funds in the jurisdiction in which it is established or managed, and
  - (g) is managed by investment fund management professionals on behalf of the investors;
- ‘joint venture’, ‘joint venture affiliate’ and ‘joint venture group’ have the meaning assigned to them, respectively, in section 111AO;
- ‘large-scale domestic group’ means a group of which all constituent entities are located in the same Member State and ‘member of a large-scale domestic group’ shall be construed accordingly;
- ‘local tangible assets’ means immovable property located in the same jurisdiction as the constituent entity and that jurisdiction shall be referred to in this Part as the ‘local tangible asset jurisdiction’;
- ‘low-tax jurisdiction’ means, in respect of an MNE group or of a large-scale domestic group in any fiscal year, a Member State or a third country jurisdiction in which the MNE group or the large-scale domestic group has qualifying income and is subject to an effective tax rate which is lower than the minimum tax rate;
- ‘low-taxed constituent entity’ means—
- (a) a constituent entity of an MNE group or large-scale domestic group that is located in a low-tax jurisdiction, or
  - (b) a stateless constituent entity that, in respect of a fiscal year, has qualifying income and an effective tax rate which is lower than the minimum tax rate;
- ‘main entity’ means an entity that includes the financial accounting net income or loss of a permanent establishment in its financial statements;
- ‘marketable transferable tax credit’ has the meaning assigned to it in section 111V;
- ‘material competitive distortion’ means, in respect of the application of a specific principle or procedure under a set of generally acceptable accounting principles, an application that results in an aggregate variation of income or expense of more than €75,000,000 in a fiscal year as compared to the amount that would have been determined by applying the corresponding principle or procedure under International Financial Reporting Standards;
- ‘Member State’ means a member state of the European Union;

- ‘minimum tax rate’ means 15 per cent;
- ‘MNE’ means multinational enterprise;
- ‘MNE group’ means a group that includes at least one entity or permanent establishment which is not located in the jurisdiction of the ultimate parent entity and ‘member of an MNE group’ shall be construed accordingly; 5
- ‘net book value of tangible assets’ means the average of the beginning and end values of tangible assets after taking into account accumulated depreciation, depletion and impairment, as recorded in the financial statements; 10
- ‘non-marketable transferable tax credit’ has the meaning assigned to it in section 111V;
- ‘non-profit organisation’ means an entity that meets all of the following criteria—
- (a) it is established and operated in its jurisdiction of residence— 15
- (i) exclusively for religious, charitable, scientific, artistic, cultural, athletic, educational or other similar purposes, or
- (ii) as a professional organisation, business league, chamber of commerce, labour organisation, agricultural or horticultural organisation, civil league or an organisation operated exclusively for the promotion of social welfare, 20
- (b) substantially all the income from the activities mentioned in paragraph (a) is exempt from income tax in its jurisdiction of residence,
- (c) it has no shareholders or members who have a proprietary or beneficial interest in its income or assets, 25
- (d) the income or assets of the entity may not be distributed to, or applied for the benefit of, a private person or non-charitable entity other than—
- (i) pursuant to the conduct of the entity’s charitable activities, 30
- (ii) as payment of reasonable compensation for services rendered or for the use of property or capital, or
- (iii) as payment representing the fair market value of property which the entity has purchased,
- (e) upon termination, liquidation or dissolution of the entity, all of its assets are to be distributed or revert to a non-profit organisation or to the government (including any government entity) of the entity’s jurisdiction of residence or any political subdivision thereof, and 35
- (f) it does not carry on a trade or business that is not directly related to the purposes for which it was established; 40

‘non-qualified refundable tax credit’ means a tax credit that is not a qualified refundable tax credit but that is refundable in whole or in part;

‘OECD Model Rules’ means the document entitled OECD (2021), Tax Challenges Arising from the Digitalisation of the Economy – Global Anti-Base Erosion Model Rules (Pillar Two): Inclusive Framework on BEPS, OECD/G20 Base Erosion and Profit Shifting, OECD Publishing, Paris, approved on 14 December 2021 by the OECD/G20 Inclusive Framework on BEPS; 5

‘OECD Model Tax Convention on Income and Capital’ means the Model Tax Convention on Income and on Capital as published by the OECD on 21 November 2017; 10

‘ownership interest’ means any equity interest that carries rights to the profits, capital or reserves of an entity or of a permanent establishment; 15

‘parent entity’ means—

- (a) an ultimate parent entity which is not an excluded entity,
- (b) an intermediate parent entity, or
- (c) a partially-owned parent entity;

‘partially-owned parent entity’ means a constituent entity— 20

- (a) that owns, directly or indirectly, an ownership interest in another constituent entity of the same MNE group or large-scale domestic group,
- (b) for which more than 20 per cent of the ownership interest in its profits is held, directly or indirectly, by one or several persons that are not constituent entities of that MNE group or large-scale domestic group, and 25
- (c) that is not an ultimate parent entity, a permanent establishment or an investment entity;

‘pension fund’ means— 30

- (a) an entity that is established and operated in a jurisdiction exclusively or almost exclusively to administer or provide retirement benefits and ancillary or incidental benefits to individuals where—
  - (i) that entity is regulated by that jurisdiction or one of its political subdivisions or local authorities, or 35
  - (ii) those benefits are secured or otherwise protected by national regulations and funded by a pool of assets held through a fiduciary arrangement or trustor to secure the fulfilment of the corresponding pension obligations against a case of insolvency of the MNE group or large-scale domestic group, 40

or

(b) a pension services entity;

‘pension services entity’ means an entity that is established and operated exclusively or almost exclusively to invest funds for the benefit of an entity referred to in paragraph (a) of the definition in this subsection of ‘pension fund’, or to carry out activities that are ancillary to the regulated activities referred to in the said paragraph (a), where the pension services entity forms part of the same group as the entities carrying out those regulated activities;

‘permanent establishment’ means—

(a) a place of business or a deemed place of business located in a jurisdiction where it is treated as a permanent establishment in accordance with a tax treaty provided that such jurisdiction taxes the income attributable to it, that income being attributable to it in accordance with a provision drafted in a like manner to Article 7 of the OECD Model Tax Convention on Income and Capital,

(b) if there is no applicable tax treaty, a place of business or a deemed place of business located in a jurisdiction which taxes the income attributable to such place of business on a net basis in a manner similar to which it taxes its own tax residents,

(c) if a jurisdiction has no corporate income tax system, a place of business or a deemed place of business located therein that would be treated as a permanent establishment in accordance with the OECD Model Tax Convention on Income and Capital, provided that such jurisdiction would have had the right to tax the income that would have been attributable to the place of business in accordance with Article 7 of that Convention, or

(d) a place of business or a deemed place of business, that is not referred to in paragraph (a), (b) or (c), through which operations are conducted outside the jurisdiction where the entity is located if such jurisdiction exempts the income attributable to such operations;

‘qualified domestic top-up tax’ means a top-up tax that is implemented in the domestic law of a jurisdiction, provided that such jurisdiction does not provide any benefits that are related to those rules, and that—

(a) provides for the determination of the excess profits of the constituent entities located in that jurisdiction in accordance with the rules laid down in the Directive or, as regards third country jurisdictions, the OECD Model Rules, and the application of the minimum tax rate to those excess profits for the jurisdiction and the constituent entities in accordance with the rules laid down in the Directive or, as regards third country jurisdictions, the OECD Model Rules, and

(b) is administered in a way that is consistent with the rules laid down

in the Directive or, as regards third country jurisdictions, the OECD Model Rules;

‘qualified domestic top-up tax payable’ means the amount accrued by the constituent entities in a jurisdiction in respect of qualified domestic top-up tax for a fiscal year, except that such amount shall not include any amount of qualified domestic top-up tax that— 5

(a) the MNE group or large-scale domestic group directly or indirectly challenges in a judicial or administrative proceeding, or

(b) the tax authority of the jurisdiction has determined is not assessable or collectible, 10

based on—

(i) constitutional grounds,

(ii) other superior law, or

(iii) a specific agreement with the government of the qualified domestic top-up tax jurisdiction limiting the MNE group’s or large-scale domestic group’s tax liability, such as a tax stabilisation agreement, investment agreement or similar agreement; 15

‘qualified IIR’ means a set of rules implemented in the domestic law of a jurisdiction, provided that such jurisdiction does not provide any benefits that are related to those rules, and that is— 20

(a) equivalent to the rules laid down in the Directive or, as regarding third country jurisdictions, the OECD Model Rules in accordance with which the parent entity of an MNE group or of a large-scale domestic group calculates and pays its allocable share of top-up tax in respect of the low-taxed constituent entities of that group, and 25

(b) administered in a way that is consistent with the rules laid down in the Directive or, as regards third country jurisdictions, the OECD Model Rules;

‘qualified imputation tax’ shall be construed in accordance with subsection (6); 30

‘qualified refundable tax credit’ means—

(a) a refundable tax credit that is designed such that it is to be paid as a cash payment or a cash equivalent to a constituent entity within 4 years from the date when the constituent entity is entitled to receive the refundable tax credit under the laws of the jurisdiction granting the credit, or 35

(b) if the tax credit is refundable in part, the portion of the refundable tax credit that is payable as a cash payment or a cash equivalent to a constituent entity within 4 years from the date when the constituent entity is entitled to receive the partial refundable tax credit, 40

and shall not include any amount of tax creditable or refundable pursuant to a qualified imputation tax or a disqualified refundable imputation tax;

‘qualified UTPR’ means a set of rules implemented in the domestic law of a jurisdiction, provided that such jurisdiction does not provide any benefits that are related to those rules, and that is— 5

(a) equivalent to the rules laid down in the Directive or, as regards third country jurisdictions, the OECD Model Rules, in accordance with which a jurisdiction collects its allocable share of top-up tax of an MNE group that was not charged under the qualified IIR in respect of the low-taxed constituent entities of that MNE group, and 10

(b) administered in a way that is consistent with the rules laid down in the Directive or, as regards third country jurisdictions, the OECD Model Rules; 15

‘qualifying competent authority agreement’ means a bilateral or multilateral agreement or arrangement between two or more competent authorities that provides for the automatic exchange of top-up tax information returns;

‘qualifying entity’ shall be construed in accordance with section 111AAB; 20

‘qualifying income or loss’ has the meaning assigned to it in section 111O(1);

‘real estate investment vehicle’ means a widely held entity that—

(a) holds predominantly immovable property, and 25

(b) is subject to a tax system which is designed to achieve a single level of taxation on the income, gains or profits of the entity, either at the level of the entity or at the level of its interest holders, with the deferral of taxation on such income, gains or profits either at the level of the entity or at the level of its interest holders being no more than one year from the end of the accounting period in which the income, profits or gains arise; 30

‘stateless constituent entity’ means a constituent entity to which subsection (3)(b), (4)(d) or (6)(d)(i) of section 111D applies;

‘substance-based income exclusion amount’ shall be construed in accordance with section 111AE(2)(a); 35

‘tax treaty’ means an agreement for the avoidance of double taxation with respect to taxes on income and on capital;

‘third country jurisdiction’ means a jurisdiction that is not a Member State; 40

‘top-up tax’ means the top-up tax calculated for a jurisdiction or a constituent entity pursuant to section 111AD;



‘ultimate parent entity’ means—

- (a) an entity that owns, directly or indirectly, a controlling interest in any other entity and that is not owned, directly or indirectly, by another entity with a controlling interest in it, or
- (b) the main entity of a group referred to in paragraph (b) of the definition in this subsection of ‘group’; 5

‘undertaxed profit rule’ means the rules laid down in the Directive or, as regards third country jurisdictions, the OECD Model Rules, in accordance with which a jurisdiction collects its allocable share of top-up tax of an MNE group that was not charged under the qualified IIR in respect of the low-taxed constituent entities of that MNE group; 10

‘UTPR’ means the undertaxed profit rule;

‘UTPR top-up tax’ means a tax arising pursuant to section 111L(1), 111M(1) or 111AZ(1), as the case may be.

- (2) For the purposes of this Part, a person or entity is connected with another person or entity if they are closely related within the meaning of Article 5(8) of the OECD Model Tax Convention on Income and Capital. 15
- (3) For the purposes of this Part, an entity is fiscally transparent where its income, expenditure, profit or loss is treated by the laws of a jurisdiction as if it were derived or incurred by the direct owner of that entity in proportion to its interest in that entity. 20
- (4) For the purpose of the definition of ‘controlling interest’ in subsection (1), a main entity is deemed to hold the controlling interests of its permanent establishment. 25
- (5) For the purposes of this Part—
  - (a) a flow-through entity shall be—
    - (i) a tax transparent entity with respect to its income, expenditure, profit or loss to the extent that it is fiscally transparent in the jurisdiction in which its owner is located, and 30
    - (ii) a reverse hybrid entity with respect to its income, expenditure, profit or loss to the extent that it is not fiscally transparent in the jurisdiction in which its owner is located,
  - (b) an ownership interest in an entity or a permanent establishment that is a constituent entity shall be treated as held through a tax transparent structure if that ownership interest is held indirectly through a chain of tax transparent entities, and 35
  - (c) a constituent entity that—
    - (i) is not tax resident in any jurisdiction, and
    - (ii) is not subject to a covered tax or a qualified domestic top-up tax based on its place of management, place of creation or similar 40

criteria,

shall be treated as a flow-through entity and a tax transparent entity in respect of its income, expenditure, profit or loss, to the extent that—

- (I) its owners are located in a jurisdiction that treats the entity as fiscally transparent, 5
  - (II) it does not have a place of business in the jurisdiction where it was created, and
  - (III) its income, expenditure, profit or loss is not attributable to a permanent establishment. 10
- (6) (a) In this Part, ‘qualified imputation tax’ means a covered tax accrued or paid by a constituent entity, including a permanent establishment, that is refundable or creditable to the beneficial owner of the dividend distributed by the constituent entity or, in the case of a covered tax accrued or paid by a permanent establishment, a dividend distributed by the main entity, to the extent that the refund is payable, or the credit is provided— 15
- (i) by a jurisdiction other than the jurisdiction which imposed the covered taxes,
  - (ii) to a beneficial owner of the dividend that is subject to tax at a nominal rate that equals or exceeds the minimum tax rate on the dividend received under the domestic law of the jurisdiction which imposed the covered taxes on the constituent entity, 20
  - (iii) to an individual who is the beneficial owner of the dividend and tax resident in the jurisdiction which imposed the covered taxes on the constituent entity and who is subject to tax at a nominal rate that equals or exceeds the standard tax rate applicable to ordinary income, or 25
  - (iv) to a governmental entity, an international organisation, a resident non-profit organisation, a resident pension fund, a resident investment entity that is not part of an MNE group or of a large-scale domestic group, or a resident life insurance company to the extent that the dividend is received in connection with resident pension fund activities and is subject to tax in a similar manner as a dividend received by a pension fund. 30 35
- (b) For the purposes of paragraph (a)—
- (i) a non-profit organisation or pension fund is resident in a jurisdiction if it is created and managed in that jurisdiction,
  - (ii) an investment entity is resident in a jurisdiction if it is created and regulated in that jurisdiction, and 40
  - (iii) a life insurance company is resident in the jurisdiction in which

it is located.

- (7) A word or expression which is used in this Part and is also used in the Directive has, unless the context otherwise requires, the same meaning in this Part as it has in the Directive.

**Principles for construing rules in accordance with OECD Pillar Two guidance** 5

**111B.** (1) In this section—

‘Minister’ means the Minister for Finance;

‘OECD Pillar Two guidance’ means—

- (a) the document entitled OECD (2022), Tax Challenges Arising from the Digitalisation of the Economy – Commentary to the Global Anti-Base Erosion Model Rules (Pillar Two), First Edition: Inclusive Framework on BEPS, OECD Publishing, Paris published by the OECD on 14 March 2022, 10
- (b) the document entitled OECD (2022), Tax Challenges Arising from the Digitalisation of the Economy – Global Anti-Base Erosion Model Rules (Pillar Two) Examples, OECD, Paris published by the OECD on 14 March 2022, 15
- (c) the document entitled OECD (2022), Safe Harbours and Penalty Relief: Global Anti-Base Erosion Rules (Pillar Two), OECD/G20 Inclusive Framework on BEPS, OECD, Paris published by the OECD on 20 December 2022, 20
- (d) the document entitled OECD (2023), Tax Challenges Arising from the Digitalisation of the Economy – Administrative Guidance on the Global Anti-Base Erosion Model Rules (Pillar Two), OECD/G20 Inclusive Framework on BEPS, OECD, Paris published by the OECD on 2 February 2023, 25
- (e) the document entitled OECD (2023), Tax Challenges Arising from the Digitalisation of the Economy – Administrative Guidance on the Global Anti-Base Erosion Model Rules (Pillar Two), OECD/G20 Inclusive Framework on BEPS, OECD, Paris published by the OECD on 17 July 2023, 30
- (f) the document entitled OECD (2023), Tax Challenges Arising from the Digitalisation of the Economy – GloBE Information Return (Pillar Two), OECD/G20 Inclusive Framework on BEPS, OECD, Paris published by the OECD on 17 July 2023, and 35
- (g) such additional subsequent guidance published by the OECD, as may be designated by order made under subsection (3) by the Minister for the purposes of this Part.
- (2) For the purpose of calculating and administering, in respect of any fiscal year or accounting period, IIR top-up tax, UTPR top-up tax or domestic top-up tax for a constituent entity or qualifying entity, as the case may be, this Part shall be construed so as to ensure, as far as 40

practicable, consistency between the following:

- (a) the effect which is to be given to this Part;
- (b) the effect which would be given if the OECD Model Rules were to be applied, in accordance with the OECD Pillar Two guidance, to the calculation and administration of those taxes, for a constituent entity or qualifying entity, as the case may be, for a fiscal year or an accounting period, 5

other than where such an application of this section would be inconsistent with the Directive.

- (3) The Minister may, for the purposes of this Part, by order designate any additional subsequent guidance referred to in paragraph (g) of the definition in subsection (1) of ‘OECD Pillar Two guidance’ as being comprised in the OECD Pillar Two guidance. 10
- (4) Every order made by the Minister under subsection (3) shall be laid before Dáil Éireann as soon as may be after it is made and, if a resolution annulling the order is passed by Dáil Éireann within the next 21 days on which Dáil Éireann has sat after the order is laid before it, the order shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder. 15

**Scope of Part 4A** 20

**111C.** (1) Subject to subsection (2) and section 111AL, this Part shall apply for a fiscal year to constituent entities, located in the State, that are members of an MNE group or of a large-scale domestic group, where the following condition (in this Part referred to as ‘the consolidated revenue test’) is satisfied, namely, the revenue of the group (including that of any excluded entities within the meaning of subsection (2)) recorded in the group’s consolidated financial statements is no less than the consolidated revenue threshold for at least 2 of the 4 fiscal years immediately preceding that fiscal year. 25

- (2) Subject to subsection (3), this Part shall not apply to the following entities (in this Part referred to as ‘excluded entities’): 30
  - (a) an entity which is—
    - (i) a governmental entity,
    - (ii) an international organisation,
    - (iii) a non-profit organisation, 35
    - (iv) a pension fund,
    - (v) an investment fund that is an ultimate parent entity, or
    - (vi) a real estate investment vehicle that is an ultimate parent entity;
  - (b) an entity where at least 95 per cent of the value of that entity is owned by one or more entities referred to in paragraph (a), directly or through one or more excluded entities, other than a pension 40

services entity, that—

- (i) operates exclusively, or almost exclusively, to hold assets or invest funds for the benefit of the entities referred to in paragraph (a), or
  - (ii) exclusively carries out activities ancillary to those performed by the entities referred to in paragraph (a);
  - (c) an entity where at least 85 per cent of the value of that entity is owned, directly or through one or more excluded entities, by one or more entities referred to in paragraph (a) other than a pension services entity, provided that substantially all of the income of the entity is derived from dividends or equity gains or losses that are excluded from the calculation of qualifying income or loss to which paragraph (b) or (c) of section 111P(2) applies.
- (3) A member of a group that would otherwise be an excluded entity, by virtue of paragraph (b) or (c) of subsection (2), shall not be an excluded entity where a filing constituent entity makes an election, in accordance with section 111AAAD, that the entity is not to be an excluded entity.
- (4) Nothing in the Acts shall prevent an entity or permanent establishment from being chargeable to IIR top-up tax, UTPR top-up tax or domestic top-up tax, as the case may be, under this Part.

**Location of constituent entity**

- 111D.** (1) Subject to subsections (2) to (9), an entity, other than a flow-through entity, shall for the purposes of this Part, be located in the jurisdiction where it is considered to be resident for tax purposes based on its place of management, its place of creation or similar criteria.
- (2) Where it is not possible to determine the location of an entity, other than a flow-through entity, based on where it is considered to be a tax resident in accordance with subsection (1), the entity shall be deemed to be located in the jurisdiction where it was created.
- (3) (a) Where a constituent entity is a flow-through entity and that constituent entity is—
- (i) an ultimate parent entity of an MNE group or of a large-scale domestic group, or
  - (ii) required to apply a qualified IIR,
- then, that constituent entity shall be located in the jurisdiction where it was created.
- (b) Where a constituent entity is a flow-through entity and paragraph (a) does not apply, the constituent entity shall be considered to be stateless.
- (4) Where a constituent entity is a permanent establishment referred to in—

- (a) paragraph (a) of the definition in section 111A of ‘permanent establishment’, it shall be deemed to be located in the jurisdiction where it is treated as a permanent establishment and liable to tax under a tax treaty,
  - (b) paragraph (b) of the definition in section 111A of ‘permanent establishment’, it shall be deemed to be located in the jurisdiction where it is subject to income taxation based on its business presence, 5
  - (c) paragraph (c) of the definition in section 111A of ‘permanent establishment’, it shall be deemed to be located in the jurisdiction where it is situated, or 10
  - (d) paragraph (d) of the definition in section 111A of ‘permanent establishment’, it shall be considered to be stateless.
- (5) (a) Subject to paragraphs (b) and (c), where a constituent entity is regarded as located in 2 jurisdictions, and those jurisdictions have a tax treaty, the constituent entity shall be deemed to be located in the jurisdiction where it is considered to be resident for tax purposes under that tax treaty. 15
- (b) Where the tax treaty referred to in paragraph (a) requires the competent authorities to reach a mutual agreement on the deemed residence for tax purposes of the constituent entity, and no agreement is reached, subsection (6) shall apply. 20
  - (c) Where no relief from double taxation is available under a tax treaty as a consequence of the constituent entity being resident for tax purposes in both of the jurisdictions concerned, subsection (6) shall apply. 25
- (6) (a) Subject to paragraphs (b) and (c), where a constituent entity is located in 2 jurisdictions and those jurisdictions do not have a tax treaty or where paragraph (b) or (c) of subsection (5) applies, as the case may be, the constituent entity shall be deemed to be located in the jurisdiction which charged the higher amount of covered taxes for the fiscal year. 30
- (b) For the purpose of calculating the covered taxes referred to in paragraph (a), no account shall be taken of any tax paid in accordance with a controlled foreign company tax regime. 35
  - (c) Subject to paragraph (d), where the amount of covered taxes referred to in paragraph (a) is the same, or is zero, in both jurisdictions, then, the constituent entity shall be deemed to be located in the jurisdiction in which the greater substance-based income exclusion amount under section 111AE is calculated on an entity basis. 40
  - (d) Where the substance-based income exclusion amount referred to in paragraph (c) is the same, or is zero, in both jurisdictions, then—

- (i) the constituent entity shall be considered to be stateless, or
  - (ii) where the constituent entity is an ultimate parent entity, the constituent entity shall be deemed to be located in the jurisdiction in which it is created.
- (7) Where, on the application of paragraphs (5) and (6), a parent entity is deemed to be located in a jurisdiction where it is not subject to a qualified IIR, it shall be deemed to be subject to the qualified IIR of the other jurisdiction, unless a tax treaty prohibits the application of such rule. 5
- (8) For the purpose of this Part, the location of a constituent entity, determined at the beginning of a fiscal year, shall remain the same throughout the fiscal year. 10
- (9) For the purposes of Chapter 5, a stateless constituent entity shall be deemed to be located in a jurisdiction but not a jurisdiction where any other entity is located. 15

## CHAPTER 2

### *IIR and UTPR*

#### **Ultimate parent entity in the State**

- 111E.** (1) An ultimate parent entity that—
- (a) is a constituent entity located in the State, and 20
  - (b) owns directly or indirectly an ownership interest in a low-taxed constituent entity at any time during a fiscal year,
- shall be subject to a top-up tax (in this section referred to as ‘IIR top-up tax’) in respect of that low-taxed constituent entity.
- (2) Where an ultimate parent entity located in the State is a low-taxed constituent entity in a fiscal year, that ultimate parent entity shall be subject to IIR top-up tax for the fiscal year in respect of itself. 25

#### **Intermediate parent entity in the State**

- 111F.** (1) Subject to subsection (3), an intermediate parent entity located in the State— 30
- (a) whose ownership interests are owned directly or indirectly by an ultimate parent entity that is located in a third country jurisdiction or in a Member State that has not applied a qualified IIR to the ultimate parent entity, and
  - (b) that owns directly or indirectly an ownership interest in a low-taxed constituent entity at any time during a fiscal year, 35
- shall be subject to a top-up tax (in this section referred to as ‘IIR top-up tax’) in respect of that low-taxed constituent entity for the fiscal year.
- (2) Subject to subsection (3), where an intermediate parent entity located 40

in the State, whose ownership interests are owned, directly or indirectly, by an ultimate parent entity that is located in a third country jurisdiction or in a Member State that has not applied a qualified IIR to the ultimate parent entity, is a low-taxed constituent entity in a fiscal year, the intermediate parent entity shall be subject to IIR top-up tax for the fiscal year in respect of itself. 5

(3) Subsections (1) and (2) shall not apply where—

(a) the ultimate parent entity of the intermediate parent entity is subject to a qualified IIR for that fiscal year, or

(b) another intermediate parent entity is located in a jurisdiction where it is subject to a qualified IIR for that fiscal year and owns, directly or indirectly, a controlling interest in the intermediate parent entity referred to in subsection (1) or (2), as the case may be. 10

**Intermediate parent entity located in the State and held by excluded ultimate parent entity** 15

**111G.** (1) Subject to subsection (3), an intermediate parent entity located in the State—

(a) whose ownership interests are owned directly or indirectly by an ultimate parent entity that is an excluded entity, and

(b) that owns directly or indirectly an ownership interest in a low-taxed constituent entity at any time during a fiscal year, 20

shall be subject to a top-up tax (in this section referred to as ‘IIR top-up tax’) in respect of that low-taxed constituent entity for the fiscal year.

(2) Subject to subsection (3), where an intermediate parent entity located in the State, whose ownership interests are owned, directly or indirectly, by an ultimate parent entity that is an excluded entity, is a low-taxed constituent entity in a fiscal year, the intermediate parent entity shall be subject to IIR top-up tax for the fiscal year in respect of itself. 25 30

(3) Subsections (1) and (2) shall not apply where another intermediate parent entity is located in a jurisdiction where it is subject to a qualified IIR for that fiscal year and owns, directly or indirectly, a controlling interest in the intermediate parent entity referred to in subsection (1) or (2), as the case may be. 35

**Partially-owned parent entity in the State**

**111H.** (1) Subject to subsection (3), a partially-owned parent entity located in the State that owns directly or indirectly an ownership interest in a low-taxed constituent entity at any time during a fiscal year shall be subject to a top-up tax (in this section referred to as ‘IIR top-up tax’) in respect of that low-taxed constituent entity for the fiscal year. 40

(2) Subject to subsection (3), where a partially-owned parent entity located in the State is a low-taxed constituent entity in a fiscal year,



that partially-owned parent entity shall be subject to IIR top-up tax for the fiscal year in respect of itself.

- (3) Subsections (1) and (2) shall not apply where the ownership interests of the partially-owned parent entity referred to in subsection (1) or (2), as the case may be, are wholly owned, directly or indirectly, by another partially-owned parent entity that is subject to a qualified IIR for that fiscal year. 5

**Allocation of top-up tax under IIR**

**111I.** (1) IIR top-up tax due by a parent entity in respect of a low-taxed constituent entity for a fiscal year pursuant to section 111E(1), 111F(1), 111G(1) or 111H(1), as the case may be, shall be equal to an amount calculated as— 10

$$A \times B$$

where—

A is the top-up tax of the low-taxed constituent entity, as calculated in accordance with section 111AD, and 15

B is the parent entity's allocable share in that top-up tax for the fiscal year.

- (2) (a) A parent entity's allocable share in the top-up tax with respect to a low-taxed constituent entity is the proportion of the parent entity's ownership interest in the qualifying income of the low-taxed constituent entity, calculated as— 20

$$(A - B) / C$$

where—

A is the qualifying income of the low-taxed constituent entity for the fiscal year, 25

B is the amount of qualifying income attributable to ownership interests held by owners other than the parent entity as determined by paragraph (b), and

C is the qualifying income of the low-taxed constituent entity for the fiscal year. 30

- (b) The amount of qualifying income attributable to ownership interests in a low-taxed constituent entity held by owners other than the parent entity shall be the amount that would have been treated as attributable to such owners under the principles of the acceptable financial accounting standard used in the ultimate parent entity's consolidated financial statements if the low-taxed constituent entity's net income was equal to its qualifying income, and— 35

- (i) the parent entity had prepared consolidated financial statements in accordance with that accounting standard (in this subsection 40

referred to as the ‘hypothetical consolidated financial statements’),

- (ii) the parent entity owned a controlling interest in the low-taxed constituent entity such that all of the income and expenses of the low-taxed constituent entity were consolidated on a line-by-line basis with those of the parent entity in the hypothetical consolidated financial statements, 5
  - (iii) all of the low-taxed constituent entity’s qualifying income was attributable to transactions with persons that are not members of an MNE group or large-scale domestic group, and 10
  - (iv) all ownership interests not directly or indirectly held by the parent entity were held by persons other than members of an MNE group or large-scale domestic group.
- (3) In addition to the amount allocated to a parent entity in accordance with subsection (1), IIR top-up tax due by a parent entity pursuant to section 111E(2), 111F(2), 111G(2) or 111H(2), as the case may be, shall include, for the fiscal year, in accordance with section 111AD, the full amount of top-up tax calculated for that parent entity. 15

#### **IIR offset mechanism**

- 111J.** Where a parent entity located in the State holds an ownership interest in a low-taxed constituent entity indirectly through an intermediate parent entity or a partially-owned parent entity that is subject to a qualified IIR for the fiscal year, the top-up tax due pursuant to section 111E(1), 111F(1), 111G(1) or 111H(1), as the case may be, shall be reduced by an amount equal to the portion of the first-mentioned parent entity’s allocable share of the top-up tax which is due by the intermediate parent entity or the partially-owned parent entity. 20 25

#### **Effect of qualified domestic top-up tax**

- 111K.** (1) Notwithstanding section 111AI, where a Member State does not apply a qualified domestic top-up tax to collect any additional top-up tax arising in accordance with Article 29 of the Directive, additional top-up tax shall be computed pursuant to section 111AF and such additional top-up tax shall be considered to be jurisdictional top-up tax for the purposes of section 111AD(3). 30
- (2) Where the amount of qualified domestic top-up tax in respect of a constituent entity for a fiscal year has not been paid within 4 fiscal years following the fiscal year in which it was due, the amount of qualified domestic top-up tax that was not paid shall be added to the jurisdictional top-up tax in respect of the jurisdiction where the constituent entity is located calculated in accordance with section 111AD(3). 35 40
- (3) Where a qualified domestic top-up tax is applied by a Member State or a third country jurisdiction, for the purposes of determining the qualified domestic top-up tax in that jurisdiction, the financial accounting net income or loss of the constituent entities located in that 45

Member State or third country jurisdiction may be determined in accordance with—

- (a) an acceptable financial accounting standard, or
  - (b) an authorised financial accounting standard that is different from the financial accounting standard used in the consolidated financial statements of the ultimate parent entity, provided that such financial accounting net income or loss is adjusted to prevent any material competitive distortion. 5
- (4) Where an amount of domestic top-up tax in respect of a qualifying entity (within the meaning of paragraph (a) or (b), as the case may be, of section 111AAB(1)) for a fiscal year has not been paid to and collected by the Collector-General within 4 fiscal years following the fiscal year in which it was due, that amount of domestic top-up tax shall no longer be due and payable to the Revenue Commissioners. 10

**Application of UTPR across MNE group** 15

**111L.** (1) Subject to subsection (2) and section 111AAL, where during a fiscal year—

- (a) the ultimate parent entity of an MNE group is located in a jurisdiction that does not apply a qualified IIR, or
  - (b) the ultimate parent entity of an MNE group is an excluded entity, 20  
a constituent entity of that MNE group that is located in the State shall be subject to a top-up tax (referred to in this section as ‘UTPR top-up tax’) calculated in accordance with section 111N.
- (2) Subsection (1) shall not apply to a constituent entity that is an investment entity. 25

**Application of UTPR in jurisdiction of ultimate parent entity**

**111M.** (1) Subject to subsections (2) and (3) and sections 111AZ and 111AAL, where during a fiscal year, the ultimate parent entity of an MNE group is a low-taxed constituent entity that is not located in a Member State, a constituent entity of that MNE group that is located in the State shall be subject to a top-up tax (referred to in this section as ‘UTPR top-up tax’) calculated in accordance with section 111N. 30

- (2) Subsection (1) shall not apply where the ultimate parent entity is subject to a qualified IIR in respect of itself and its low-taxed constituent entities. 35
- (3) Subsection (1) shall not apply to a constituent entity that is an investment entity.

**Calculation and allocation of UTPR top-up tax amount**

**111N.** (1) (a) The UTPR top-up tax amount arising pursuant to section 111L(1), 111M(1) or 111AZ(1), as the case may be, of an MNE group allocated to a constituent entity for a fiscal year shall be calculated as follows: 40

A x B

where—

A is the UTPR top-up tax amount of an MNE group allocated to the State for a fiscal year as determined in accordance with subsection (2), and 5

B is the UTPR percentage in respect of the constituent entity for a fiscal year as determined in accordance with paragraph (b).

(b) The UTPR percentage in respect of a constituent entity for a fiscal year shall be calculated as follows:

$$((A / B) \times 50 \text{ per cent}) + ((C / D) \times 50 \text{ per cent}) \quad 10$$

where—

A is the total number of employees of the constituent entity,

B is the total number of employees of all the constituent entities of the MNE group located in the State,

C is the sum of the net book values of tangible assets of the constituent entity, and 15

D is the sum of the net book values of tangible assets of all constituent entities of the MNE group located in the State.

(2) The UTPR top-up tax amount of an MNE group allocated to the State for a fiscal year shall be calculated as follows: 20

A x B

where—

A is the total UTPR top-up tax of the MNE group for a fiscal year as determined in accordance with subsection (3), and

B is the UTPR percentage in respect of the MNE group located in the State for a fiscal year as determined in accordance with subsection (6). 25

(3) The total UTPR top-up tax of an MNE group for a fiscal year shall be equal to the sum of the top-up tax calculated for each low-taxed constituent entity of the MNE group for that fiscal year, in accordance with section 111AD, as adjusted by subsections (4) and (5). 30

(4) UTPR top-up tax of a low-taxed constituent entity for a fiscal year shall be equal to zero for the purposes of subsection (3) where all of the ultimate parent entity's ownership interests in such low-taxed constituent entity are held directly or indirectly by one or more parent entities which are required to apply a qualified IIR in respect of that low-taxed constituent entity for that fiscal year. 35

(5) Where subsection (4) does not apply, UTPR top-up tax of a low-taxed

constituent entity for a fiscal year shall be reduced, for the purposes of subsection (3), by a parent entity's allocable share of the top-up tax of that low-taxed constituent entity that is brought into charge under a qualified IIR.

- (6) Subject to subsection (8), the UTPR percentage in respect of an MNE group located in the State for a fiscal year shall be calculated as follows: 5

$$((A / B) \times 50 \text{ per cent}) + ((C / D) \times 50 \text{ per cent})$$

where—

- A is the total number of employees of all the constituent entities of the MNE group located in the State, 10
- B is the total number of employees of all constituent entities of the MNE group located in jurisdictions that have a qualified UTPR in force for the fiscal year,
- C is the sum of the net book value of tangible assets of all constituent entities of the MNE group located in the State, and 15
- D is the sum of the net book value of tangible assets of all constituent entities of the MNE group located in jurisdictions that have a qualified UTPR in force for the fiscal year.
- (7) The following shall apply for the purposes of subsections (1)(b) and (6): 20
- (a) the number of employees of a constituent entity in a jurisdiction shall be the number of employees employed on a full-time equivalent basis located in that jurisdiction, including independent contractors provided that they participate in the ordinary operating activities of the constituent entity; 25
- (b) the tangible assets of a constituent entity in a jurisdiction shall include the tangible assets of that constituent entity located in that jurisdiction but shall not include—
- (i) cash or cash equivalent, 30
- (ii) intangible assets, or
- (iii) financial assets;
- (c) a constituent entity that is a permanent establishment shall be allocated the employees whose payroll costs are included in the separate financial accounts of that permanent establishment as determined by subsection (1) of section 111R adjusted in accordance with subsection (2) of that section; 35
- (d) a constituent entity that is a permanent establishment shall be allocated the tangible assets included in the separate financial accounts of the permanent establishment as determined by subsection (1) of section 111R adjusted in accordance with 40

- subsection (2) of that section;
- (e) the number of employees and the tangible assets allocated to the jurisdiction of a permanent establishment shall not be taken into account for the number of employees and the tangible assets, as the case may be, of the jurisdiction of the main entity; 5
  - (f) the number of employees and the net book value of tangible assets held by an investment entity shall be excluded from the calculations in accordance with subsections (1)(b) and (6) of the UTPR percentage in respect of a constituent entity and an MNE group, as the case may be, located in the State; 10
  - (g) the number of employees and the net book value of tangible assets of a flow-through entity shall be excluded from the calculation in accordance with subsections (1)(b) and (6) of the UTPR percentage in respect of a constituent entity and an MNE group, as the case may be, located in the State, unless they are allocated to a permanent establishment, or, in the absence of a permanent establishment, to a constituent entity that is located in the jurisdiction where the flow-through entity was created. 15
- (8) Where an amount of tax allocated to a jurisdiction under a qualified UTPR in a prior fiscal year has not resulted in the constituent entities of an MNE group located in that jurisdiction having an additional cash tax expense equal, in total, to that amount of tax for that prior fiscal year allocated to that jurisdiction, then— 20
- (a) the UTPR percentage for that MNE group in respect of that jurisdiction shall be deemed to be zero for the fiscal year, and 25
  - (b) the number of employees and the net book value of tangible assets of the constituent entities of that MNE group which are located in that jurisdiction shall be excluded from the calculation in accordance with subsection (6) of the UTPR percentage in respect of an MNE group located in the State. 30
- (9) Subsection (8) shall not apply for a fiscal year if all jurisdictions with a qualified UTPR in force for the fiscal year have a UTPR percentage of zero for the MNE group for that fiscal year.

### CHAPTER 3

#### *Calculation of the qualifying income or loss* 35

#### **Determination of qualifying income or loss**

- 111O.** (1) Subject to subsection (2), ‘qualifying income or loss’, in respect of a fiscal year, means the financial accounting net income or loss of a constituent entity for a fiscal year, as adjusted in accordance with sections 111P, 111Q, 111R, 111S, 111W, 111AB, 111AM, 111AN, 111AQ, 111AR, 111AV and 111AW. 40
- (2) Where it is not reasonably practicable to determine the financial

accounting net income or loss, referred to in subsection (1), based on the acceptable financial accounting standard or authorised financial accounting standard used in the preparation of the consolidated financial statements of the ultimate parent entity, the financial accounting net income or loss of the constituent entity for the fiscal year may be determined using another acceptable financial accounting standard or an authorised financial accounting standard where— 5

(a) the financial accounts of the constituent entity are maintained based on that accounting standard, 10

(b) the information contained in the financial accounts is reliable, and 10

(c) permanent differences greater than €1,000,000 that arise from the application of a particular principle or financial accounting standard to items of income or expense or transactions, which differs from the principle or financial accounting standard used in the preparation of the consolidated financial statements of the ultimate parent entity, are adjusted to conform to the treatment required for that item or transaction under the financial accounting standard used in the preparation of the consolidated financial statements. 15

(3) Where the consolidated financial statements of an ultimate parent entity are prepared using financial accounting standards other than an acceptable financial accounting standard, the consolidated financial statements of the ultimate parent entity shall be adjusted to prevent any material competitive distortion for the purpose of determining qualifying income or loss. 20 25

(4) Where the application of a specific principle or procedure under a set of generally accepted accounting principles results in a material competitive distortion referred to in subsection (3), the accounting treatment of any item or transaction subject to that principle or procedure shall be adjusted to conform to the treatment required for that item or transaction under International Financial Reporting Standards. 30

**Adjustments to determine qualifying income or loss**

**111P.** (1) In this section—

‘accounting functional currency’ means the functional currency used to determine the constituent entity’s financial accounting net income or loss; 35

‘accrued pension expense’ means the difference between the amount of pension liability expense or pension liability income included in the financial accounting net income or loss in relation to a pension fund and the amount contributed by the constituent entity to a pension fund for the fiscal year and the amount of the adjustment referred to in subsection (2)(i) shall be based on the following formula— 40

$$((\text{Accrued Income or Accrued Expense}) + (\text{Contribution})) \times (-1)$$

where—

- Accrued Income is the pension liability income of a constituent entity accrued for the fiscal year and is expressed as a positive amount,
- Accrued Expense is the pension liability expense of a constituent entity accrued for the fiscal year and is expressed as a negative amount, and 5
- Contribution is the amount contributed by the constituent entity to a pension fund for the fiscal year and is expressed as a positive amount; 10

‘additional tier one capital’ means an instrument issued by a constituent entity pursuant to prudential regulatory requirements;

‘arm’s length principle’ means the principle under which transactions between constituent entities must be recorded by reference to the conditions that would have been obtained between independent enterprises in comparable transactions and under comparable circumstances; 15

‘asymmetric foreign currency gain or loss’ means a foreign currency gain or loss of an entity whose accounting and tax functional currencies are different and that is— 20

- (a) included in the calculation of the taxable income or loss of a constituent entity and attributable to fluctuations in the exchange rate between the accounting functional currency and the tax functional currency of the constituent entity,
- (b) included in the calculation of the financial accounting net income or loss of a constituent entity and attributable to fluctuations in the exchange rate between the accounting functional currency and the tax functional currency of the constituent entity, 25
- (c) included in the calculation of the financial accounting net income or loss of a constituent entity and attributable to fluctuations in the exchange rate between a third foreign currency and the accounting functional currency of the constituent entity, and 30
- (d) attributable to fluctuations in the exchange rate between a third foreign currency and the tax functional currency of the constituent entity, irrespective of whether that third foreign currency gain or loss is included in the taxable income; 35

‘excluded dividend’ means, subject to subsection (14), a dividend or other distribution received or accrued in respect of an ownership interest, other than a dividend or other distribution received or accrued in respect of— 40

- (a) an ownership interest—
  - (i) held by a group in an entity that carries rights to less than 10 per



cent of the profits, capital or reserves, or voting rights of that entity at the date of the distribution or disposition (in this section referred to as a ‘portfolio shareholding’), and

- (ii) that is economically owned by the constituent entity for less than one year at the date of the distribution, 5

or

- (b) an ownership interest in an investment entity that is subject to an election pursuant to section 111AV,

but where a dividend or other distribution is received or accrued in respect of an ownership interest which is a financial instrument that has both equity and debt components under the acceptable financial accounting standard, only the amounts received or accrued in respect of the equity component of the ownership interest shall be treated as an excluded dividend; 10

‘excluded equity gain or loss’ means a gain or loss, included in the financial accounting net income or loss of a constituent entity, arising from— 15

- (a) changes in the fair value of an ownership interest, other than a portfolio shareholding,
- (b) an ownership interest that is included under the equity method of accounting, or 20
- (c) the disposal of an ownership interest, other than the disposal of a portfolio shareholding;

‘included revaluation method gain or loss’ means a net gain or loss, increased or decreased by any associated covered taxes for the fiscal year, arising from the application of an accounting method or practice that, in respect of all property, plant and equipment— 25

- (a) periodically adjusts the carrying value of such property, plant and equipment to its fair value,
- (b) records the changes in value arising from the adjustment referred to in paragraph (a) in other comprehensive income as gain or loss, and 30
- (c) does not subsequently report the gain or loss accrued in other comprehensive income referred to in paragraph (b) through profit and loss;

‘intra-group financing arrangement’ means a financing arrangement whereby one or more constituent entities directly or indirectly provide credit to, or otherwise makes an investment in, one or more other constituent entities of the same group; 35

‘net taxes expense’ means, in respect of a constituent entity and a fiscal year, the net amount of— 40

- (a) covered taxes accrued as an expense and any current and deferred

covered taxes included in the income tax expense, including covered taxes on income that is excluded from the qualifying income or loss calculation,	
(b) deferred tax assets attributable to a loss accrued for the fiscal year,	
(c) qualified domestic top-up taxes accrued as an expense,	5
(d) taxes arising pursuant to the rules of the Directive or, as regards third country jurisdictions, the OECD Model Rules, accrued as an expense,	
(e) disqualified refundable imputation taxes accrued as an expense, and	10
(f) taxes accrued by an insurance company in respect of returns to policyholders to the extent that subsection (10)(a) applies in relation to those taxes,	
in the financial accounting net income or loss;	
‘policy disallowed expense’ means, in respect of a fiscal year, an expense accrued by the constituent entity for—	15
(a) illegal payments, or	
(b) fines and penalties that are equal to or greater than €50,000, or an equivalent amount in the functional currency in which the financial accounting net income or loss of the constituent entity is calculated,	20
in the financial accounting net income or loss;	
‘prior period errors and changes in accounting principles’ means a change in the opening equity of a constituent entity at the beginning of a fiscal year that is attributable to—	
(a) a correction of an error in the determination of the financial accounting net income or loss of the constituent entity in a previous fiscal year that affected the income or expenses that may be included in the calculation of the qualifying income or loss of the constituent entity in that previous fiscal year, except to the extent such correction of an error resulted in a material decrease of a liability for covered taxes subject to section 111AB, or	25 30
(b) a change in accounting principles or policy that affected the income or expenses included in the calculation of the qualifying income or loss of the constituent entity;	
‘tax functional currency’ means the functional currency used to determine the constituent entity’s taxable income or loss for a covered tax in the jurisdiction in which it is located;	35
‘third foreign currency’ means a currency that is not the constituent entity’s tax functional currency or accounting functional currency.	
(2) To determine the qualifying income or loss of a constituent entity in respect of a fiscal year, the financial accounting net income or loss of	40

that constituent entity shall be adjusted by the following:

- (a) net taxes expense;
  - (b) excluded dividends;
  - (c) excluded equity gains or losses;
  - (d) included revaluation method gains or losses; 5
  - (e) gains or losses from the disposal of assets and liabilities excluded pursuant to section 111AN;
  - (f) asymmetric foreign currency gains or losses;
  - (g) policy disallowed expenses;
  - (h) prior period errors and changes in accounting principles; 10
  - (i) accrued pension expenses; and
  - (j) the net amount of the additions and reductions to qualifying income for the fiscal year as set out in section 111W.
- (3) (a) On the making of an election by a filing constituent entity, a constituent entity shall, in the calculation of qualifying income or loss of the constituent entity in respect of a fiscal year, substitute the amount allowed as a deduction in the calculation of its taxable income in the jurisdiction where it is located for the amount expensed in its financial accounts for a cost or expense of such constituent entity that was paid with stock-based compensation. 15 20
- (b) Where a stock-option granted by a constituent entity expires without being exercised, the amount of stock-based compensation cost or expense that has been deducted from the financial accounting net income or loss of the constituent entity in the calculation of its qualifying income or loss for all previous fiscal years in respect of that stock-option shall be included in the calculation of qualifying income or loss of the constituent entity in respect of the fiscal year in which that option has expired. 25
- (c) Where part of the amount of stock-based compensation cost or expense has been recorded in the financial accounts of the constituent entity in fiscal years prior to the fiscal year in which the election referred to in paragraph (a) is made, an amount equal to the difference between the total amount of stock-based compensation cost or expense that has been deducted in the calculation of its qualifying income or loss in those previous fiscal years and the total amount of stock-based compensation cost or expense that would have been deducted in the calculation of its qualifying income or loss in those previous fiscal years if the election had been made in such fiscal years, shall be included in the calculation of the qualifying income or loss of the constituent entity for that fiscal year. 30 35 40
- (d) The election referred to in paragraph (a) shall be made in

accordance with section 111AAAD and shall apply to all constituent entities located in the same jurisdiction for the fiscal year in which the election is made and all subsequent fiscal years.

- (e) Where the election referred to in paragraph (a) is withdrawn, the amount of unpaid stock-based compensation cost or expense deducted pursuant to the election that exceeds the financial accounting expense accrued shall be included in the calculation of the qualifying income or loss of the constituent entity in the fiscal year in which the election is withdrawn. 5
- (4) (a) Any transaction between constituent entities of an MNE group located in different jurisdictions that is not— 10
- (i) recorded in the same amount in the financial accounts of both constituent entities in the calculation of financial accounting net income or loss, or
- (ii) consistent with the arm's length principle, 15
- shall be adjusted in the calculation of qualifying income or loss of the constituent entities so as to be in the same amount and consistent with the arm's length principle.
- (b) A loss from a sale or transfer of an asset between 2 constituent entities located in the same jurisdiction that is not recorded consistently with the arm's length principle shall be adjusted in the calculation of qualifying income or loss of the constituent entities based on the arm's length principle if that loss is included in the calculation of the qualifying income or loss of a constituent entity for a fiscal year. 20 25
- (5) (a) A qualified refundable tax credit or marketable transferable tax credit shall be treated as income in the calculation of qualifying income or loss of a constituent entity for a fiscal year.
- (b) A tax credit which is not a qualified refundable tax credit or a marketable transferable tax credit shall not be treated as income in the calculation of qualifying income or loss of a constituent entity for a fiscal year. 30
- (c) Where a qualified refundable tax credit or marketable transferable tax credit is related to the acquisition, or construction, of an asset and the constituent entity which has the benefit of the tax credit— 35
- (i) has an accounting policy of reducing the carrying value of the asset in respect of such a tax credit, or
- (ii) recognises the tax credit as deferred income over the productive life of that asset,
- then, the constituent entity concerned may follow the same accounting policy for the purposes of determining the qualifying income or loss of the constituent entity for a fiscal year. 40

- (6) (a) On the making of an election by a filing constituent entity, gains and losses in respect of assets and liabilities that are subject to fair value or impairment accounting in the consolidated financial statements for a fiscal year shall be determined on the basis of the realisation principle in the calculation of qualifying income or loss of a constituent entity. 5
- (b) Gains or losses which result from applying fair value or impairment accounting in respect of an asset or a liability shall be excluded from the calculation of the qualifying income or loss of a constituent entity for a fiscal year under paragraph (a). 10
- (c) The carrying value of an asset or a liability for the purpose of determining a gain or a loss under paragraph (a) shall be the carrying value adjusted for accumulated depreciation on the later of—
- (i) the time the asset was acquired, or the liability was incurred, or 15
- (ii) the first day of the fiscal year in respect of which the election is made.
- (d) The election referred to in paragraph (a) shall be made in accordance with section 111AAAD and shall apply to all constituent entities located in a jurisdiction to which the election is made unless the filing constituent entity chooses to limit the election to the tangible assets of the constituent entities or to investment entities. 20
- (e) Where the election referred to in paragraph (a) is withdrawn in respect of a fiscal year, an amount equal to the difference between— 25
- (i) the fair value of the asset or liability, and
- (ii) the carrying value adjusted for accumulated depreciation of the asset or liability on the first day of the fiscal year in respect of which the withdrawal is made, 30
- shall be—
- (I) included, if the fair value exceeds the carrying value adjusted for accumulated depreciation, or
- (II) deducted, if the carrying value adjusted for accumulated depreciation exceeds the fair value, 35
- in the calculation of qualifying income or loss of the constituent entities in respect of that fiscal year.
- (7) (a) On the making of an election by a filing constituent entity, the qualifying income or loss of a constituent entity arising from the disposal of local tangible assets by that constituent entity to entities other than entities who are members of the same group in respect of a fiscal year shall be adjusted in accordance with this subsection. 40

- (b) The net gain arising from the disposal of local tangible assets referred to in paragraph (a) in the fiscal year in which the election referred to in that paragraph is made shall be offset against any net loss of a constituent entity located in the local tangible asset jurisdiction arising from the disposal of local tangible assets in the fiscal year in which the election is made and in the 4 fiscal years prior to that fiscal year (in this subsection referred to as ‘the 5 year period’). 5
- (c) The net gain referred to in paragraph (b) shall be offset against the net loss, if any, referred to in that paragraph that has arisen in the earliest fiscal year of the 5 year period in priority to later fiscal years, with any remaining net gain being carried forward and offset against the net loss, if any, in subsequent fiscal years of the 5 year period. 10
- (d) Where, after the application of paragraph (b), there is an amount of net gain which remains unrelieved, such amount shall be spread evenly over the 5 year period for the purpose of the calculation of the qualifying income or loss of each constituent entity located in the local tangible asset jurisdiction that has made a net gain from the disposal of local tangible assets in the fiscal year in which the election referred to in paragraph (a) is made. 15 20
- (e) The amount of net gain referred to in paragraph (d) which is to be allocated to each constituent entity, shall be calculated as follows:

$$NG \times (NGCE / NGCES)$$

where— 25

NG is the amount of net gain referred to in paragraph (d),

NGCE is the amount of the net gain from the disposal of local tangible assets of the constituent entity for the fiscal year in respect of which the election referred to in paragraph (a) is made, and 30

NGCES is the amount of the net gain from the disposal of local tangible assets of all constituent entities that have a net gain from the disposal of local tangible assets for the fiscal year in respect of which the election referred to in paragraph (a) is made. 35

- (f) Where no constituent entity that has made a net gain from the disposal of local tangible assets in the fiscal year for which the election referred to in paragraph (a) is made is located in the local tangible asset jurisdiction in a fiscal year that occurs during the 5 year period, the residual amount of net gain referred to in paragraph (d) shall be allocated equally to each constituent entity in that jurisdiction in that fiscal year. 40
- (g) Any adjustments made pursuant to this subsection for a fiscal year

preceding the fiscal year in respect of which the election referred to in paragraph (a) is made shall be subject to adjustments in accordance with section 111AF.

- (h) The election referred to in paragraph (a) shall be made annually in accordance with section 111AAAD. 5
- (8) Any expense related to an intra-group financing arrangement shall not be taken into consideration in the calculation of qualifying income or loss of a constituent entity for a fiscal year where—
  - (a) the constituent entity is a low-taxed constituent entity or would have been low-taxed if the expenses had not accrued to the constituent entity, 10
  - (b) it is reasonable to assume that, over the expected duration of the intra-group financing arrangement, the intra-group financing arrangement will increase the amount of expenses taken into account in the calculation of the qualifying income or loss of that constituent entity, without resulting in a commensurate increase in the taxable income of the constituent entity providing the credit or making the investment (in this subsection referred to as the ‘counterparty’), and 15
  - (c) the counterparty is located in a jurisdiction that is not a low-tax jurisdiction or in a jurisdiction that would not have been low-taxed if the income related to the expense had not been accrued to the counterparty. 20
- (9) (a) On the making of an election by a filing constituent entity, an ultimate parent entity shall apply its consolidated accounting treatment to eliminate income, expense, gains and losses from transactions between constituent entities that are— 25
  - (i) located in the same jurisdiction, and
  - (ii) included in a tax consolidation group,  
for the purpose of calculating the net qualifying income or loss of those constituent entities for a fiscal year. 30
- (b) In the fiscal year in respect of which the election referred to in paragraph (a) is made or withdrawn, appropriate adjustments shall be made so that items of qualifying income or loss are not taken into consideration more than once or omitted as a result of such election or withdrawal. 35
- (c) For the purposes of this subsection, constituent entities are included in a tax consolidation group if under the law of a jurisdiction the income, expenses, gains and losses of those constituent entities may for tax purposes be aggregated, surrendered to each other or otherwise shared or transferred between them as a result of a connection between those constituent entities. 40

- (d) The election referred to in paragraph (a) shall be made in accordance with section 111AAAD.
- (10) An insurance company shall—
- (a) exclude from the calculation of its qualifying income or loss, any amount charged to policyholders for taxes paid by the insurance company in respect of returns to the policyholders, and 5
  - (b) include in the calculation of its qualifying income or loss any returns to policyholders that are not reflected in its financial accounting net income or loss to the extent that the corresponding increase or decrease in liability to the policyholders is reflected in its financial accounting net income or loss. 10
- (11) (a) Any amount that is recognised as a decrease in the equity of a constituent entity for a fiscal year and is the result of distributions made or due in respect of additional tier one capital shall be treated as an expense in the calculation of its qualifying income or loss for that fiscal year. 15
- (b) Any amount that is recognised as an increase in the equity of a constituent entity for a fiscal year and is the result of distributions received or due to be received in respect of additional tier one capital held by the constituent entity shall be included in the calculation of its qualifying income or loss for that fiscal year. 20
- (12) (a) A financial instrument issued by one constituent entity and held by another constituent entity in the same MNE group or large-scale domestic group shall be classified as debt or equity consistently for both the issuer and holder of the financial instrument and accounted for accordingly in the calculation of their qualifying income or loss. 25
- (b) Where constituent entities in the same MNE group or large-scale domestic group have classified a financial instrument differently, the classification adopted by the issuer of the financial instrument shall be applied by the issuer and the holder of the financial instrument and accounted for accordingly in the calculation of their qualifying income or loss. 30
- (13) On the making of an election by a filing constituent entity, foreign exchange gains or losses included in a constituent entity's financial accounting net income or loss shall be treated as an excluded equity gain or loss to the extent that— 35
- (a) such foreign exchange gains or losses are attributable to hedging instruments that hedge the currency risk in ownership interests other than portfolio shareholdings, 40
  - (b) such foreign exchange gains or losses are recognised in other comprehensive income in the consolidated financial statements, and



- (c) the hedging instrument is considered an effective hedge under the acceptable or authorised financial accounting standard used in the preparation of the consolidated financial statements.
- (14) On the making of an election by a filing constituent entity, a constituent entity shall include in the calculation of its qualifying income or loss for a fiscal year all dividends received by the constituent entity with respect to a portfolio shareholding. 5
- (15) (a) Where a movement in an insurance company's reserves economically matches an excluded dividend, net of any investment management fee, from a security held by the insurance company on behalf of a policyholder, the movement in the insurance reserves shall not be allowed as an expense in the calculation of the constituent entity's qualifying income or loss. 10
- (b) Where a movement in an insurance company's reserves is related to an excluded dividend or an excluded equity gain or loss from a security held by the insurance company on behalf of a policyholder, it shall not be allowed as a deduction in the calculation of the constituent entity's qualifying income or loss. 15
- (16) On the making of an election by a filing constituent entity, the amount of a debt release included in the financial accounting net income or loss of a constituent entity shall be excluded from the calculation of the constituent entity's qualifying income or loss, where the debt release— 20
- (a) is undertaken under statutorily provided insolvency or bankruptcy proceedings, that are supervised by a court or other judicial body in the relevant jurisdiction or where an independent insolvency administrator is appointed, 25
- (b) arises pursuant to an arrangement where one or more creditors is a person not connected with the debtor, and it is reasonable to assume that the debtor would be insolvent within 12 months but for the release of the debt under the arrangement, or 30
- (c) subject to subsection (17) and where paragraph (a) or (b) do not apply, occurs when the debtor's liabilities are in excess of the fair market value of its assets determined immediately before the debt release. 35
- (17) An amount of a debt release included in the financial accounting net income or loss of a constituent entity shall only be excluded from the calculation of the constituent entity's qualifying income or loss in accordance with paragraph (c) of subsection (16) with respect to debts owed to a creditor that is a person that is not connected with the debtor and only to the extent of the lesser of— 40
- (a) the excess of the debtor's liabilities over the fair market value of its assets determined immediately before the debt release, or
- (b) the reduction in the debtor's attributes under the tax laws of the

debtor's jurisdiction resulting from the debt release.

**International shipping income exclusion**

**111Q. (1)** In this section—

'bareboat charter terms' has the same meaning as it has in section 697A; 5

'international shipping activities' means—

- (a) transportation of passengers or cargo by ship in international traffic, whether the ship is owned, leased or otherwise at the disposal of the constituent entity,
- (b) transportation of passengers or cargo by ship in international traffic under slot-chartering arrangements, 10
- (c) leasing of a ship to be used for the transportation of passengers or cargo in international traffic on charter fully equipped, crewed and supplied,
- (d) leasing of a ship used for the transportation of passengers or cargo in international traffic, on bareboat charter terms, to another constituent entity, 15
- (e) participation in a pool, a joint business or an international operating agency for the transportation of passengers or cargo by ship in international traffic, and 20
- (f) sale of a ship used for the transportation of passengers or cargo in international traffic provided that the ship has been held for use by the constituent entity for a minimum of one year;

'international shipping income' means the net income obtained by a constituent entity from international shipping activities, provided that the transportation is not carried out via inland waterways within the same jurisdiction; 25

'qualified ancillary international shipping activities' means—

- (a) leasing of a ship, on a bareboat charter basis, to another shipping enterprise that is not a constituent entity, provided that the duration of the charter does not exceed 3 years, 30
- (b) sale of tickets issued by other shipping enterprises for the domestic leg of an international voyage,
- (c) leasing and short-term storage of containers,
- (d) detention charges for the late return of containers, and 35
- (e) provision of services to other shipping enterprises by engineers, maintenance staff, cargo handlers, catering staff and customer services personnel;

'qualified ancillary international shipping income' means—

- (a) the net income obtained by a constituent entity from qualified 40

ancillary international shipping activities, provided that such activities are performed primarily in connection with the transportation of passengers or cargo by ships in international traffic, and

- (b) investment income, where the investment that generates the income is made as an integral part of carrying on the business of operating ships in international traffic. 5
- (2) Where the strategic or commercial management of all ships concerned is effectively carried on from within the jurisdiction where the constituent entity is located then the international shipping income and the qualified ancillary international shipping income of that constituent entity shall be excluded from the calculation of its qualifying income or loss. 10
- (3) Where the calculation of a constituent entity's international shipping income or qualified ancillary international shipping income results in a loss, such loss shall be excluded from the calculation of the constituent entity's qualifying income or loss. 15
- (4) The aggregated qualified ancillary international shipping income of all constituent entities located in a jurisdiction shall not exceed 50 per cent of those constituent entities' international shipping income. 20
- (5) (a) The costs incurred by a constituent entity that are directly attributable to its international shipping activities and qualified ancillary international shipping activities shall be allocated to such activities for the purpose of calculating the international shipping income and the qualified ancillary international shipping income of the constituent entity. 25
- (b) The costs incurred by a constituent entity that indirectly result from its international shipping activities and qualified ancillary international shipping activities shall be deducted from the constituent entity's revenues from such activities to calculate the international shipping income and qualified ancillary international shipping income of the constituent entity on the basis of its revenues from such activities in proportion to its total revenues. 30
- (6) All direct and indirect costs attributed to a constituent entity's international shipping income and qualified ancillary international shipping income in accordance with subsection (5) shall be excluded from the calculation of its qualifying income or loss. 35

**Allocation of qualifying income or loss between main entity and permanent establishment**

- 111R.** (1) (a) Subject to subsection (2), where a constituent entity is a permanent establishment to which paragraph (a), (b) or (c) of the definition in section 111A(1) of permanent establishment applies, the financial accounting net income or loss of the permanent establishment shall be the net income or loss reflected in the separate financial accounts of that permanent establishment. 40 45

- (b) Where a constituent entity is a permanent establishment that does not have separate financial accounts, its financial accounting net income or loss shall be the amount that would have been reflected in its separate financial accounts if they had been prepared on a standalone basis and in accordance with the accounting standard used in the preparation of the consolidated financial statements of the ultimate parent entity. 5
- (2) (a) Where a constituent entity is a permanent establishment to which paragraph (a) or (b) of the definition in section 111A(1) of permanent establishment applies, its financial accounting net income or loss shall be adjusted to reflect only the amounts and items of income and expense that are attributable to it in accordance with the applicable tax treaty or domestic law of the jurisdiction where it is located, regardless of the amount of income subject to tax and the amount of tax-deductible expenses in that jurisdiction. 10 15
- (b) Where a constituent entity is a permanent establishment to which paragraph (c) of the definition in section 111A(1) of permanent establishment applies, its financial accounting net income or loss shall be adjusted to reflect only the amounts and items of income and expense that are attributable to it in accordance with Article 7 of the OECD Model Tax Convention on Income and Capital. 20
- (c) Where a constituent entity is a permanent establishment to which paragraph (d) of the definition in section 111A(1) of permanent establishment applies, its financial accounting net income or loss shall be calculated based on— 25
- (i) the amounts and items of income that are exempt from tax in the jurisdiction where the main entity is located and attributable to the operations conducted outside of that jurisdiction, and
- (ii) the amounts and items of expense that are not deducted for tax purposes in the jurisdiction where the main entity is located that are attributable to those operations. 30
- (3) Subject to subsection (4), the financial accounting net income or loss of a permanent establishment shall not be taken into account in determining the qualifying income or loss of the main entity. 35
- (4) (a) A qualifying loss of a permanent establishment shall be treated as an expense of the main entity for the purposes of calculating the main entity's qualifying income or loss to the extent that the loss of the permanent establishment is treated as an expense in the calculation of domestic taxable income of the main entity in the jurisdiction it is located in and is not set off against an item of the domestic taxable income that is subject to tax under the laws of both the jurisdiction of the main entity and the jurisdiction of the permanent establishment. 40
- (b) Qualifying income that is earned by a permanent establishment, 45

after a qualifying loss of the permanent establishment was treated as an expense of the main entity for the purposes of calculating the main entity's qualifying income or loss in accordance with paragraph (a), shall be treated as qualifying income of the main entity up to the amount of the qualifying loss that was previously treated as an expense of the main entity under paragraph (a). 5

**Allocation of qualifying income or loss of flow-through entity**

- 111S. (1) The financial accounting net income or loss of a constituent entity that is a flow-through entity shall be reduced by the amount allocable to its owners that are not members of an MNE group or large-scale domestic group and that hold their ownership interest in that flow-through entity directly or indirectly through one or more tax transparent entities, unless— 10
- (a) the flow-through entity is an ultimate parent entity, or
  - (b) the flow-through entity is held, directly or indirectly, through one or more tax transparent entities by an ultimate parent entity that is a flow-through entity. 15
- (2) The financial accounting net income or loss of a constituent entity that is a flow-through entity shall be reduced by the financial accounting net income or loss that is allocated to another constituent entity. 20
- (3) Where a flow-through entity wholly or partially carries out business through a permanent establishment, its financial accounting net income or loss which remains after the application of subsection (1) shall be allocated to that permanent establishment in accordance with section 111R. 25
- (4) Subject to subsection (5), where a tax transparent entity is not an ultimate parent entity, the financial accounting net income or loss of the flow-through entity which remains after the application of subsections (1) and (3) shall be allocated to its constituent entity-owners in proportion to their ownership interests that carry rights to profits in the flow-through entity. 30
- (5) Where a flow-through entity is a tax transparent entity that is an ultimate parent entity or a reverse hybrid entity, any financial accounting net income or loss of the flow-through entity which remains after the application of subsections (1) and (3) shall be allocated to the ultimate parent entity or the reverse hybrid entity. 35
- (6) Subsections (3), (4) and (5) shall be applied separately with respect to each ownership interest that carries rights to profits in the flow-through entity.

*Calculation of adjusted covered taxes***Covered taxes**

- 111T.** (1) The covered taxes of a constituent entity shall include—
- (a) taxes recorded in the financial accounts of a constituent entity with respect to its income or profits, or its share of the income or profits of a constituent entity in which it owns an ownership interest, 5
  - (b) taxes on distributed profits, deemed profit distributions, and non-business expenses imposed under an eligible distribution tax system, 10
  - (c) taxes imposed in lieu of a generally applicable corporate income tax, and
  - (d) taxes levied by reference to retained earnings and corporate equity, including taxes on multiple components based on income and equity. 15
- (2) The covered taxes of a constituent entity shall not include—
- (a) the top-up tax accrued by a parent entity under a qualified IIR,
  - (b) the top-up tax accrued by a constituent entity under a qualified domestic top-up tax,
  - (c) taxes attributable to an adjustment made by a constituent entity as a result of the application of a qualified UTPR, 20
  - (d) disqualified refundable imputation tax, and
  - (e) taxes paid by an insurance company in respect of returns to policyholders.
- (3) Covered taxes in respect of any net gain or loss arising from the disposal of local tangible assets in the fiscal year in which the election referred to in section 111P(7)(a) is made shall be excluded from the calculation of the covered taxes. 25

**Adjusted covered taxes**

- 111U.** (1) The adjusted covered taxes of a constituent entity for a fiscal year shall be determined by adjusting the sum of the current tax expense accrued in the financial accounting net income or loss with respect to covered taxes for the fiscal year by— 30
- (a) the net amount of the additions and reductions to covered taxes for the fiscal year as set out in subsections (2) and (3), 35
  - (b) the total deferred tax adjustment amount as set out in section 111X,
  - (c) any increase or decrease in covered taxes recorded in equity or other comprehensive income relating to amounts included in the calculation of qualifying income or loss that will be subject to tax under local tax rules, and 40

- (d) the net amount of the additions and reductions to covered taxes for the fiscal year as set out in section 111W.
- (2) The additions to the covered taxes of a constituent entity for the fiscal year shall include—
- (a) any amount of covered taxes accrued as an expense in the profit before taxation in the financial accounts of the constituent entity, 5
  - (b) any amount of qualifying loss deferred tax asset that has been used by the constituent entity pursuant to section 111Y(2),
  - (c) any amount of covered taxes relating to an uncertain tax position of the constituent entity previously excluded under subsection (3)(d) that is paid in the fiscal year, and 10
  - (d) any amount of credit or refund in respect of a qualified refundable tax credit, or marketable transferable tax credit, that was accrued as a reduction to the current tax expense in the financial accounts of the constituent entity. 15
- (3) The reductions to the covered taxes of a constituent entity for the fiscal year shall include—
- (a) the amount of current tax expense with respect to income excluded from the calculation of qualifying income or loss of the constituent entity under Chapter 3, 20
  - (b) any amount of credit or refund in respect of a non-qualified refundable tax credit, or non-marketable transferable tax credit, that was not recorded as a reduction to the current tax expense in the financial accounts of the constituent entity,
  - (c) any amount of covered taxes refunded or credited to a constituent entity, other than a qualified refundable tax credit, or marketable transferable tax credit, that was not treated as an adjustment to current tax expense in the financial accounts of the constituent entity, 25
  - (d) the amount of current tax expense of the constituent entity which relates to an uncertain tax position, 30
  - (e) any amount of current tax expense of the constituent entity that is not expected to be paid within 3 years after the end of the fiscal year,
  - (f) the amount received by the originator, as defined in section 111V of a non-marketable transferable tax credit in exchange for the credit, 35
  - (g) any excess received by the purchaser of the face value of a non-marketable transferable tax credit over its purchase price in proportion to the amount of the credit used to satisfy its liability for a covered tax, and 40
  - (h) the amount of any gain received by the purchaser on the transfer of a non-marketable transferable tax credit provided the transfer

occurs during the fiscal year concerned.

- (4) Where an amount of covered tax is described in more than one of subsection (1), (2) or (3), the current tax expense shall only be adjusted once in the calculation of adjusted covered taxes of a constituent entity for a fiscal year. 5
- (5) Subsection (6) applies where, for a fiscal year—
- (a) there is no net qualifying income in a jurisdiction, and
  - (b) the amount of adjusted covered taxes for that jurisdiction is—
    - (i) less than zero, and
    - (ii) less than an amount equal to the net qualifying loss multiplied by the minimum tax rate (in this section referred to as the ‘expected adjusted covered taxes’). 10
- (6) Subject to subsection (9), an amount calculated as the difference between—
- (a) the amount of adjusted covered taxes of a jurisdiction for a fiscal year, and 15
  - (b) the amount of expected adjusted covered taxes of a jurisdiction for a fiscal year,
- shall be treated as an additional top-up tax for the fiscal year.
- (7) The amount of additional top-up tax referred to in subsection (6) shall be allocated to each constituent entity in the jurisdiction in accordance with section 111AF(3). 20
- (8) For the purposes of subsection (9), excess negative tax expense means—
- (a) an amount equal to the amount calculated under subsection (6) in respect of a jurisdiction for a fiscal year in which an MNE group or large-scale domestic group has— 25
    - (i) no qualifying income, or
    - (ii) a qualifying loss,
  - for that jurisdiction, or 30
  - (b) an amount equal to the negative adjusted covered taxes in respect of a jurisdiction for a fiscal year in which an MNE group or large-scale domestic group has qualifying income for that jurisdiction.
- (9) On the making of an election by a filing constituent entity, or where the top-up tax percentage for a jurisdiction for a fiscal year as calculated in accordance with section 111AD(2) exceeds the minimum tax rate, an MNE group or large-scale domestic group shall exclude the excess negative tax expense from its adjusted covered taxes for a jurisdiction in respect of the fiscal year and establish an excess 35 40



negative tax expense carry-forward.

- (10) In each fiscal year, following a fiscal year in respect of which subsection (9) applied to the calculation of adjusted cover taxes for a jurisdiction, where an MNE group or large-scale domestic group has qualifying income and adjusted covered taxes for that jurisdiction, the MNE group or large-scale domestic group shall— 5
- (a) reduce the adjusted covered taxes for the jurisdiction by the balance of the excess negative tax expense carry-forward but the amount of adjusted covered taxes after such reduction shall not be less than zero, and 10
- (b) reduce the balance of the excess negative tax expense carry-forward by the same amount as the amount referred to in paragraph (a).
- (11) Subsection (9) shall not apply to any excess negative tax expense attributable to an amount of a loss that is carried back and applied against income for prior taxable years for domestic tax purposes. 15
- (12) (a) Where an MNE group or large-scale domestic group disposes of one or more constituent entities located in a jurisdiction in respect of which it has made the election in accordance with subsection (9), the excess negative tax expense carry-forward shall remain an attribute of that MNE group or large-scale domestic group, as the case may be. 20
- (b) Where an MNE group or large-scale domestic group disposes of all constituent entities located in a jurisdiction, and re-acquires or establishes constituent entities located in that jurisdiction in a subsequent fiscal year, the balance of the excess negative tax expense carry-forward shall be taken into account in determining the adjusted covered taxes for the jurisdiction beginning with that fiscal year. 25

**Meaning of marketable transferable tax credit** 30

111V. (1) In this section—

‘marketable price floor’ means 80 per cent of the net present value of the tax credit, where the net present value is determined based on the yield to maturity on a debt instrument issued by the government that issued the tax credit with equal or similar maturity (and up to 5-year maturity) issued in the same fiscal year as the tax credit is transferred or if not transferred, the origination year; 35

‘marketable transferable tax credit’ means a tax credit, or portion of a tax credit, that—

- (a) can be used by the holder of the credit to reduce its liability for a covered tax in the jurisdiction that issued the tax credit, 40
- (b) meets the legal transferability standard, and
- (c) meets the marketability standard;

‘non-marketable transferable tax credit’ means a tax credit that—

- (a) if held by the originator, is transferable but is not a marketable transferable tax credit, or
- (b) if held by the purchaser, is not a marketable transferable tax credit;

‘originator’ means the constituent entity that engages in the activities that generates the tax credit concerned; 5

‘origination year’ means the fiscal year in which the eligibility criteria for a tax credit is met by a constituent entity.

(2) For the purposes of subsection (1), a tax credit meets the legal transferability standard— 10

- (a) in respect of the originator of the tax credit, where the originator may, under the laws governing the tax credit, transfer the tax credit to an entity that is not connected with the originator—

- (i) in the origination year, or

- (ii) within a period of 15 months beginning on the final date of the origination year, 15

and

- (b) in respect of the purchaser of the tax credit, where the purchaser may, under the laws governing the tax credit, transfer the tax credit to an entity that is not connected with the purchaser in the fiscal year in which that purchaser purchased the tax credit. 20

(3) For the purposes of subsection (1), a tax credit meets the marketability standard—

- (a) in respect of the originator of the tax credit—

- (i) where the tax credit is transferred to an entity that is not connected with the originator within a period of 15 months beginning on the final date of the origination year for a price equal to, or exceeding, the marketable price floor, or 25

- (ii) where the tax credit is not transferred, or is transferred between entities connected with the originator, similar tax credits trade between entities that are not connected within a period of 15 months beginning on the final date of the origination year, 30

and

- (b) in respect of the purchaser of the tax credit, where that purchaser acquired the credit from an entity that is not connected with that purchaser at a price equal to or exceeding the marketable price floor. 35

**Equity investment inclusion election and qualified flow-through tax benefits of qualified ownership interests**

**111W.** (1) In this section— 40

‘expected tax benefits ratio’ means the ratio of—

- (a) the amount of tax credits, and
- (b) the amount of any tax-deductible losses multiplied by the statutory tax rate applicable to the owner of the qualified ownership interest, that flowed through, or are received, in respect of the qualified ownership interest in the fiscal year to the total of such items that are expected to flow-through or be received in respect of the qualified ownership interest over the term of the investment; 5

‘proportional amortisation method of accounting’ means an accounting method whereby an investor adjusts its tax expense by the net benefit that flows through a qualified ownership interest each year, where— 10

- (a) the net benefit is determined based on the excess of the tax benefits that flow-through the qualified ownership interest during the year, over the proportional amount of the investment, and
- (b) the proportional amount of the investment is determined based on the total investment multiplied by the ratio of the tax benefits that flow-through the qualified ownership interest during the year to the total tax benefits expected to flow-through the qualified ownership interest over the term of the investment; 15

‘qualified flow-through tax benefit’ means any amount of— 20

- (a) tax credits, other than qualified refundable tax credits, and
- (b) tax-deductible losses multiplied by the statutory tax rate applicable to the owner of a qualified ownership interest,

that flow through a qualified ownership interest in a tax transparent entity to the extent that it reduces the owner’s investment in the qualified ownership interest pursuant to subsection (6); 25

‘qualified ownership interest’ means an investment in a tax transparent entity that—

- (a) is treated as an equity interest for local tax purposes, or
- (b) would be treated as an equity interest under an authorised financial accounting standard in the jurisdiction in which the tax transparent entity operates, 30

where the assets, liabilities, income, expenses, and cash flows of the tax transparent entity are not consolidated on a line-by-line basis in the consolidated financial statements of the MNE group, and— 35

- (i) the total return with respect to that ownership interest, excluding tax credits other than qualified refundable tax credits, is, at the time the investment is entered into, expected to be less than the total amount invested by the owner of the ownership interest such that a portion of the investment will be returned in the form of tax credits other than qualified refundable tax credits, and 40

- (ii) the investor has a bona-fide economic interest in the flow-through entity and is not protected from loss of its investment,
- but shall not include an investment in a tax transparent entity where a jurisdiction only permits the benefits of a tax credit to be transferred through such investment when the entity that originates the tax credits or investor is subject to a qualified IIR or qualified UTPR. 5
- (2) On the making of an election by a filing constituent entity, a constituent entity which holds an ownership interest other than a qualified ownership interest shall—
- (a) include in its qualifying income or loss the accounting gain, profit, or loss, adjusted as required by section 111P other than subsection (2)(c) of that section, with respect to any— 10
- (i) fair value gains and losses and impairments on that ownership interest, where the owner is taxable on a mark-to-market basis or on the impairment on the ownership interest, and the tax consequences of the mark-to-market movements or impairments on the ownership interest are reflected in income tax expense, 15
- (ii) fair value gains and losses and impairments on that ownership interest, where the owner is taxable on a realisation basis and its income tax expense includes deferred tax expense on the mark-to-market movement or impairments on the ownership interest, 20
- (iii) profit and loss attributable to that ownership interest, where the interest is in a tax transparent entity and the owner accounts for the interest using the equity method, or
- (iv) dispositions of that ownership interest which give rise to gains or losses that are included in the owner's domestic taxable income, excluding any gain fully offset, and the proportionate share of any gain partially offset, by any deduction or other similar relief on that gain, 25
- and 30
- (b) notwithstanding sections 111U(3)(a) and 111X(5)(a), include all current and deferred tax expense in respect of the amounts referred to in paragraph (a) in the calculation of its adjusted covered taxes, subject to the provisions of this Part.
- (3) The election referred to in subsection (2) shall apply to all ownership interests, other than a portfolio shareholding within the meaning of section 111P(1), owned by constituent entities located in the jurisdiction with respect to which the election is made. 35
- (4) Subsections (5) to (9) shall apply to the qualified flow-through tax benefits that flow-through a qualified ownership interest to a constituent entity to which an election under subsection (2) applies. 40
- (5) Subject to subsection (8), where this subsection applies, qualified flow-through tax benefits shall be added to the adjusted covered taxes

of a constituent entity that is the direct owner of a qualified ownership interest, or an indirect owner of such an interest held via tax transparent entities that are not constituent entities of the MNE group, to the extent that the qualified flow-through tax benefit was treated as reducing tax expense accrued in the financial accounting net income or loss of the constituent entity. 5

- (6) Subject to subsection (8), a constituent entity's investment in a qualified ownership interest shall be treated as being reduced by receipts with respect to the qualified ownership interest in respect of—
- (a) the amount of tax credits that have flowed through to the constituent entity, 10
  - (b) the amount of any tax-deductible losses that have flowed through to the constituent entity multiplied by the statutory tax rate applicable to the constituent entity,
  - (c) the amount of any distributions to the constituent entity, including returns of capital, or 15
  - (d) the amount of proceeds from a sale of all or part of the qualified ownership interest,
- but no amount shall be treated as reducing the investment to the extent that it would reduce the investment below zero. 20
- (7) (a) Subject to paragraph (b), any amount referred to in subsection (6)(a), (b), (c) or (d) that flows through, or is received in respect of, a qualified ownership interest, after the constituent entity's investment in the qualified ownership interest has been reduced to zero pursuant to that subsection, shall be subtracted in the calculation of that constituent entity's adjusted covered taxes. 25
- (b) An amount referred to in subsection (6)(c) or (d) or a qualified refundable tax credit, shall be subtracted in the calculation of a constituent entity's adjusted covered taxes only to the extent of the amount of any qualified flow-through tax benefits that flowed through the qualified ownership interest and that were treated as an addition in the calculation of that constituent entity's adjusted covered taxes. 30
- (8) (a) Where a constituent entity uses the proportional amortisation method of accounting for its investment in a qualified ownership interest, then it shall apply that method of accounting such that any of the amounts specified in subsection (6) that flow-through or are received in respect of a qualified ownership interest shall be treated as a reduction to the investment in the qualified ownership interest in proportion to the expected tax benefits ratio. 35 40
- (b) The amounts specified in subsection (6) that flow-through or are received in respect of the qualified ownership interest in excess of the reduction to the investment in the qualified ownership interest pursuant to paragraph (a) shall not be included as a positive amount

in the constituent entity's adjusted covered taxes.

- (9) On the making of an irrevocable election by a filing constituent entity, where the entity concerned holds a qualified ownership interest but does not use the proportional amortisation method of accounting, it may apply subsection (8) as if it used the proportional amortisation method of accounting in respect of its qualified ownership interest. 5

**Total deferred tax adjustment amount**

**111X.** (1) In this section—

‘disallowed accrual’ means—

- (a) any movement in deferred tax expense accrued in the financial accounts of a constituent entity which relates to an uncertain tax position, and 10
- (b) any movement in deferred tax expense accrued in the financial accounts of a constituent entity which relates to distributions from a constituent entity; 15

‘recapture exception accrual’ means an amount of tax expense accrued in the financial accounts of a constituent entity that is attributable to changes in associated deferred tax liabilities in respect of—

- (a) cost recovery allowances on tangible assets,
- (b) the cost of a licence or similar arrangement from a government for the use of immovable property or exploitation of natural resources which entails significant investment in tangible assets, 20
- (c) research and development expenses,
- (d) de-commissioning and remediation expenses,
- (e) fair value accounting on unrealised net gains, 25
- (f) foreign currency exchange net gains,
- (g) insurance reserves and insurance policy deferred acquisition costs,
- (h) gains from the sale of tangible property located in the same jurisdiction as the constituent entity that are reinvested in tangible property in the same jurisdiction, or 30
- (i) additional amounts accrued as a result of accounting principle changes with respect to any item referred to in subparagraphs (a) to (h);

‘unclaimed accrual’ means any increase in a deferred tax liability recorded in the financial accounts of a constituent entity for a fiscal year that is not expected to be paid within the period referred to in subsection (9), and for which the filing constituent entity elects, in accordance with section 111AAAD, not to include in total deferred tax adjustment amount for that fiscal year. 35

- (2) Subject to subsections (3) to (8), where the tax rate applied for the 40

purposes of calculating the deferred tax expense in the financial accounts of a constituent entity for a fiscal year is—

- (a) equal to or less than the minimum tax rate, the total deferred tax adjustment amount to be added to the adjusted covered taxes of a constituent entity for a fiscal year pursuant to section 111U(1)(b) shall be the deferred tax expense accrued in its financial accounts for a fiscal year with respect to covered taxes, or 5
  - (b) greater than the minimum tax rate, the total deferred tax adjustment amount to be added to the adjusted covered taxes of a constituent entity for a fiscal year pursuant to section 111U(1)(b) shall be the deferred tax expense accrued in its financial accounts for a fiscal year with respect to covered taxes recalculated at the minimum tax rate. 10
- (3) The total deferred tax adjustment amount of a constituent entity for a fiscal year shall be increased by— 15
- (a) any amount of disallowed accrual or unclaimed accrual paid during the fiscal year, and
  - (b) any amount of recaptured deferred tax liability determined in a preceding fiscal year in accordance with subsection (9) which has been paid during the fiscal year. 20
- (4) Where, for a fiscal year, a loss deferred tax asset is not recognised in the financial accounts of a constituent entity because the recognition criteria are not met, the total deferred tax adjustment amount shall be reduced by the amount that would have reduced the total deferred tax adjustment amount if a loss deferred tax asset for the fiscal year had been accrued. 25
- (5) Subject to subsection (6), the total deferred tax adjustment amount of a constituent entity for a fiscal year shall not include—
- (a) the amount of deferred tax expense with respect to items excluded from the calculation of qualifying income or loss of the constituent entity under Chapter 3, 30
  - (b) the amount of deferred tax expense with respect to disallowed accruals and unclaimed accruals,
  - (c) the impact of a valuation adjustment or accounting recognition adjustment with respect to a deferred tax asset, 35
  - (d) the amount of deferred tax expense arising from a re-measurement with respect to a change in the applicable domestic tax rate, and
  - (e) the amount of deferred tax expense with respect to the generation and use of tax credits.
- (6) (a) Subsection (5)(e) shall not apply to an amount of deferred tax expense where a substitute loss carry-forward arises. 40
- (b) A substitute loss carry-forward shall arise where all of the

following conditions are met—

- (i) the tax laws of a jurisdiction require that foreign source income offset domestic source losses before foreign tax credits may be applied against tax imposed on foreign source income,
  - (ii) the constituent entity has a domestic tax loss in that jurisdiction that is fully or partially offset by foreign source income, and 5
  - (iii) the tax laws in that jurisdiction allows foreign tax credits to be used to offset a tax liability in a subsequent year in relation to income that is included in the calculation of the constituent entity's qualifying income or loss. 10
- (7) (a) Where all of the conditions set out in subsection (6) are met, the deferred tax expense attributable to the substitute loss carry-forward deferred tax asset shall be included in the constituent entity's total deferred tax adjustment amount in the fiscal year that it arises and in the fiscal years it reverses, but only to the extent that the foreign tax credit that gave rise to the substitute loss carry-forward deferred tax asset is used to offset a tax liability on income included in the constituent entity's qualifying income or loss. 15
- (b) Subject to paragraph (c), for the purposes of paragraph (a), the amount of substitute loss carry-forward deferred tax asset is equal to the lesser of— 20
- (i) the amount of the foreign tax credit in respect of the foreign source income inclusion that, under the tax law of the jurisdiction, is allowed to be carried forward from the taxable period in which the constituent entity had a tax loss, before taking into account any foreign source income, to a subsequent fiscal year, and 25
  - (ii) the amount of the constituent entity's tax loss for the taxable period, before taking into account any foreign source income, multiplied by the applicable domestic tax rate. 30
- (c) Subsection (5)(a) and section 111AW(2) shall apply to the substitute loss carry-forward deferred tax asset.
- (8) Where a deferred tax asset which is attributable to a qualifying loss of a constituent entity has been recorded for a fiscal year at a rate lower than the minimum tax rate, provided that the constituent entity can demonstrate that the deferred tax asset is attributable to a qualifying loss, it may be recalculated at the minimum tax rate in the same fiscal year and the total deferred tax adjustment amount shall be reduced accordingly. 35 40
- (9) Subject to subsection (10), a deferred tax liability that is not reversed and has not been paid within 5 years of the end of the fiscal year in which it arose shall be recaptured to the extent that it was taken into account in the total deferred tax adjustment amount of a constituent



entity, and for this purpose—

- (a) the recaptured deferred tax liability for the current fiscal year is the amount of the increase in the category of deferred tax liability that was included in the total deferred tax adjustment amount in the fifth year preceding the current fiscal year that has not reversed by the end of the last day of the current fiscal year, and 5
  - (b) the amount of the recaptured deferred tax liability determined for the current fiscal year shall be treated as a reduction to the covered taxes in the fifth year preceding the current fiscal year and the effective tax rate and top-up tax of that fiscal year shall be recalculated in accordance with section 111AF. 10
- (10) Where a deferred tax liability is a recapture exception accrual, it shall not be recaptured in accordance with subsection (9).

**Qualifying loss election**

- 111Y.** (1) (a) Section 111X shall not apply where a filing constituent entity makes a qualifying loss election for a jurisdiction. 15
- (b) Where a qualifying loss election is made for a jurisdiction, a qualifying loss deferred tax asset shall be determined for the jurisdiction for each fiscal year in which there is a net qualifying loss in that jurisdiction. 20
  - (c) For the purposes of paragraph (b), the qualifying loss deferred tax asset for a jurisdiction in respect of a fiscal year shall be calculated as—

$$\text{NQL} \times \text{MTR}$$

where— 25

NQL is the net qualifying loss for a fiscal year for the jurisdiction, and

MTR is the minimum tax rate.

- (d) A qualifying loss election shall not be made for a jurisdiction with an eligible distribution tax system within the meaning of section 111AS. 30
- (2) An amount of qualifying loss deferred tax asset for a jurisdiction in respect of a fiscal year determined pursuant to subsection (1) shall be used in any subsequent fiscal year in which there is a net qualifying income for the jurisdiction calculated as the lesser of— 35

- (a) 
$$\text{NQI} \times \text{MTR}$$

where—

NQI is the net qualifying income for the fiscal year for the jurisdiction, and

MTR is the minimum tax rate, 40

or

- (b) the amount of the qualifying loss deferred tax asset that is available.
- (3) The qualifying loss deferred tax asset for a jurisdiction, determined in accordance with subsection (1), shall be reduced by the amount that is used for a fiscal year and the balance remaining shall be carried forward to subsequent fiscal years. 5
- (4) Where a qualifying loss election is withdrawn—
  - (a) any remaining qualifying loss deferred tax asset for a jurisdiction determined in accordance with subsection (1) shall be reduced to zero as of the first day of the first fiscal year in which the qualifying loss election is no longer applicable, and 10
  - (b) the deferred tax assets and deferred tax liabilities for the jurisdiction, if any, shall be taken into account as if they had been calculated in accordance with section 111X and 111AW for the prior fiscal year. 15
- (5) (a) Subject to paragraph (b), the qualifying loss election shall be made in the top-up tax information return delivered, in accordance with section 111AAI, for the first fiscal year in which the MNE group or large-scale domestic group has a constituent entity located in the jurisdiction for which the election is made. 20
- (b) Where an election has been made in respect of a jurisdiction by the MNE group or large-scale domestic group in accordance with section 111AJ(2), the qualifying loss election for that jurisdiction shall be made in the first top-up tax information return delivered, in accordance with section 111AAI, in respect of the MNE group or large-scale domestic group after the election made in accordance with section 111AJ(2) ceases to apply. 25
- (6) Where a flow-through entity that is the ultimate parent entity of an MNE group or large-scale domestic group makes a qualifying loss election under this section, the qualifying loss deferred tax asset shall be calculated by reference to the qualifying loss of the flow-through entity after reduction pursuant to section 111AQ(3). 30

**Specific allocation of covered taxes incurred by certain types of constituent entities** 35

**111Z.** (1) In this section—

‘passive income’ means the following items of income included in qualifying income to the extent that a constituent entity-owner has been subject to tax under a controlled foreign company tax regime or as a result of an ownership interest in a hybrid entity— 40

- (a) a dividend or dividend equivalents,
- (b) interest or interest equivalents,

- (c) rent,
  - (d) royalty,
  - (e) annuity, or
  - (f) net gains from assets of a type that produces income referred to in subparagraphs (a) to (e). 5
- (2) A permanent establishment shall be allocated the amount of any covered taxes that are included in the financial accounts of a constituent entity and that relate to the qualifying income or loss of the permanent establishment.
- (3) A constituent entity-owner shall be allocated the amount of any covered taxes that are included in the financial accounts of a tax transparent entity and that relate to qualifying income or loss allocated to a constituent entity-owner in accordance with section 111S(4). 10
- (4) Subject to subsection (7), a constituent entity shall be allocated the amount of any covered taxes included in the financial accounts of its direct or indirect constituent entity-owners under a controlled foreign company tax regime, on the direct or indirect constituent entity-owners' share of that constituent entity's income. 15
- (5) Subject to subsection (7), a constituent entity that is a hybrid entity shall be allocated the amount of any covered taxes included in the financial accounts of its constituent entity-owner which relates to qualifying income of the hybrid entity. 20
- (6) A constituent entity that has made a distribution during the fiscal year shall be allocated the amount of any covered taxes accrued in the financial accounts of its direct constituent entity-owners on such distribution. 25
- (7) (a) A constituent entity that was allocated covered taxes pursuant to subsection (4) or (5) in respect of passive income shall include such covered taxes in its adjusted covered taxes in an amount equal to the lesser of— 30
- (i) the covered taxes allocated in respect of such passive income, or
  - (ii)  $TUTP \times PI$
- where—
- TUTP is the top-up tax percentage for the jurisdiction determined without regard to covered taxes incurred with respect to such passive income by the constituent entity-owner, and 35
- PI is the amount of the constituent entity's passive income that is included under a controlled foreign company tax regime or a fiscal transparency rule. 40
- (b) Any covered taxes of the constituent entity-owner incurred with

respect to such passive income as referred to in paragraph (a) that remains after the application of this subsection shall not be allocated under subsection (4) or (5).

- (8) Where the qualifying income of a permanent establishment is treated as qualifying income of the main entity in accordance with section 111R(4), any covered taxes arising in the jurisdiction where the permanent establishment is located and associated with such income, shall be treated as covered taxes of the main entity for an amount not exceeding—

$$\text{QIPE} \times \text{HTR} \quad 10$$

where—

QIPE is the amount of qualifying income of the permanent establishment which is treated as qualifying income of the main entity in accordance with section 111R(4), and

HTR is the highest tax rate on ordinary income in the jurisdiction where the main entity is located. 15

#### **Rules required for blended CFC regime**

**111AA.** (1) In this section—

‘applicable rate’ means the rate at which foreign taxes on controlled foreign company income generally fully offset the controlled foreign company tax through the tax credit mechanism applicable to the controlled foreign company tax regime; 20

‘attributable income of the entity’ means the constituent entity-owner’s proportionate share of the income of the constituent entity in the jurisdiction in which the constituent entity is located as determined under the blended CFC tax regime; 25

‘blended CFC tax regime’ means a controlled foreign company tax regime that aggregates—

(a) income,

(b) losses, and 30

(c) creditable taxes,

of all the controlled foreign companies of a constituent entity-owner for the purposes of calculating the constituent entity-owner’s tax liability under the regime and that has an applicable tax rate of less than 15 per cent, but does not include a regime that takes into account income other than income of the controlled foreign companies except that it may allow losses incurred by the constituent entity-owner to reduce the controlled foreign company income inclusion; 35

‘jurisdictional ETR’ means the effective tax rate for a jurisdiction as calculated under section 111AC without regard to any covered taxes under a controlled foreign company tax regime, but including income 40

tax expense attributable to a qualified domestic top-up tax of a jurisdiction where the blended CFC tax regime allows a foreign tax credit for the qualified domestic top-up tax on the same terms as any other creditable covered tax.

- (2) For fiscal years that begin on or before 31 December 2025 but not including a fiscal year that ends after 30 June 2027, for the purposes of section 111Z(4), allocable blended CFC tax shall be allocated from a constituent entity-owner to a constituent entity in accordance with the following formula: 5

$$\frac{\text{blended CFC allocation key x allocable blended CFC tax}}{\text{sum of all blended CFC allocation keys}} \quad 10$$

where—

allocable blended CFC tax is the amount of tax charge incurred by a constituent entity-owner under a blended CFC tax regime, and

blended CFC allocation key is calculated as follows: 15

attributable income of the entity x (applicable rate – jurisdictional ETR)

- (3) Where the jurisdictional ETR equals or exceeds the applicable rate or the minimum tax rate, the blended CFC allocation key for the constituent entity shall be deemed to be zero.

**Post-filing adjustments and tax rate changes** 20

- 111AB.** (1) (a) Subject to paragraph (b), where a constituent entity records an adjustment to its covered taxes for a previous fiscal year in its financial accounts, such adjustment shall be treated as an adjustment to covered taxes in the fiscal year in which the adjustment is made, unless the adjustment relates to a fiscal year in which there is a decrease in covered taxes for the jurisdiction. 25
- (b) Subject to paragraph (d), where a constituent entity records a decrease in covered taxes for a previous fiscal year in its financial accounts that were included in the constituent entity’s adjusted covered taxes for a previous fiscal year, the effective tax rate and top-up tax for that fiscal year shall be recalculated in accordance with section 111AF by reducing adjusted covered taxes by the amount of the decrease in covered taxes. 30
- (c) Where there is an adjustment to covered taxes in accordance with paragraph (b), the qualifying income for that fiscal year and any previous fiscal years shall be adjusted accordingly. 35
- (d) On the making of an election by a filing constituent entity in accordance with section 111AAAD, where there is an aggregate decrease of less than €1,000,000 in the adjusted covered taxes determined for a jurisdiction for the fiscal year in accordance with paragraph (b), the decrease in covered taxes shall be treated as an 40

adjustment to covered taxes in the fiscal year in which the adjustment is made.

- (2) Where in a fiscal year the applicable domestic tax rate is reduced below the minimum tax rate, and such reduction results in a deferred tax expense in the financial accounts of a constituent entity for a fiscal year, the amount of the resulting deferred tax expense shall be treated as an adjustment to the constituent entity's liability for covered taxes, that are taken into consideration pursuant to section 111U, for a previous fiscal year in accordance with subsection (1). 5
- (3) (a) Where a deferred tax expense was recorded in the financial accounts of a constituent entity at a rate lower than the minimum tax rate, and the applicable tax rate is increased in a subsequent fiscal year, the amount of deferred tax expense that results from such increase shall be treated, upon payment of the related tax, as an adjustment to a constituent entity's liability for covered taxes claimed for the previous fiscal year in which the deferred tax expense was recorded in accordance with subsection (1). 15
- (b) The adjustment under paragraph (a) shall not exceed an amount equal to the deferred tax expense recalculated at the minimum tax rate. 20
- (4) Where more than €1,000,000 of the amount accrued by a constituent entity as current tax expense, and included in adjusted covered taxes for a fiscal year, is not paid within 3 years after the end of that fiscal year, the effective tax rate and top-up tax for the fiscal year in which the unpaid amount was included as a covered tax shall be recalculated in accordance with section 111AF, by excluding such unpaid amount from the adjusted covered taxes. 25

## CHAPTER 5

### *Calculation of the effective tax rate and the top-up tax*

- Determination of effective tax rate** 30
- 111AC.** (1) The effective tax rate of an MNE group or large-scale domestic group shall be calculated for—
- (a) each fiscal year, and
- (b) each jurisdiction,
- provided that there is net qualifying income in the jurisdiction, as calculated in accordance with subsection (3). 35
- (2) For the purpose of this Part, the effective tax rate of an MNE group or large-scale domestic group for a jurisdiction for a fiscal year, shall be calculated as follows:

$$ACJ / NQI \quad 40$$

where—

ACJ is the aggregate adjusted covered taxes of all the constituent entities located in the jurisdiction, and

NQI is the positive amount, if any, of the net qualifying income of all the constituent entities located in the jurisdiction determined in accordance with subsection (3). 5

- (3) The net qualifying income or loss of the constituent entities located in a jurisdiction for a fiscal year shall be calculated as follows:

$$\text{AQI-AQL}$$

where—

AQI is the positive sum, if any, of the qualifying income of all constituent entities located in the jurisdiction for a fiscal year, and 10

AQL is the sum of the qualifying losses of all constituent entities located in the jurisdiction for a fiscal year.

- (4) For the purposes of subsections (2) and (3), the adjusted covered taxes and net qualifying income or loss of constituent entities, that are investment entities, are excluded from the calculation of the effective tax rate in accordance with subsection (2) and the calculation of the net qualifying income in accordance with subsection (3). 15

- (5) The effective tax rate of each stateless constituent entity shall be calculated, for each fiscal year, separately from the effective tax rate of all other constituent entities. 20

**Calculation of top-up tax**

**111AD.** (1) Where the effective tax rate of a jurisdiction in which a constituent entity is located is below the minimum tax rate for a fiscal year, the MNE group or large-scale domestic group shall calculate a top-up tax in accordance with this section separately for each of its constituent entities that has qualifying income included in the calculation of net qualifying income of that jurisdiction for the fiscal year. 25

- (2) The top-up tax percentage for a jurisdiction for a fiscal year, shall be the positive percentage point difference, if any, calculated as follows: 30

$$\text{MTR} - \text{ETR}$$

where—

MTR is the minimum tax rate, and

ETR is the effective tax rate of the jurisdiction for the fiscal year calculated in accordance with section 111AC. 35

- (3) The jurisdictional top-up tax for a fiscal year shall be the positive amount, if any, calculated as follows:

$$(\text{TUTP} \times \text{EP}) + \text{ATUJ} - \text{D}$$

where—

TUTP is the top-up tax percentage for the jurisdiction for a fiscal year determined in accordance with subsection (2),

EP is the excess profit determined for the jurisdiction for a fiscal year in accordance with subsection (4), 5

ATUJ is the additional top-up tax for the jurisdiction for a fiscal year determined in accordance with section 111AF, and

D is the amount of qualified domestic top-up tax payable for the jurisdiction for the fiscal year.

- (4) The excess profit for the jurisdiction for the fiscal year referred to in subsection (3), is the positive amount, if any, calculated as follows: 10

$$\text{NQI} - \text{SBIE}$$

where—

NQI is the positive amount, if any, of the net qualifying income of all the constituent entities in the jurisdiction determined in accordance with section 111AC(3), and 15

SBIE is the substance-based income exclusion amount for the jurisdiction for the fiscal year determined in accordance with section 111AE.

- (5) Subject to subsection (6), the top-up tax of a constituent entity for a fiscal year shall be calculated as follows: 20

$$\text{JTUT} \times (\text{QI} / \text{AQI})$$

where—

JTUT is the jurisdictional top-up tax for a fiscal year as determined by subsection (3), 25

QI is the qualifying income of the constituent entity for a jurisdiction for a fiscal year, and

AQI is the sum, if any, of the qualifying income of all the constituent entities for a fiscal year located in the jurisdiction.

- (6) Where— 30

(a) the jurisdictional top-up tax for a fiscal year is a result of a recalculation to which section 111AF applies, and

(b) there is no net qualifying income in respect of the jurisdiction for the fiscal year,

the top-up tax shall be allocated to each constituent entity using the calculation provided for in subsection (5), based on the qualifying income of the constituent entities in the fiscal year, for which the recalculations pursuant to section 111AF are performed. 35



- (7) The top-up tax of each stateless constituent entity shall be calculated, for each fiscal year, separately from the top-up tax of all other constituent entities.

**Substance-based income exclusion**

- 111AE.** (1) In this section— 5
- ‘eligible employees’ means—
- (a) full-time or part-time employees of a constituent entity, and
  - (b) independent contractors participating in the ordinary operating activities of the MNE group or large-scale domestic group under the direction and control of the MNE group or large-scale domestic group; 10
- ‘eligible payroll costs’ means employee compensation expenditures, including—
- (a) salaries,
  - (b) wages, 15
  - (c) other expenditures that provide a direct and separate personal benefit to the employee, including health insurance, pension contributions and stock-based compensation,
  - (d) payroll and employment taxes, and
  - (e) employer social security contributions; 20
- ‘eligible tangible assets’ means—
- (a) property, plant and equipment located in the jurisdiction,
  - (b) natural resources located in the jurisdiction,
  - (c) a lessee’s right of use of tangible assets located in the jurisdiction, or 25
  - (d) a licence or similar arrangement from the government for the use of immovable property or exploitation of natural resources that entails significant investment in tangible assets.
- (2) (a) Subject to paragraph (b), for the purposes of calculating the top-up tax for a jurisdiction for a fiscal year, the net qualifying income for a jurisdiction shall be reduced by an amount not exceeding the sum of— 30
- (i) the payroll carve-out calculated in accordance with subsection (3), and
  - (ii) the tangible asset carve-out calculated in accordance with subsection (4), 35
- (in this Part referred to as the ‘substance-based income exclusion amount’) for each constituent entity located in the jurisdiction.
- (b) Paragraph (a) shall not apply where a filing constituent entity

elects, in accordance with section 111AAAD, not to apply the substance-based income exclusion for the fiscal year.

- (3) (a) The payroll carve-out, referred to in subsection (2), of a constituent entity shall be equal to 5 per cent of its eligible payroll costs for a fiscal year, which relate to eligible employees, who perform activities for the MNE group or large-scale domestic group in the jurisdiction in which the constituent entity is located. 5
- (b) For the purposes of paragraph (a), no account shall be taken of eligible payroll costs—
- (i) capitalised and included in the carrying value of eligible tangible assets, or 10
- (ii) attributable to income that is excluded in accordance with section 111Q.
- (c) For the purposes of paragraph (a)—
- (i) an eligible employee shall be considered to perform activities for the MNE group or large-scale domestic group, in the jurisdiction in which the constituent entity is located, where the eligible employee is located within that jurisdiction for greater than 50 per cent of their working time in a fiscal year, and 15
- (ii) a constituent entity shall include only the proportionate share of the eligible payroll costs for a fiscal year for an eligible employee in the calculation of the payroll carve-out where that eligible employee is located within the jurisdiction of the constituent entity employer for 50 per cent, or less, of their working time in that fiscal year. 20 25
- (4) (a) The tangible asset carve-out, referred to in subsection (2), of a constituent entity shall be equal to 5 per cent of the carrying value of its eligible tangible assets for a fiscal year located in the jurisdiction in which the constituent entity is located.
- (b) For the purposes of paragraph (a)— 30
- (i) no account shall be taken of—
- (I) the carrying value of property, including land and buildings, that is held for sale, lease or investment, or
- (II) the carrying value of tangible assets used to derive income that is excluded in accordance with section 111Q, 35
- (ii) an eligible tangible asset shall be considered to be located in the jurisdiction in which the constituent entity is located where the eligible tangible asset is located within that jurisdiction more than 50 per cent of the time in a fiscal year, and
- (iii) a constituent entity shall include only the proportionate share of the carrying value of the eligible tangible asset for a fiscal year in the calculation of the tangible asset carve-out where the 40

eligible tangible asset is located in the jurisdiction of the constituent entity for 50 per cent, or less, of the time in that fiscal year.

- (5) For the purpose of subsection (4), and subject to subsection (11), the carrying value of eligible tangible assets shall be the average of the carrying value of eligible tangible assets— 5
- (i) at the beginning of the fiscal year, and
  - (ii) at the end of the fiscal year,
- reduced by any accumulated depreciation, amortisation and depletion and increased by any amount attributable to the capitalisation of payroll expenses, as recorded for the purposes of preparing the consolidated financial statements of the ultimate parent entity. 10
- (6) (a) For the purpose of subsections (3) and (4), the eligible payroll costs and eligible tangible assets, as the case may be, of a constituent entity which is a permanent establishment, shall be those that are included in its separate financial accounts in accordance with section 111R(1), provided that the eligible payroll costs and eligible tangible assets, as the case may be, are located in the same jurisdiction as the permanent establishment. 15
- (b) The eligible payroll costs and eligible tangible assets of a permanent establishment shall not be taken into account in the calculation of eligible payroll costs and eligible tangible assets of the main entity. 20
- (c) Where the income of a permanent establishment was wholly or partially reduced pursuant to section 111S(1) or 111AQ(5) as the case may be, the eligible payroll costs and eligible tangible assets of such permanent establishment shall be reduced in the same proportion from the calculation of the substance-based income exclusion amount for a jurisdiction for a fiscal year under this section for the MNE group or large-scale domestic group. 25 30
- (7) (a) For the purpose of subsections (3) and (4)—
- (i) eligible payroll costs of eligible employees paid by a flow-through entity, and
  - (ii) eligible tangible assets owned by a flow-through entity, that are not allocated under subsection (6), shall be allocated to— 35
- (I) the constituent entity-owners of the flow-through entity, in proportion to the amount allocated to them pursuant to section 111S(4), provided that the eligible employees and eligible tangible assets, as the case may be, are located in the jurisdiction of the constituent entity-owners, and 40
  - (II) the flow-through entity if it is the ultimate parent entity, reduced in proportion to the income excluded from the calculation of the qualifying income of the flow-through

entity pursuant to subsections (1) and (2) of section 111AQ, provided that the eligible employees and eligible tangible assets, as the case may be, are located in the jurisdiction of the flow-through entity.

- (b) All eligible payroll costs and eligible tangible assets of a flow-through entity that are not allocated for a fiscal year under subsection (6) or paragraph (a) shall be excluded from the calculation of the substance-based income exclusion amount of the MNE group or large-scale domestic group. 5
- (8) The substance-based income exclusion amount of each stateless constituent entity shall be calculated for each fiscal year separately from the substance-based income exclusion amount of all other constituent entities. 10
- (9) The substance-based income exclusion amount calculated under this section shall not include the payroll carve-out and the tangible asset carve-out, as the case may be, of constituent entities that are investment entities in that jurisdiction. 15
- (10) (a) Subject to subsection (11), for the purposes of subsection (4) and notwithstanding section (4)(b)(i), a constituent entity that is the lessor of property, plant or equipment leased under an operating lease may calculate a tangible asset carve-out in respect of the leased property, plant or equipment in accordance with paragraph (b) where the property, plant or equipment is located in the same jurisdiction as the constituent entity. 20
- (b) The amount of tangible asset carve-out referred to in paragraph (a) is an amount equal to the excess, if any, of the constituent entity's average carrying value of the property, plant or equipment concerned determined at the beginning and end of the fiscal year over the average amount of the lessee's right-of-use asset in respect of the property, plant or equipment determined at the beginning and end of the fiscal year. 25 30
- (c) For the purposes of paragraph (b) and subject to paragraph (d), where the lessee is not a constituent entity, the lessee's right-of-use asset shall be equal to the undiscounted amount of payments remaining due under the operating lease, including any extensions that would be taken into account in determining a right-of-use asset under the financial accounting standard used to determine the qualifying income of the constituent entity. 35
- (d) For the purposes of paragraph (c), the value of the lessee's right-of-use asset shall be deemed to be nil where the property, plant or equipment subject to the operating lease is regularly leased several times to different lessees during the fiscal year and the average lease period, including any renewals and extensions, with respect to lessees is 30 days, or less. 40
- (11) For the purposes of subsections (5) and (10), where a lessor leases a 45

part of an eligible tangible asset to a lessee whilst retaining the residual part of the asset for its own use, then the carrying value of the asset shall be allocated between the different uses of the asset on a just and reasonable basis.

- (12) (a) Where an adjustment to the computation of qualifying income or loss of a constituent entity for a fiscal year has been made in accordance with section 111AR, the payroll carve-out for that constituent entity shall be reduced by the amount calculated in accordance with the formula: 5

$$A \times B/C \quad 10$$

where—

- A is the total eligible payroll costs of the constituent entity for the fiscal year,
- B is the total qualifying income of the constituent entity excluded by section 111AR for the fiscal year, and 15
- C is the total qualifying income of the constituent entity for the fiscal year as calculated under Chapter 3.

- (b) Where an adjustment to the computation of qualifying income or loss of a constituent entity for a fiscal year has been made in accordance with section 111AR then the tangible asset carve-out for that constituent entity shall be reduced by the amount calculated in accordance with the formula: 20

$$A \times B/C$$

where—

- A is the total eligible tangible assets of the constituent entity for the fiscal year, 25
- B is the total qualifying income of the constituent entity excluded by section 111AR for the fiscal year, and
- C is the total qualifying income of the constituent entity for the fiscal year as calculated under Chapter 3. 30

**Additional top-up tax**

**111AF.** (1) (a) Where, pursuant to—

- (i) section 111K(1),
- (ii) section 111P(7)(g),
- (iii) section 111X(9), 35
- (iv) section 111AB(1)(b) and (4), and
- (v) section 111AS(5),

an adjustment to covered taxes or qualifying income or loss results

in the recalculation of the effective tax rate and top-up tax of the MNE group or large-scale domestic group for a jurisdiction for a prior fiscal year, the effective tax rate and top-up tax shall be recalculated in accordance with sections 111AC, 111AD and 111AE.

5

(b) Any amount of incremental top-up tax arising from the recalculation referred to in paragraph (a) shall be treated as an additional top-up tax for the purpose of section 111AD(3) for the fiscal year in which the relevant adjustment is made.

(2) Where, for a fiscal year and a jurisdiction—

10

(a) there is an additional top-up tax, and

(b) no net qualifying income,

the qualifying income of a constituent entity located in that jurisdiction for the purposes of section 111I(2) shall be an amount calculated as—

15

$$\text{TUTA} / \text{MTR}$$

where—

TUTA is the top-up tax allocated to the constituent entity pursuant to subsections (5) and (6) of section 111AD, and

MTR is the minimum tax rate.

20

(3) (a) Where, pursuant to subsections (5) and (6) of section 111U, an additional top-up tax is due for a jurisdiction, the qualifying income of a constituent entity located in that jurisdiction for the purposes of section 111I(2), shall be an amount calculated as—

$$\text{TUTACE} / \text{MTR}$$

25

where—

TUTACE is the additional top-up tax allocated to the constituent entity, and

MTR is the minimum tax rate.

(b) For the purposes of paragraph (a), the allocation of the additional top-up tax to a constituent entity shall be made pro-rata, to each constituent entity located in the jurisdiction, based on the following formula—

30

$$(\text{QIQL} \times \text{MTR}) - \text{ACT}$$

where—

35

QIQL is the qualifying income or loss of the constituent entity for the fiscal year,

MTR is the minimum tax rate, and

ACT is the adjusted covered taxes of the constituent entity for the fiscal year.

(c) For the purposes of paragraph (a), the additional top-up tax for a jurisdiction for a fiscal year shall only be allocated to constituent entities that record an amount of adjusted covered tax that is— 5

(i) less than zero, and

(ii) less than the qualifying income or loss of such constituent entities multiplied by the minimum tax rate.

(4) Where a constituent entity is allocated additional top-up tax in accordance with this section or subsection (5) or (6) of section 111AD, such constituent entity shall be treated as a low-taxed constituent entity for the purposes of Chapter 2. 10

***De minimis exclusion***

**111AG.** (1) Notwithstanding anything in this Chapter, at the election of the filing constituent entity, the top-up tax due for a constituent entity of an MNE group or large-scale domestic group located in a jurisdiction, other than a stateless constituent entity or an investment entity, shall be equal to zero for a fiscal year, if for that fiscal year— 15

(a) the average qualifying revenue of all constituent entities of an MNE group or large-scale domestic group located in that jurisdiction is less than €10,000,000, and 20

(b) the average qualifying income or loss of all constituent entities of an MNE group or large-scale domestic group in that jurisdiction is a loss or is less than €1,000,000. 25

(2) (a) For the purpose of subsection (1), the average qualifying revenue, or the average qualifying income or loss, as the case may be, shall be the average of the qualifying revenue or qualifying income or loss of the constituent entities of an MNE group or large-scale domestic group located in the jurisdiction for the fiscal year and the 2 preceding fiscal years. 30

(b) If there are no constituent entities of an MNE group or large-scale domestic group with qualifying revenue, or qualifying income or loss, as the case may be, located in the jurisdiction in the first or second preceding fiscal years, or both, such fiscal year or years shall be excluded from the calculation of the average qualifying revenue, or average qualifying income or loss, as the case may be, of that jurisdiction. 35

(3) Subject to subsection (5), for the purposes of this section, the qualifying revenue of the constituent entities of an MNE group or large-scale domestic group located in a jurisdiction for a fiscal year shall be the sum of all the revenues of the constituent entities of an MNE group or large-scale domestic group located in that jurisdiction 40

in arriving at the financial accounting net income or loss of the constituent entities for the fiscal year reduced, or increased, by any adjustment carried out pursuant to Chapter 3.

- (4) Subject to subsection (5), for the purposes of this section, the qualifying income or loss of the constituent entities of an MNE group or large-scale domestic group located in a jurisdiction for a fiscal year shall be the net qualifying income or loss of that jurisdiction as calculated pursuant to section 111AC(3). 5
- (5) The qualifying revenue and qualifying income or loss of stateless constituent entities or investment entities shall be excluded from the calculations of the average qualifying revenue and average qualifying income or loss of the constituent entities of an MNE group or large-scale domestic group for the purposes of subsection (1). 10
- (6) The election referred to in this section shall be made annually in accordance with section 111AAAD and shall apply to all constituent entities located in the same jurisdiction. 15

**Minority owned constituent entities**

**111AH.** (1) In this section—

‘minority-owned constituent entity’ means a constituent entity in which the ultimate parent entity has a direct or indirect ownership interest of 30 per cent or less of the total ownership interests of the constituent entity; 20

‘minority-owned parent entity’ means a minority-owned constituent entity that holds, directly or indirectly, the controlling interests in another minority-owned constituent entity, except where the controlling interests in the former entity are held, directly or indirectly, by another minority-owned constituent entity; 25

‘minority-owned subgroup’ means a minority-owned parent entity and its minority-owned subsidiaries;

‘minority-owned subsidiary’ means a minority-owned constituent entity whose controlling interests are held, directly or indirectly, by a minority-owned parent entity. 30

- (2) (a) The calculation of the effective tax rate and the top-up tax for a jurisdiction, with respect to members of a minority-owned subgroup, shall apply as if each minority-owned subgroup was a separate MNE group or large-scale domestic group. 35
- (b) The adjusted covered taxes and qualifying income or loss of members of a minority-owned subgroup shall be excluded from—
  - (i) the determination of the residual amount of the effective tax rate for the jurisdiction of the MNE group or large-scale domestic group, calculated in accordance with section 111AC(2), and 40
  - (ii) the net qualifying income or loss for the jurisdiction of the MNE group or large-scale domestic group calculated in



accordance with section 111AC(3).

- (3) (a) The effective tax rate and top-up tax of a minority-owned constituent entity that is not a member of a minority-owned subgroup shall be calculated on an entity basis.
- (b) The adjusted covered taxes and qualifying income or loss of the minority-owned constituent entity referred to in paragraph (a), shall be excluded from—
- (i) the determination of the residual amount of the effective tax rate of the MNE group or large-scale domestic group for the jurisdiction, calculated in accordance with section 111AC(2), and
- (ii) the net qualifying income or loss of the MNE group or large-scale domestic group for the jurisdiction calculated in accordance with section 111AC(3).
- (c) This subsection shall not apply to a minority-owned constituent entity that is an investment entity.

#### **Qualified domestic top-up tax safe harbour**

**111AI.** (1) In this section—

‘OECD peer review process’ means the review process developed, and undertaken, under the OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting, in respect of the domestic top-up tax of a jurisdiction;

‘QD TT Safe Harbour’ shall be construed in accordance with subsection (2);

‘QD TT Safe Harbour standards’ means the standards referred to as ‘Standards for a QD MTT Safe Harbour’ set out in the document referred to in paragraph (e) of the definition, in section 111B, of ‘OECD Pillar Two guidance’;

‘QD TT subgroup’ means a group, constituent entity, joint venture or joint venture affiliate that is subject to a separate qualified domestic top-up tax calculation under the tax law of the jurisdiction implementing that qualified domestic top-up tax;

‘specified return date’ has the meaning assigned to it in section 111AAF.

- (2) Notwithstanding section 111AD(3), and subject to subsections (3) to (6), on the making of an election by a filing constituent entity in respect of a QD TT subgroup for a fiscal year, jurisdictional top-up tax in respect of the QD TT subgroup for the fiscal year concerned shall be deemed to be zero (in this section, referred to as the ‘QD TT Safe Harbour’) where the qualified domestic top-up tax implemented under the tax law of that jurisdiction is determined to have met the QD TT Safe Harbour standards under an OECD peer review process prior to the specified return date in respect of that fiscal year.

- (3) The QD TT Safe Harbour for a jurisdiction shall not apply where a qualified domestic top-up tax in respect of that jurisdiction—
- (a) is subject, directly or indirectly, to a challenge by the MNE group in judicial or administrative proceedings, or
  - (b) has been determined as not assessable or collectible by the tax authority of the jurisdiction implementing the qualified domestic top-up tax,
    - based on—
      - (i) constitutional grounds,
      - (ii) other superior law, or
      - (iii) a specific agreement with the government of the jurisdiction limiting the MNE group’s tax liability.
- (4) The QD TT Safe Harbour for a jurisdiction shall not apply in respect of an MNE group where—
- (a) the ultimate parent entity of the MNE group is—
    - (i) a flow-through entity, and
    - (ii) located in a jurisdiction where qualified domestic top-up tax is not charged under the laws of that jurisdiction on an ultimate parent entity that is a flow-through entity,
  - (b) the members of the MNE group include a flow-through entity that is required to apply an IIR top-up tax and is located in the jurisdiction where qualified domestic top-up tax is not charged under the laws of that jurisdiction on that flow-through entity, or
  - (c) a transitional exclusion consistent with the rules laid down in Article 49 of the Directive applies to qualified domestic top-up tax applied by that jurisdiction and that exclusion is not limited to where a qualified IIR does not apply in respect of the constituent entities located in that jurisdiction.
- (5) The QD TT Safe Harbour for a jurisdiction shall not apply in respect of an investment entity, that is not an excluded entity, of an MNE group where qualified domestic top-up tax is not charged under the laws of that jurisdiction on that investment entity.
- (6) The QD TT Safe Harbour for a jurisdiction shall not apply in respect of a joint venture group where qualified domestic top-up tax is not charged under the laws of that jurisdiction on the members of the joint venture group.
- (7) All relevant information concerning the application of the QD TT Safe Harbour shall be included in the top-up tax information return for the fiscal year in accordance with section 111AAI.

**Transitional CbCR safe harbour**

**111AJ.** (1) In this section—

‘country-by-country report’ has the same meaning as in section 891H and references in this section to ‘CbC report’ shall be construed accordingly;

‘investment entity jurisdiction’ means the jurisdiction in which an investment entity is resident for the purposes of a CbC report; 5

‘multi-parented MNE group’ has the meaning assigned to it in section 111AP;

‘net unrealised fair value loss’ means the sum of all losses, as reduced by any gains, which arise from changes in fair value of ownership interests (other than portfolio shareholdings) included in an MNE group’s profit or loss before income tax in respect of a jurisdiction for a fiscal year as reported in its qualified CbC report; 10

‘profit or loss before income tax’ means an MNE group’s profit or loss before income tax in respect of a jurisdiction for a fiscal year as reported in its qualified CbC report; 15

‘qualified CbC report’ means a CbC report prepared and provided using qualified financial statements;

‘qualified financial statements’ means—

(a) the accounts used to prepare the consolidated financial statements of the ultimate parent entity before any consolidation adjustments eliminating intra-group transactions, 20

(b) separate financial statements of each constituent entity, joint venture or joint venture affiliate provided they are prepared in accordance with—

(i) an acceptable financial accounting standard, or 25

(ii) an authorised financial accounting standard and the information contained in the financial statements is reliable,

or

(c) in the case of a constituent entity that is not included in an MNE group’s consolidated financial statements on a line-by-line basis solely due to size or materiality grounds, the financial accounts of that constituent entity that are used for preparation of the MNE group’s CbC report; 30

‘qualified person’ means—

(a) in respect of an ultimate parent entity that is a flow-through entity, an ownership holder referred to in subsection (1) or (2) of section 111AQ, and 35

(b) in respect of an ultimate parent entity that is subject to a deductible dividend regime, a dividend recipient referred to in subsection (3) of section 111AR; 40

‘simplified covered taxes’ means the aggregate income tax expense of

- all constituent entities, or joint venture and joint venture affiliates, as the case may be, of an MNE group in a jurisdiction for a fiscal year, as reported in the MNE group’s qualified financial statements, excluding—
- (a) any tax that is not a covered tax in accordance with section 111T, and 5
- (b) uncertain tax positions reported in the MNE group’s qualified financial statements;
- ‘simplified ETR’ has the meaning assigned to it in subsection (3);
- ‘total revenue’ means an MNE group’s total revenues in respect of a jurisdiction for a fiscal year as reported in its qualified CbC report; 10
- ‘transitional CbCR safe harbour’ shall be construed in accordance with subsection (2);
- ‘transition period’ means any fiscal year beginning on or before 31 December 2026 but shall not include a fiscal year that ends after 30 June 2028; 15
- ‘transition rate’ means—
- (a) for fiscal years beginning during the year 2023 or 2024, 15 per cent;
- (b) for fiscal years beginning during the year 2025, 16 per cent; 20
- (c) for fiscal years beginning during the year 2026, 17 per cent.
- (2) Notwithstanding section 111AD(3), and subject to subsections (4), (7) to (11) and (14), on the making of an election by a filing constituent entity, the jurisdictional top-up tax for an MNE group in respect of a jurisdiction for a fiscal year during the transition period shall be deemed to be zero (referred to in this section as the ‘transitional CbCR safe harbour’) where, in respect of the fiscal year concerned— 25
- (a) subject to subsection (5), the MNE group reports—
- (i) total revenue of less than €10,000,000, and
- (ii) profit or loss before income tax of less than €1,000,000, 30
- in respect of that jurisdiction (in this section referred to as ‘the *de minimis* test’),
- (b) the MNE group has a simplified ETR, as determined under subsection (3), in respect of that jurisdiction that is equal to or greater than the transition rate for the fiscal year, or 35
- (c) subject to subsection (6), the MNE group reports profit or loss before income tax in that jurisdiction that is equal to or less than the substance-based income exclusion amount as calculated in accordance with section 111AE and 111AX (in this section referred to as the ‘routine profits test’) in respect of constituent entities that 40

are both—

- (i) resident in that jurisdiction for the purposes of the qualified CbC report, and
  - (ii) located in that jurisdiction in accordance with section 111D.
- (3) The simplified ETR of an MNE group in respect of a jurisdiction for a fiscal year shall be equal to an amount, expressed as a percentage, calculated in accordance with the formula: 5

$$(A/B) \times 100$$

where—

- A is the simplified covered taxes, and 10
- B is the profit or loss before income tax.

- (4) For the purposes of subsection (2), a net unrealised fair value loss shall be excluded from profit or loss before income tax if that loss exceeds €50,000,000 in respect of a jurisdiction for a fiscal year.
- (5) For the purposes of the *de minimis* test, where a constituent entity is held for sale, its revenue for a fiscal year shall be aggregated with the revenue of the MNE group reported in its qualified CbC report for that fiscal year in respect of the jurisdiction in which the constituent entity is resident. 15
- (6) For the purposes of subsection (2)(c), the routine profits test shall be deemed to be satisfied in a jurisdiction where the MNE group reports profit or loss before income tax that is zero or less than zero. 20
- (7) Subsection (2) shall apply to a joint venture and joint venture affiliates as if they were constituent entities of a separate MNE group, subject to the profit or loss before income tax and total revenue of the joint venture and joint venture affiliates in respect of the fiscal year, and jurisdiction, concerned being the profit or loss before income tax and total revenue reported in their qualified financial statements. 25
- (8) For the purposes of subsection (2)—
- (a) subject to subsection (9), where an ultimate parent entity is a flow-through entity then the profit or loss before income tax and any associated taxes of the ultimate parent entity shall be reduced to the extent that such amount is attributable to an ownership interest held by a qualified person, and 30
  - (b) where an ultimate parent entity is subject to a deductible dividend regime within the meaning of section 111AR, then the profit or loss before income tax and any associated taxes of the ultimate parent entity shall be reduced to the extent that such amount is distributed in respect of an ownership interest held by a qualified person. 35
- (9) Where an ultimate parent entity is a flow-through entity, subsection (2) shall not apply to an MNE group in respect of a jurisdiction where that 40

ultimate parent entity is located unless all the ownership interests in the ultimate parent entity are held by qualified persons.

- (10) Where an MNE group has not made an election to apply the transitional CbCR safe harbour in respect of a jurisdiction for a fiscal year where there is a constituent entity, joint venture or joint venture affiliate, as the case may be, of the MNE group located in that jurisdiction, then that MNE group shall not be permitted to elect to apply the transitional CbCR safe harbour in respect of that jurisdiction in any subsequent fiscal year. 5
- (11) Notwithstanding anything in this section, the transitional CbCR safe harbour shall not apply to the following: 10
- (a) a stateless constituent entity;
  - (b) a multi-parented MNE group where a single qualified CbC report does not include the information of the combined groups;
  - (c) a jurisdiction with constituent entities that are subject to an election made in accordance with section 111AS(1). 15
- (12) Where the transitional CbCR safe harbour applies to an MNE group in respect of a jurisdiction for a fiscal year then—
- (a) the transition year referred to in section 111AW(2) for an MNE group in respect of a jurisdiction shall be the first fiscal year where the transitional CbCR safe harbour no longer applies to that MNE group in respect of that jurisdiction, 20
  - (b) section 111AW(3) shall continue to apply to a constituent entity, joint venture or joint venture affiliates, as the case may be, of an MNE group located in that jurisdiction for that fiscal year, and 25
  - (c) the transition year referred to in section 111AW(4) for a transferring entity shall be the first fiscal year where the transitional CbCR safe harbour no longer applies to that transferring entity.
- (13) (a) Subject to paragraph (b), for the purposes of subsection (2), an MNE group shall exclude from a jurisdiction an investment entity, and top-up tax in respect of such entity shall be calculated in accordance with Chapter 7. 30
- (b) Paragraph (a) shall not apply where—
    - (i) the investment entity has not made an election in accordance with section 111AU(1) or 111AV(1), and 35
    - (ii) all the constituent entity owners of that entity are resident in the investment entity jurisdiction.
- (c) Where paragraph (a) applies, an MNE group may apply the transitional CbCR safe harbour in respect of a jurisdiction in accordance with subsection (2) having regard to a constituent entity, joint venture or joint venture affiliate, as the case may be, 40

that are not an investment entity.

(d) Where paragraph (a) does not apply, for the purposes of subsection (2)—

(i) the profit or loss before income tax and total revenue of an investment entity, and any associated taxes, shall be reflected only in the jurisdiction of its direct constituent entity-owners in proportion to their ownership interest in such entity, and 5

(ii) where a portion of the ownership interests of the investment entity is held by owners that are not members of the MNE group, the profit or loss before income tax attributable to such owners shall be excluded. 10

(14) All relevant information concerning the application of the transitional CbCR safe harbour shall be included in the top-up tax information return for the fiscal year in accordance with section 111AAI.

**Transitional UTPR safe harbour** 15

**111AK.** (1) In this section—

‘corporate income tax rate’ means the nominal rate of corporate income tax (including any sub-national corporate income taxes) generally imposed on income in a jurisdiction;

‘transition period fiscal year’ means a fiscal year not exceeding twelve months that begins on or before 31 December 2025 and ends before 31 December 2026. 20

(2) For the purposes of section 111N(3), on the making of an election by a filing constituent entity, the top-up tax calculated for each low-taxed constituent entity of an MNE group or member of a joint venture group located in the jurisdiction of the ultimate parent entity of the MNE group or joint venture group concerned shall, where that jurisdiction has a corporate income tax rate that is equal to, or greater than, 20 per cent, be zero for a transition period fiscal year. 25

(3) A filing constituent entity shall not make an election in accordance with— 30

(a) section 111AJ(2), and

(b) subsection (2),

in respect of the same jurisdiction for a particular fiscal year.

CHAPTER 6 35

*Corporate restructuring and holding structures*

**Application of consolidated revenue threshold to group mergers and demergers**

**111AL.** (1) In this Chapter—

‘merger’ means any arrangement where— 40

- (a) the controlling interest in the entities of all or substantially all of 2 or more separate groups are brought under the ownership of a single entity or group to form a single group, or
- (b) the controlling interest in an entity that is not a member of any group is brought under the ownership of another entity or group to form a single group;

‘demerger’ means any arrangement where the entities of a group are separated into 2 or more groups that are no longer consolidated by the same ultimate parent entity in its consolidated financial statements.

(2) Where 2 or more groups merge to form a single group (in this subsection referred to as a ‘merged group’) in any of the 4 consecutive fiscal years immediately preceding a fiscal year, for the purposes of the consolidated revenue test the revenue of the merged group shall be deemed to be greater than the consolidated revenue threshold for any fiscal year prior to the merger if the sum of the revenue included in each of their consolidated financial statements for that fiscal year is equal to or greater than the consolidated revenue threshold.

(3) Where an entity that is not a member of a group (in this subsection referred to as the ‘new member entity’) merges with an entity or a group (referred to in this subsection to as the ‘acquiring entity’) in a fiscal year, and either the new member entity or the acquiring entity did not have consolidated financial statements in any of the last 4 consecutive fiscal years immediately preceding that fiscal year, the consolidated revenue threshold shall be deemed to be satisfied for that fiscal year if the sum of the revenue included in each of their financial statements or consolidated financial statements for that fiscal year is equal to or greater than the consolidated revenue threshold.

(4) Where an MNE group or large-scale domestic group to which this Part applies demerges into 2 or more groups (each referred to in this subsection as a ‘demerged group’), the consolidated revenue test shall be deemed to be satisfied by a demerged group—

- (a) with respect to the first tested fiscal year ending after the demerger, where the demerged group has revenue recorded in the group’s consolidated financial statements equal to or greater than the consolidated revenue threshold in that fiscal year, and

- (b) with respect to the second to fourth tested fiscal years ending after the demerger, where the demerged group has revenue recorded in the group’s consolidated financial statements equal to or greater than the consolidated revenue threshold in at least 2 of the fiscal years following the year of the demerger.

**Constituent entities joining and leaving MNE group or large-scale domestic group**

**111AM.** (1) Where during a fiscal year (in this section referred to as an ‘acquisition year’), an entity (in this section referred to as a ‘target entity’)—



- (a) becomes or ceases to be a constituent entity of an MNE group or of a large-scale domestic group as a result of a transfer of direct or indirect ownership interests in the target entity, or
  - (b) becomes the ultimate parent entity of a new group,
- the target entity shall be treated as a member of an MNE group or large-scale domestic group for the purposes of this Part provided that a portion of its assets, liabilities, income, expenses and cash flows is included on a line-by-line basis in the consolidated financial statements of the ultimate parent entity in the acquisition year. 5
- (2) For the purposes of this Part— 10
    - (a) in an acquisition year, an MNE group or large-scale domestic group shall take into account only the financial accounting net income or loss and adjusted covered taxes of the target entity that are included in the consolidated financial statements of the ultimate parent entity; 15
    - (b) in an acquisition year and in each subsequent fiscal year, the qualifying income or loss and adjusted covered taxes of the target entity shall be based on the historical carrying value of its assets and liabilities;
    - (c) in an acquisition year, the calculation of the eligible payroll costs of the target entity pursuant to section 111AE shall take into account only the costs that are reflected in the consolidated financial statements of the ultimate parent entity; 20
    - (d) the calculation of the carrying value of the eligible tangible assets of the target entity pursuant to section 111AE shall be adjusted, where applicable, in proportion to the period in which the target entity was a member of the MNE group or large-scale domestic group during the acquisition year. 25
  - (3) Subject to subsection (4), the deferred tax assets and deferred tax liabilities of a target entity that are transferred between MNE groups or large-scale domestic groups shall be taken into account by the acquiring MNE group or large-scale domestic group in the same manner and to the same extent as if the acquiring MNE group or large-scale domestic group held a controlling interest in the target entity when such assets and liabilities arose. 35
  - (4) Subsection (3) shall not apply to a qualifying loss deferred tax asset referred to in section 111Y.
  - (5) (a) For the purposes of section 111X(9), where a deferred tax liability of a target entity has previously been included in its total deferred tax adjustment amount, it shall be treated as reversed by the disposing MNE group or large-scale domestic group and shall be treated as arising from the acquiring MNE group or large-scale domestic group in the acquisition year. 40

- (b) Where paragraph (a) applies, any subsequent reduction of covered taxes pursuant to section 111X(9) shall have effect in the fiscal year in which the amount is recaptured.
- (6) Where during an acquisition year a target entity is—
- (a) a parent entity, and 5
  - (b) a member of 2 or more MNE groups or large-scale domestic groups,
- it shall apply separately the provisions of this Part to its allocable shares of the top-up tax of low-taxed constituent entities determined for each MNE group or large-scale domestic group. 10
- (7) Notwithstanding subsections (1) to (6), where the jurisdiction in which the target entity is located or, in the case of a tax transparent entity, the jurisdiction in which the assets are located—
- (a) treats the acquisition or disposal of a controlling interest in the target entity in the same, or in a similar, manner as an acquisition or disposal of assets and liabilities, and 15
  - (b) imposes a covered tax on the seller based on the difference between—
    - (i) the tax basis, and
    - (ii) either— 20
      - (I) the consideration paid in exchange for the controlling interest, or
      - (II) the fair value of the assets and liabilities,
- then the acquisition or disposal of that controlling interest in a target entity shall be treated as an acquisition or disposal of assets and liabilities. 25

**Transfer of assets and liabilities**

**111AN.** (1) In this section—

‘non-qualifying gain or loss’ means the lesser of—

- (a) the gain or loss of the disposing constituent entity arising in connection with a reorganisation that is subject to tax in the disposing constituent entity’s location, and 30
- (b) the gain or loss arising in connection with the reorganisation recorded in the disposing constituent entity’s financial accounting net income or loss; 35

‘reorganisation’ means a transformation or transfer of assets and liabilities such as in a merger, demerger, liquidation or similar transaction—

- (a) where—

- (i) the consideration for the transfer is, in whole or in significant part, equity interests issued by the constituent entity acquiring the assets and liabilities (in this section referred to as the ‘acquiring constituent entity’) or by a person connected with the acquiring constituent entity, 5
  - (ii) in the case of a liquidation, the consideration for the transfer is the cancellation of the holding of the equity interests of the entity being liquidated, or
  - (iii) no consideration is provided and the issuance of an equity interest would have no economic significance, 10
- (b) where the gain or loss of the constituent entity disposing of the assets and liabilities (in this section referred to as the ‘disposing constituent entity’) on the disposal of the assets and liabilities is not subject to tax, in whole or in part, and
- (c) where the tax laws of the jurisdiction in which the acquiring constituent entity is located require the acquiring constituent entity to calculate taxable income after the disposal or acquisition using the value of the assets for tax purposes of the disposing constituent entity under the tax laws of the jurisdiction in which the disposing constituent entity is located at the date of the transfer, adjusted for any non-qualifying gain or loss on the disposal or acquisition. 15 20
- (2) Subject to subsections (4) and (5), a disposing constituent entity shall include the gain or loss arising from the disposal of its assets and liabilities in the calculation of its qualifying income or loss for a fiscal year. 25
- (3) Subject to subsections (4) and (5), an acquiring constituent entity shall determine its qualifying income or loss on the basis of its carrying value of the acquired assets and liabilities determined under the financial accounting standard used in preparing consolidated financial statements of its ultimate parent entity. 30
- (4) Subject to subsection (5), on the happening of a reorganisation—
  - (a) the disposing constituent entity shall exclude any gain or loss arising on the disposal of its assets or liabilities from the calculation of its qualifying income or loss, and
  - (b) the acquiring constituent entity shall determine its qualifying income or loss on the basis of the carrying value of the acquired assets and liabilities of the disposing constituent entity upon disposal. 35
- (5) On the happening of a reorganisation that results in a non-qualifying gain or loss for the disposing constituent entity— 40
  - (a) the disposing constituent entity shall include the gain or loss on the disposal of its assets and liabilities in the calculation of its qualifying income or loss to the extent of the non-qualifying gain or

- loss, and
- (b) the acquiring constituent entity shall determine its qualifying income or loss after the acquisition of its assets and liabilities using the disposing constituent entity's carrying value of the acquired assets and liabilities upon disposal, as adjusted consistently with the tax law in the jurisdiction where the acquiring constituent entity is located to account for the non-qualifying gain or loss. 5
- (6) On the making of an election by a filing constituent entity, where a constituent entity is required or permitted to adjust the basis of its assets and the amount of its liabilities to fair value for tax purposes under the tax law in the jurisdiction where it is located (in this section referred to as the 'tax adjustment') then such constituent entity shall— 10
- (a) subject to subsection (7), include in the calculation of its qualifying income or loss for a fiscal year an amount of gain or loss in respect of each of its assets and liabilities, which shall be— 15
    - (i) equal to the difference between the carrying value for financial accounting purposes of the asset or liability immediately before the date of the event that triggered the tax adjustment (hereinafter referred to as the 'triggering event') and the fair value of the asset or liability immediately after the triggering event as determined under the tax law in the jurisdiction where it is located, and 20
    - (ii) decreased or increased, as the case may be, by the non-qualifying gain or loss, if any, arising in connection with the triggering event, 25
- and
- (b) use the fair value for financial accounting purposes of the asset or liability immediately after the triggering event to calculate qualifying income or loss in the fiscal years ending after the triggering event. 30
- (7) Where an election is made in accordance with subsection (6), a constituent entity may include—
- (a) the net total of the amounts determined in accordance with subsection (6)(a) in the constituent entity's qualifying income or loss in the fiscal year in which the triggering event occurs, or 35
  - (b) an amount equal to the net total of the amounts determined in accordance with subsection (6)(a) divided by 5 in the fiscal year in which the triggering event occurs and in each of the immediate 4 subsequent fiscal years, but where the constituent entity leaves the MNE group or large-scale domestic group in a fiscal year within that period, the remaining amount shall be included in that fiscal year. 40

## Joint ventures

111AO. (1) In this section—

‘joint venture’ means an entity of which at least 50 per cent of its ownership interests are held directly or indirectly by its ultimate parent entity and whose financial results are reported under the equity method in the consolidated financial statements of the ultimate parent entity but shall not include— 5

- (a) an ultimate parent entity of an MNE group or of a large-scale domestic group to which a qualified IIR applies,
- (b) an excluded entity, 10
- (c) an entity whose ownership interests held by the MNE group or large-scale domestic group are held directly through an excluded entity and which—
  - (i) operates exclusively or almost exclusively to hold assets or invest funds for the benefit of its investors, 15
  - (ii) carries out activities that are ancillary to those carried out by the excluded entity, or
  - (iii) has substantially all of its income excluded from the calculation of qualifying income or loss in accordance with paragraphs (b) and (c) of section 111P(2), 20
- (d) an entity that is held by an MNE group or large-scale domestic group composed exclusively of excluded entities, or
- (e) a joint venture affiliate;

‘joint venture affiliate’ means—

- (a) an entity whose assets, liabilities, income, expenses and cash flows are consolidated by a joint venture under an acceptable financial accounting standard or would have been consolidated had the joint venture been required to consolidate such assets, liabilities, income, expenses and cash flows under an acceptable financial accounting standard, or 25
- (b) a permanent establishment whose main entity is a joint venture or an entity referred to in paragraph (a); 30

‘joint venture group’ means a joint venture and its joint venture affiliates.

- (2) For the purposes of this Part, a permanent establishment referred to in paragraph (b) of the definition, in subsection (1), of ‘joint venture affiliate’, shall be treated as a separate joint venture affiliate. 35
- (3) Sections 111E to 111J shall apply to a parent entity that holds a direct or indirect ownership interest in a joint venture or a joint venture affiliate with respect to its allocable share of the top-up tax of that joint venture or joint venture affiliate for a fiscal year. 40

- (4) This Part shall apply to the calculation of the top-up tax of a joint venture group for a fiscal year as if the joint venture and its joint venture affiliates were constituent entities of a separate MNE group or large-scale domestic group and the joint venture was the ultimate parent entity of that group. 5
- (5) The top-up tax of a joint venture group for a fiscal year shall be reduced by each parent entity's allocable share of the top-up tax under subsection (3) of each member of the joint venture group that is brought into charge under subsection (4) and any remaining amount of top-up tax shall be added to the total UTPR top-up tax amount pursuant to section 111N(3). 10

**Multi-parented MNE and large-scale domestic groups**

**111AP.** (1) In this section—

'consolidated financial statements of the multi-parented MNE group or multi-parented large-scale domestic group' means the combined consolidated financial statements referred to in the definition in this subsection of a 'stapled structure' or a 'dual-listed arrangement', prepared under an acceptable financial accounting standard, which is deemed to be the accounting standard of the ultimate parent entity; 15

'dual-listed arrangement' means an arrangement entered into by 2 or more ultimate parent entities of separate groups under which— 20

- (a) the ultimate parent entities agree to combine their business by contract alone,
- (b) pursuant to contractual arrangements the ultimate parent entities will make distributions, with respect to dividends and in liquidation, to their shareholders based on a fixed ratio, 25
- (c) the ultimate parent entities' activities are managed as a single economic unit under contractual arrangements while retaining their separate legal identities,
- (d) the ownership interests of the ultimate parent entities that comprise the agreement are quoted, traded or transferred independently in different capital markets, and 30
- (e) the ultimate parent entities prepare consolidated financial statements—
  - (i) in which the assets, liabilities, income, expenses and cash flows of entities in all of the groups are presented together as those of a single economic unit, and 35
  - (ii) that are required by a regulatory regime to be audited by an external independent auditor;

'multi-parented large-scale domestic group' means 2 or more groups where the ultimate parent entities enter into an arrangement that is a stapled structure or a dual-listed arrangement that does not include an entity or permanent establishment of either group subject to the 40

arrangement which is located in a different jurisdiction with respect to the location of the other entities of the 2 groups;

‘multi-parented MNE group’ means 2 or more groups where the ultimate parent entities enter into an arrangement that is a stapled structure or a dual-listed arrangement that includes at least one entity or permanent establishment of either group subject to the arrangement which is located in a different jurisdiction with respect to the location of the other entities of the 2 groups;

‘stapled structure’ means an arrangement entered into by 2 or more ultimate parent entities of separate groups under which—

(a) 50 per cent or more of the ownership interests in the ultimate parent entities of separate groups are—

(i) if they are listed, quoted at a single price, and

(ii) by reason of form of ownership, restrictions on transfer, or other terms or conditions, combined with each other, and cannot be transferred or traded independently,

and

(b) one of the ultimate parent entities prepares consolidated financial statements—

(i) in which the assets, liabilities, income, expenses and cash flows of all the entities of the groups concerned are presented together as those of a single economic unit, and

(ii) that are required by a regulatory regime to be audited by an external independent auditor.

(2) Where entities and constituent entities of 2 or more groups form part of a multi-parented MNE group or multi-parented large-scale domestic group, the entities and constituent entities of each group shall be treated as members of one multi-parented MNE group or multi-parented large-scale domestic group, as the case may be.

(3) For the purposes of subsection (2) an entity, other than an excluded entity, shall be treated as a constituent entity if it is consolidated on a line-by-line basis in the consolidated financial statements of the multi-parented MNE group or multi-parented large-scale domestic group, or if its controlling interests are held by entities in the multi-parented MNE group or multi-parented large-scale domestic group, as the case may be.

(4) The ultimate parent entities of the separate groups that compose the multi-parented MNE group or multi-parented large-scale domestic group, as the case may be, shall be the ultimate parent entities of the multi-parented MNE group or multi-parented large-scale domestic group and in the application of this Part in respect of a multi-parented MNE group or multi-parented large-scale domestic group any references to an ultimate parent entity shall apply, as required, as if

they are references to multiple ultimate parent entities.

- (5) Sections 111E to 111J shall apply to the parent entities and ultimate parent entities of the multi-parented MNE group or multi-parented large-scale domestic group, as the case may be, with respect to their allocable share of the top-up tax of the low-taxed constituent entities. 5
- (6) Sections 111L to 111N and section 111AZ shall apply to constituent entities of a multi-parented MNE group or multi-parented large-scale domestic group, as the case may be, taking into account the top-up tax of each low-taxed constituent entity that is a member of the multi-parented MNE group or multi-parented large-scale domestic group. 10
- (7) The ultimate parent entities of the multi-parented MNE group or multi-parented large-scale domestic group shall be required to file the top-up tax information return in respect of the information concerning each of the groups that compose the multi-parented MNE group or multi-parented large-scale domestic group in accordance with section 111AAI, unless they appoint a designated filing entity. 15

CHAPTER 7

*Tax neutrality and distribution regimes*

**Ultimate parent entity that is a flow-through entity** 20

- 111AQ.** (1) The qualifying income of a flow-through entity that is an ultimate parent entity shall be reduced, for a fiscal year, by the amount of qualifying income that is attributable to the holder of an ownership interest (in this section referred to as an ‘ownership holder’) in the flow-through entity where— 25
- (a) the ownership holder is subject to tax on such income, for a taxable period that ends within 12 months after the end of that fiscal year, at a nominal rate of tax that equals or exceeds the minimum tax rate, or
  - (b) it can be reasonably expected that the sum of the covered taxes paid by the ultimate parent entity and other entities that are part of the tax transparent structure and taxes paid by the ownership holder on such income within 12 months after the end of the fiscal year equals or exceeds an amount equal to that income multiplied by the minimum tax rate. 30 35
- (2) The qualifying income of a flow-through entity that is an ultimate parent entity shall be reduced, for a fiscal year, by the amount of qualifying income that is allocated to the ownership holder in the flow-through entity provided that the ownership holder is—
- (a) an individual who— 40
    - (i) is tax resident in the jurisdiction where the ultimate parent entity is located, and



- (ii) holds ownership interests representing a right to 5 per cent or less of the profits and assets of the ultimate parent entity,
- or
- (b) a governmental entity, an international organisation, a non-profit organisation or a pension fund that— 5
  - (i) is tax resident in the jurisdiction where the ultimate parent entity is located, and
  - (ii) holds ownership interests representing a right to 5 per cent or less of the profits and assets of the ultimate parent entity.
- (3) (a) Subject to paragraph (b), the qualifying loss of a flow-through entity that is an ultimate parent entity shall be reduced, for a fiscal year, by the amount of qualifying loss that is attributable to the ownership holder in the flow-through entity. 10
- (b) Paragraph (a) shall not apply to the extent that the ownership holder is not permitted to use the qualifying loss for the calculation of its taxable income. 15
- (4) The covered taxes of a flow-through entity that is an ultimate parent entity shall be reduced in the same proportion as the amount of qualifying income of that flow-through entity is reduced in accordance with subsections (1) and (2). 20
- (5) Subsections (1) to (4) shall apply to a permanent establishment through which—
  - (a) a flow-through entity that is an ultimate parent entity wholly or partly carries out its business, or
  - (b) the business of a tax transparent entity is wholly or partly carried out, where the ultimate parent entity’s ownership interest in that tax transparent entity is held directly or through one or more tax transparent entities. 25

**Ultimate parent entity subject to a deductible dividend regime**

- 111AR.** (1) In this section— 30
- ‘cooperative’ means an entity that collectively markets or acquires goods or services on behalf of its members and that is subject to a tax regime in the jurisdiction where it is located that ensures tax neutrality in respect of goods or services that are sold or acquired by its members through the cooperative; 35
- ‘deductible dividend’ means, with respect to a constituent entity that is subject to a deductible dividend regime—
- (a) a distribution of profits to the holder of an ownership interest in the constituent entity that is deductible from the taxable income of the constituent entity under the laws of the jurisdiction in which it is located, or 40

(b) a patronage dividend to a member of a cooperative;

‘deductible dividend regime’ means a tax regime that applies a single level of taxation on the income of the owners of an entity by deducting or excluding from the income of the entity the profits distributed to the owners or by exempting a cooperative from taxation;

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‘patronage dividend’ means a distribution by a cooperative to its members;

‘supply cooperative’ means a cooperative that purchases goods or services and resells them to its members and whose profits are distributed to its members.

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(2) Subject to subsection (3), an ultimate parent entity of an MNE group or of a large-scale domestic group that is subject to a deductible dividend regime shall reduce its qualifying income for the fiscal year by the amount that is distributed as deductible dividend within 12 months after the end of the fiscal year, but such a reduction shall not exceed the amount of qualifying income for the fiscal year.

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(3) Subsection (2) shall apply where—

(a) the recipient of the dividend referred to in subsection (2) is subject to tax in respect of that dividend for a taxable period that ends within 12 months after the end of the fiscal year at a nominal rate of tax that equals or exceeds the minimum tax rate,

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(b) it can be reasonably expected that the aggregate amount of covered taxes paid by the ultimate parent entity and taxes paid by the recipient on such dividend equals or exceeds that income multiplied by the minimum tax rate, or

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(c) the recipient of the dividend referred to in subsection (2) is—

(i) an individual, and the dividend received is a patronage dividend from a supply cooperative,

(ii) an individual who is tax resident in the same jurisdiction where the ultimate parent entity is located and who holds ownership interests representing a right to 5 per cent or less of the profits and assets of the ultimate parent entity, or

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(iii) a governmental entity, an international organisation, a non-profit organisation or a pension fund other than a pension services entity, that is tax resident in the jurisdiction where the ultimate parent entity is located.

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(4) The covered taxes of an ultimate parent entity, other than the taxes for which a dividend deduction was allowed under a deductible dividend regime, shall be reduced in the same proportion as the amount of qualifying income of the ultimate parent entity is reduced in accordance with subsections (2) and (3).

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(5) Where the ultimate parent entity holds an ownership interest in

another constituent entity that is subject to a deductible dividend regime, directly or through a chain of such constituent entities, subsections (2), (3) and (4) shall apply to any other constituent entity located in the jurisdiction of the ultimate parent entity that is subject to the deductible dividend regime, to the extent that its qualifying income is further distributed by the ultimate parent entity to recipients that meet the requirements set out in subsections (2) and (3). 5

- (6) For the purposes of subsection (3), the recipient of a patronage dividend distributed by a supply cooperative shall be treated as subject to tax in respect of such dividend insofar as that dividend reduces a deductible expense or cost in the calculation of the recipient's taxable income or loss. 10

**Eligible distribution tax systems**

111AS. (1) On the making of an election by a filing constituent entity, a constituent entity that is subject to an eligible distribution tax system shall include the amount, determined in accordance with subsection (2) as deemed distribution tax, in the adjusted covered taxes of that constituent entity for the fiscal year. 15

(2) The amount of the deemed distribution tax referred to in subsection (1) shall be the lesser of— 20

(a) the amount necessary to increase the effective tax rate as calculated in accordance with section 111AC for the jurisdiction of the constituent entity referred to in subsection (1) for the fiscal year to the minimum tax rate, and

(b) the amount of distribution tax that would have been due if the constituent entities located in the jurisdiction referred to in paragraph (a) had distributed all of their income that is subject to the eligible distribution tax system during the fiscal year. 25

(3) (a) Where an election is made under subsection (1), a deemed distribution tax recapture account shall be established for each fiscal year in which such an election applies. 30

(b) The amount of deemed distribution tax determined in accordance with subsection (2) for the jurisdiction shall be added to the deemed distribution tax recapture account for the fiscal year in which it was established. 35

(c) At the end of each subsequent fiscal year, the outstanding balances in the deemed distribution tax recapture accounts established for prior fiscal years shall be reduced in chronological order by the taxes paid by the constituent entities during the fiscal year in relation to actual or deemed distributions, but such reduction shall not exceed the amount of the outstanding balances. 40

(d) Any residual amount in the deemed distribution tax recapture accounts remaining after the application of paragraph (c) shall be reduced in chronological order by an amount equal to the net

qualifying loss of a jurisdiction for the fiscal year multiplied by the minimum tax rate but such reduction shall not exceed the residual amount.

- (4) Any residual amount of net qualifying loss multiplied by the minimum tax rate after the application of subsection (3)(d), for the jurisdiction, shall be carried forward to the following fiscal years and shall reduce in chronological order any residual amount in the deemed distribution tax recapture accounts remaining after the application of subsection (3) but such reduction shall not exceed the residual amount. 5
- (5) The outstanding balance, if any, of the deemed distribution tax recapture account, on the last day of the fourth fiscal year after the fiscal year for which such account was established shall be treated as a reduction to the adjusted covered taxes previously determined for such fiscal year in respect of which the deemed distribution tax recapture account was established and the effective tax rate and top-up tax for that fiscal year shall be recalculated in accordance with section 111AF. 10 15
- (6) Taxes that are paid during the fiscal year in relation to actual or deemed distributions shall not be included in adjusted covered taxes to the extent that they reduce a deemed distribution tax recapture account in accordance with subsections (3) and (4). 20
- (7) (a) Where a constituent entity, that is subject to an election under subsection (1)—
- (i) leaves the MNE group or large-scale domestic group, or
  - (ii) substantially all of its assets are transferred to a person that is not a constituent entity of the same MNE group or large-scale domestic group located in the same jurisdiction, 25
- any outstanding balance of the deemed distribution tax recapture accounts in previous fiscal years in which such an account was established shall be treated as a reduction to the adjusted covered taxes for each of those fiscal years in accordance with section 111AF. 30
- (b) Any additional top-up tax amount that would be due pursuant to paragraph (a) shall be multiplied by the following ratio to determine the additional top-up tax due for the jurisdiction:
- A/B 35
- where—
- A is the qualifying income of the constituent entity for each fiscal year in which there is an outstanding balance of the deemed distribution tax recapture accounts for the jurisdiction, and
  - B is the net qualifying income of the jurisdiction determined in accordance with section 111AC(3) for each fiscal year in which there is an outstanding balance of the deemed distribution tax 40

recapture accounts for the jurisdiction.

- (8) The election referred to in subsection (1) shall be made in accordance with section 111AAAD, and shall apply to all constituent entities located in the same jurisdiction for the fiscal year in which the election is made.

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**Determination of effective tax rate and top-up tax of investment entity**

**111AT.** (1) Where a constituent entity of an MNE group or large-scale domestic group—

- (a) is an investment entity,  
(b) is not a tax transparent entity, and  
(c) has not made an election in accordance with sections 111AU and 111AV,

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the effective tax rate of such an investment entity (in this section referred to as a ‘relevant investment entity’) shall be calculated separately from the effective tax rate of the jurisdiction in which it is located.

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- (2) (a) The effective tax rate of a relevant investment entity shall be equal to the relevant investment entity’s adjusted covered taxes, as determined in accordance with subsection (3), divided by an amount equal to the allocable share of the MNE group or large-scale domestic group in the qualifying income or loss of the relevant investment entity, as determined in accordance with subsection (5).

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- (b) Where more than one relevant investment entity is located in a jurisdiction, their effective tax rate shall be calculated by combining their adjusted covered taxes as well as the allocable share of the MNE group or large-scale domestic group in their qualifying income or loss.

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- (3) The adjusted covered taxes of a relevant investment entity shall be the sum of the adjusted covered taxes that are attributable to the allocable share of the MNE group or large-scale domestic group in the qualifying income of the relevant investment entity and the covered taxes allocated to the relevant investment entity in accordance with section 111Z, but shall not include any covered taxes accrued by the relevant investment entity attributable to income that is not part of the MNE group or large-scale domestic group’s allocable share of the relevant investment entity’s income.

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- (4) (a) The top-up tax of a relevant investment entity shall be an amount determined by the formula—

$$(A \times (B-C)) - D$$

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where—

A is the top-up tax percentage of the relevant investment entity,

being a positive amount equal to the difference between the minimum tax rate and effective tax rate of the relevant investment entity,

B is the qualifying income of the relevant investment entity,

C is the substance-based income exclusion calculated for the relevant investment entity as determined in accordance with paragraph (c), and 5

D is the amount of qualified domestic top-up tax payable for the relevant investment entity for the fiscal year.

(b) Where more than one relevant investment entity of an MNE group or large-scale domestic group is located in a jurisdiction, the qualifying income or loss and substance-based income exclusion amounts of each relevant investment entity shall be combined to compute the effective tax rate of all of the relevant investment entities. 10 15

(c) The substance-based income exclusion amount of a relevant investment entity shall be determined in accordance with subsections (1) to (7) and (10) to (12) of section 111AE, taking into account only eligible tangible assets and eligible payroll costs of eligible employees of the relevant investment entity. 20

(5) For the purposes of this section, the allocable share of the MNE group or large-scale domestic group in the qualifying income or loss of a relevant investment entity shall be determined in accordance with section 111I taking into account only interests that are not subject to an election in accordance with section 111AU or 111AV. 25

#### **Election to treat investment entity as tax transparent entity**

**111AU.** (1) On the making of an election by a filing constituent entity, a constituent entity that is an investment entity shall be treated as a tax transparent entity for the purposes of this Part if—

(a) the constituent entity-owner is subject to tax in the jurisdiction in which it is located under a fair market value or a similar regime based on the annual changes in the fair value of its ownership interest in such entity, and 30

(b) the tax rate applicable to the constituent entity-owner on the annual changes in the fair value of its ownership interest referred to in paragraph (a) equals or exceeds the minimum tax rate. 35

(2) For the purposes of subsection (1), a constituent entity that indirectly owns an ownership interest in an investment entity (in this subsection referred to as the ‘first-mentioned investment entity’) through a direct ownership interest in another investment entity (in this subsection referred to as the ‘second-mentioned investment entity’) shall be considered to be subject to tax under a fair market value or similar regime with respect to its indirect ownership interest in the first mentioned investment entity if it is subject to a fair market value or 40

similar regime with respect to its direct ownership interest in the second mentioned investment entity.

(3) The election referred to in subsection (1) shall be made in accordance with section 111AAAD.

(4) Where the election referred to in subsection (1) is withdrawn, any gain or loss from the disposal of an asset or a liability held by the investment entity shall be determined on the basis of the fair market value of the asset or liability on the first day of the fiscal year the withdrawal is made. 5

**Election to apply taxable distribution method** 10

**111AV.** (1) On the making of an election by a filing constituent entity, a constituent entity-owner of an investment entity shall apply a taxable distribution method with respect to its ownership interest in the investment entity where the constituent entity-owner—

(a) is not an investment entity, and 15

(b) can be reasonably expected to be subject to tax on distributions from that investment entity at a tax rate that equals or exceeds the minimum tax rate.

(2) Under the taxable distribution method—

(a) distributions and deemed distributions of the qualifying income of an investment entity shall be included in the qualifying income of the constituent entity-owner that received the distribution, provided that it is not an investment entity, 20

(b) the amount of covered taxes incurred by the investment entity that is creditable against the tax liability of the constituent entity-owner arising from the distribution of the investment entity shall be included in the qualifying income and adjusted covered taxes of the constituent entity-owner that received the distribution, 25

(c) the share of the constituent-entity owner in the undistributed net qualifying income of the investment entity arising in the third year preceding the fiscal year (in this section referred to as the ‘tested year’) shall be treated as qualifying income of that investment entity for the fiscal year and the amount equal to such qualifying income multiplied by the minimum tax rate shall be treated as top-up tax of a low-taxed constituent entity for the fiscal year for the purposes of Chapter 2, and 30 35

(d) the qualifying income or loss of an investment entity and the adjusted covered taxes attributable to such income for the fiscal year shall be excluded from the calculation of the effective tax rate in accordance with Chapter 5 and subsections (1) to (4) of section 111AT, except for the amount of covered taxes referred to in paragraph (b). 40

(3) For the purposes of subsection (2)(c), the undistributed net qualifying

income of an investment entity for the tested year shall be the amount of qualifying income of that investment entity for a tested year reduced by the amount, if any, of—

- (a) the covered taxes of the investment entity,
  - (b) distributions and deemed distributions to shareholders that are not investment entities during the period starting with the first day of the third year preceding the fiscal year and ending with the last day of the current fiscal year in which the ownership interest was held (in this section referred to as the 'testing period'),
  - (c) qualifying losses arising during the testing period, and
  - (d) any residual amount of qualifying losses that has not already reduced the undistributed net qualifying income of that investment entity for a previous tested year,
- but such reduction shall not exceed the amount of qualifying income and the undistributed net qualifying income of that investment entity shall not be reduced by—
- (i) distributions or deemed distributions that already reduced the undistributed net qualifying income of that investment entity for a previous tested year in the application of paragraph (b), or
  - (ii) the amount of qualifying losses that already reduced the undistributed net qualifying income of that investment entity for a previous tested year in the application of paragraph (c).
- (4) For the purposes of this section, a deemed distribution shall arise when a direct or indirect ownership interest in the investment entity is transferred to an entity that is not a member of the MNE group or large-scale domestic group and is equal to the share of undistributed net qualifying income attributable to such ownership interest on the date of such transfer, determined without regard to the deemed distribution.
- (5) (a) Where an election referred to in subsection (1) is withdrawn, the constituent entity-owner's share in the undistributed net qualifying income of the investment entity for the tested year at the end of the fiscal year preceding the fiscal year the withdrawal is made shall be treated as qualifying income of the investment entity for the fiscal year.
- (b) The amount equal to the qualifying income referred to in paragraph (a) multiplied by the minimum tax rate shall be treated as top-up tax of a low-taxed constituent entity for the fiscal year for the purposes of Chapter 2.
- (6) The election referred to in subsection (1) shall be made in accordance with section 111AAAD.



*Transition Rules***Tax treatment of deferred tax assets, deferred tax liabilities and transferred assets upon transition**

- 111AW.** (1) For the purpose of this section, ‘transition year’, for a jurisdiction, means the first fiscal year in which an MNE group or large-scale domestic group falls within the scope of a qualified IIR, qualified UTPR or qualified domestic top-up tax, in respect of that jurisdiction. 5
- (2) (a) When determining the effective tax rate for a jurisdiction in accordance with section 111AC— 10
- (i) in a transition year, and
- (ii) for each subsequent fiscal year,
- the MNE group or a large-scale domestic group shall take into account all the deferred tax assets and deferred tax liabilities, reflected or disclosed in the financial accounts of all the constituent entities in a jurisdiction for the transition year. 15
- (b) For the purposes of paragraph (a), deferred tax assets and deferred tax liabilities shall be taken into account at the lower of—
- (i) the minimum tax rate, or
- (ii) the applicable domestic tax rate. 20
- (c) Notwithstanding paragraph (b), where a deferred tax asset—
- (i) is attributable to a qualifying loss, and
- (ii) has been recorded at a tax rate lower than the minimum tax rate, the deferred tax asset shall be taken into account at the minimum tax rate for the purposes of paragraph (a). 25
- (d) For the purposes of paragraph (a), the impact of any valuation adjustment or accounting recognition adjustment, with respect to a deferred tax asset, shall be disregarded.
- (3) For the purposes of subsection (2)(a), deferred tax assets—
- (a) arising from items excluded from the calculation of qualifying income or loss in accordance with Chapter 3, and 30
- (b) generated in a transaction that takes place after 30 November 2021, shall not be taken into account when determining the effective rate for a jurisdiction.
- (4) Where— 35
- (a) after 30 November 2021, and
- (b) before the commencement of a transition year in respect of the transferring entity,

assets, other than inventory, are transferred between constituent entities, the acquirer's basis in the acquired assets for the purposes of this Part shall be equal to the transferring entity's carrying value of the transferred assets at the time immediately before disposal, with deferred tax assets and deferred tax liabilities determined accordingly. 5

**Transitional relief for substance-based income exclusion**

**111AX.** (1) For the purpose of applying section 111AE(3), the value of 5 per cent shall be replaced, for each fiscal year beginning in the calendar year set out in column (1) of the Table to this subsection, with the values set out in the column (2) of that Table: 10

(1)	(2)	
2023	10 per cent	
2024	9.8 per cent	
2025	9.6 per cent	
2026	9.4 per cent	15
2027	9.2 per cent	
2028	9.0 per cent	
2029	8.2 per cent	
2030	7.4 per cent	
2031	6.6 per cent	20
2032	5.8 per cent	

(2) For the purpose of applying section 111AE(4), the value of 5 per cent, shall be replaced, for each fiscal year beginning in the calendar year set out in column (1) of the Table to this subsection, with the values set out in column (2) of that Table: 25

(1)	(2)	
2023	8 per cent	
2024	7.8 per cent	
2025	7.6 per cent	
2026	7.4 per cent	30
2027	7.2 per cent	
2028	7.0 per cent	
2029	6.6 per cent	
2030	6.2 per cent	
2031	5.8 per cent	35
2032	5.4 per cent	

**Initial phase of exclusion from IIR and UTPR of MNE groups and large-scale domestic groups**

**111AY.** (1) The top-up tax due by—

- (a) an ultimate parent entity located in the State in accordance with—
  - (i) section 111E(1), in respect of constituent entities located in the State, or
  - (ii) section 111E(2),
 or 5
- (b) an intermediate parent entity located in the State in accordance with—
  - (i) section 111F(1), in respect of constituent entities located in the State, or
  - (ii) section 111F(2), 10
 when the ultimate parent entity is an excluded entity,
 

shall be reduced to zero where—

  - (i) the ultimate parent entity or the intermediate parent entity are a member of an MNE group, in the first 5 years of the initial phase of the international activity of the MNE group, notwithstanding the requirements laid down in Chapter 5, or 15
  - (ii) the ultimate parent entity or the intermediate parent entity are a member of a large-scale domestic group, in the first 5 years, starting from the first day of the fiscal year in which the large-scale domestic group falls within the scope of this Part for the first time. 20
- (2) Where the ultimate parent entity of an MNE group is located in a third country jurisdiction, the top-up tax due by a constituent entity located in the State in accordance with section 111N(1), shall be reduced to zero in the first 5 years of the initial phase of the international activity of that MNE group, notwithstanding the requirements laid down in Chapter 5. 25
- (3) (a) An MNE group shall be considered to be in the initial phase of its international activity if—
  - (i) it has constituent entities in no more than 6 jurisdictions, and
  - (ii) the sum of the net book value of the tangible assets of all the constituent entities of the MNE group located in all jurisdictions other than the reference jurisdiction does not exceed €50,000,000. 30
- (b) For the purpose of paragraph (a)(ii)—
  - (i) ‘reference jurisdiction’ means the jurisdiction in which the constituent entities of the MNE group have the highest total value of tangible assets in the fiscal year in which the MNE group originally falls within the scope of this Part, and 35
  - (ii) the total value of the tangible assets in a jurisdiction is the sum of the net book values of all tangible assets of all the constituent 40

entities of the MNE group that are located in that jurisdiction.

- (4) (a) Subject to paragraph (b), (c) and (d), the period of 5 years referred to in subsections (1)(i) and (2), shall start from the beginning of the fiscal year in which the MNE group first comes within the scope of this Part. 5
- (b) For MNE groups that are within the scope of this Part when it comes into operation, the period of 5 years referred to in subsection (1)(i) shall start on 31 December 2023.
- (c) For MNE groups that are within the scope of this Part when it comes into operation, the period of 5 years referred to in subsection (2) shall start on 31 December 2024. 10
- (d) For large-scale domestic groups that are within the scope of this Part when it comes into operation, the period of 5 years referred to in subsection (1)(ii) shall start on 31 December 2023.
- (5) Where subsection (1) or (2) applies for a fiscal year and the filing constituent entity is located in the State for the fiscal year, the filing constituent entity shall inform the Revenue Commissioners of the start date of the initial phase of the international activity of the MNE group. 15

#### **Delayed application of IIR and UTPR by Member States**

- 111AZ.** (1) Subject to section 111AAL, where the ultimate parent entity of an MNE group is located in a Member State that has made an election pursuant to Article 50.1 of the Directive, a constituent entity of that MNE group that is located in the State shall be subject to a top-up tax (in this section referred to as ‘UTPR top-up tax’) for the fiscal years beginning on or after 31 December 2023 calculated in accordance with section 111N. 20 25
- (2) (a) The ultimate parent entity referred to in subsection (1) shall nominate a designated filing entity in a Member State other than the Member State in which the ultimate parent entity is located or, if the MNE group has no constituent entity in another Member State, in a third country jurisdiction that has, for the reporting fiscal year, a qualifying competent authority agreement in effect with the Member State in which the ultimate parent entity is located. 30
- (b) Where the designated filing entity referred to in paragraph (a) is located in the State it shall file a top-up tax information return in accordance with the requirements set out in section 111AAI and the constituent entities located in the Member State that has made an election pursuant to Article 50.1 of the Directive shall provide the designated filing entity with information necessary to comply with section 111AAI(3). 35 40

*Domestic Top-up Tax***Interpretation (Chapter 9)**

**111AAA.** In this Chapter—

‘foreign IIR election’ means an election made in respect of an MNE group in connection with a tax equivalent to IIR top-up tax or UTPR top-up tax in another jurisdiction that is contained in a top-up tax information return submitted to— 5

(a) a tax authority in that jurisdiction, and in relation to which information in the return about the election has been provided to the Revenue Commissioners under a qualifying competent authority agreement, or 10

(b) the Revenue Commissioners;

‘local accounting standard’ means a financial accounting standard permitted or required to be used in the preparation of financial accounts under the law of the State that is an— 15

(a) acceptable financial accounting standard, or

(b) authorised financial accounting standard adjusted to prevent material competitive distortions;

‘qualifying entity’ shall be construed in accordance with section 111AAB; 20

‘standalone financial statements’ means—

(a) financial statements of an entity prepared in accordance with a local accounting standard, or

(b) where no such statements were prepared, the statements that would have been prepared (whether or not the entity was required to prepare such statements) in accordance with a local accounting standard. 25

**Qualifying entities**

**111AAB.** (1) An entity or permanent establishment shall be a qualifying entity for a fiscal year, or an accounting period where paragraph (c) applies, if it is located in the State in accordance with section 111D, or would be if it was a constituent entity, and it is— 30

(a) a constituent entity to which this Part applies in accordance with section 111C,

(b) a joint venture or a joint venture affiliate in respect of which sections 111E to 111J apply to an entity with respect to its allocable share of the top-up tax of that joint venture or joint venture affiliate for a fiscal year in accordance with section 111AO(3), or would apply if that entity was located in the State, or 35

(c) an entity not referred to in paragraph (a) or (b), that— 40

- (i) has revenue that exceeds the entity revenue threshold, as determined in accordance with subsection (2), for an accounting period in at least 2 previous accounting periods of the immediately previous 4 accounting periods determined by reference to its standalone financial statements, and 5
  - (ii) is not an excluded entity by virtue of section 111C(2), but shall not include an investment entity.
- (2) For the purposes of subsection (1)(c)(i), the entity revenue threshold shall be calculated as follows:

$$\text{€}750,000,000 \times A/365 \quad 10$$

where—

A is the number of days in the accounting period concerned.

### **Chargeable entities**

- 111AAC.** (1) Subject to section 111AAO, a qualifying entity within the meaning of paragraphs (a) and (b) of section 111AAB(1) shall be chargeable to domestic top-up tax in respect of a fiscal year. 15
- (2) A qualifying entity within the meaning of section 111AAB(1)(c) shall be chargeable to domestic top-up tax in respect of an accounting period.
- (3) Where a flow-through entity that is not a body corporate is chargeable to domestic top-up tax by virtue of subsection (1) or (2), the persons who hold an ownership interest in the flow-through entity at any time during the fiscal year or accounting period, as the case may be, are jointly and severally liable to pay the domestic top-up tax. 20

### **Determining top-up amounts of qualifying entity** 25

- 111AAD.** (1) Subject to subsections (2) to (6), Chapters 3 to 8 shall apply for the purposes of determining the domestic top-up tax of a qualifying entity (in this section referred to as ‘domestic purposes’), as those Chapters apply for the purpose of determining the top-up tax of a constituent entity for the purposes of this Part. 30
- (2) For the purposes of subsection (1), this Part has effect for domestic purposes as if—
- (a) references to a constituent entity were to a qualifying entity,
  - (b) the formula in section 111AD(3) took no account of qualified domestic top-up tax payable, 35
  - (c) sections 111T(1)(b) and 111AS were omitted,
  - (d) references to financial accounting net income or loss for the fiscal year, where it is determined in accordance with a local accounting standard pursuant to paragraph (e), were to the financial accounting net income or loss determined for a constituent entity, joint venture 40

or joint venture affiliate, as the case may be, in preparing financial statements in accordance with that local accounting standard for an accounting period,

(e) there were inserted in section 111O the following subsections after subsection (3): 5

‘(3A) Notwithstanding subsections (2) and (3) and subject to subsection (3B), the financial accounting net income or loss of a qualifying entity for the fiscal year shall be determined in accordance with a local accounting standard where—

(a) the qualifying entity is an entity within the meaning of section 111AAB(1)(c), or 10

(b) all of the qualifying entities of the MNE group, large-scale domestic group or joint venture group, as the case may be, located in the State have financial accounts prepared in accordance with a local accounting standard and the accounting period of all such accounts is the same as the fiscal year of the consolidated financial statements of the MNE group, large-scale domestic group or joint venture group as the case may be, and— 15

(i) all such constituent entities are required to prepare or use such accounts for the purposes of determining their liability to tax in the State or to comply with any other law of the State, or 20

(ii) such financial accounts are subject to an external financial audit. 25

(3B) (a) Subject to paragraph (b), where any of the qualifying entities of an MNE group, large-scale domestic group or joint venture group, as the case may be, located in the State prepare financial accounts under more than one local accounting standard then, for the purposes of subsection (3A), the financial accounting net income or loss of a constituent entity for the fiscal year shall be determined in accordance with— 30

(i) the local accounting standard used for the purposes of determining the profits, losses or gains of the qualifying entity for the purposes of Case I or II of Schedule D, or 35

(ii) where no such profits, losses or gains exist, the local accounting standard used for the preparation of the financial accounts that are annexed to the annual return to be filed with the Registrar in accordance with the Companies Act 2014, for the accounting period which corresponds to the fiscal year. 40

(b) Where a qualifying entity does not prepare financial accounts—

- (i) for the purposes of determining the profits, losses or gains of the qualifying entity for the purposes of Case I or II of Schedule D, or
  - (ii) that are annexed to the annual return to be filed with the Registrar in accordance with the Companies Act 2014, for the accounting period which corresponds to the fiscal year,

the financial accounting net income or loss of a constituent entity for the fiscal year shall be determined in accordance with subsections (2) and (3).’,
- (f) subsections (4), (5) and (7) of section 111Z did not apply,
- (g) any covered tax of a main entity that is allocable to a permanent establishment located in the State under subsection (2) of 111Z was not allocated to that permanent establishment,
- (h) a reference to covered taxes in section 111Z(6) is construed as only including withholding taxes imposed on the distribution of a qualifying entity in the State,
- (i) subsections (3) and (5) of section 111AO did not apply, and
- (j) subsections (5) to (7) of section 111AP did not apply.
- (3) For the purposes of subsection (1), this Part has effect for domestic purposes in respect of a qualifying entity within the meaning of section 111AAB(1)(c) as if—
  - (a) references in this Part to member of a group, member of an MNE group and member of a large-scale domestic group were to qualifying entity,
  - (b) references in this Part to the consolidated financial statements of the ultimate parent were to the standalone financial statements of the qualifying entity, and
  - (c) the following sections of this Part were omitted:
    - (i) section 111R;
    - (ii) section 111S;
    - (iii) section 111Z;
    - (iv) section 111AA;
    - (v) section 111AH;
    - (vi) section 111AO;
    - (vii) section 111AP;
    - (viii) section 111AQ;
    - (ix) section 111AR;



- (x) section 111AU;
  - (xi) section 111AV.
- (4) Section 111AY shall apply for domestic purposes—
- (a) where none of the ownership interests in a qualifying entity are held by a parent entity subject to a qualified IIR, and 5
  - (b) as if the following were substituted for subsection (1) of that section—
    - ‘(1) The domestic top-up tax due by a qualifying entity in accordance with section 111AAC(1) shall be reduced to zero where— 10
      - (a) the qualifying entity is a member of an MNE group, in the first 5 years of the initial phase of the international activity of the MNE group, starting from the first day of the fiscal year in which the MNE group falls within the scope of this Part for the first time, notwithstanding the requirements laid down in Chapter 5, 15
      - (b) the qualifying entity is a member of a large-scale domestic group, in the first 5 years, starting from the first day of the fiscal year in which the large-scale domestic group falls within the scope of this Part for the first time, or 20
      - (c) the qualifying entity is an entity within the meaning of section 111AAB(1)(c), in the first 5 years, starting from the first day of the accounting period in which entity falls within the scope of this Part for the first time.’.
- (5) (a) For the purposes of this subsection, ‘new transition year’ means the first fiscal year that a qualifying entity is subject to a qualified IIR or a qualified UTPR in a jurisdiction, where that fiscal year begins on a date later than the beginning of the transition year within the meaning of section 111AW(1). 25
- (b) For the purposes of determining the qualified domestic top-up tax of a qualifying entity in respect of a new transition year: 30
    - (i) any excess negative tax expense carry-forward shall be eliminated at the beginning of the new transition year;
    - (ii) section 111X(9) shall not apply to any deferred tax liability that was taken into account in calculating the effective tax rate for the purposes of determining the domestic top-up tax of the qualifying entity for a fiscal year prior to the new transition year, that was not recaptured prior to the new transition year; 35
    - (iii) section 111X(9) shall apply to deferred tax liabilities that are taken into account in, and subsequent to, the new transition year; 40
    - (iv) any qualifying loss deferred tax asset in respect of a fiscal year

preceding the new transition year shall be eliminated and the filing constituent entity may make a new election in accordance with section 111Y(1)(a) and, notwithstanding section 111Y(5), the filing constituent entity may make a new election in the top-up tax information return of the MNE group for the new transition year in accordance with section 111Y(1)(a); 5

(v) the deferred tax assets and deferred tax liabilities taken into account in determining the effective tax rate for a jurisdiction in accordance with section 111AW(2) shall be eliminated and that subsection shall be applied at the beginning of the new transition year; 10

(vi) section 111AW(3) shall apply to transactions occurring after 30 November 2021 and before the beginning of the new transition year but where qualified domestic top-up tax was payable due to the application of section 111U(6) in respect of a deferred tax asset attributable to a tax loss, such deferred tax asset shall not be treated as arising from items excluded from the calculation of qualifying income or loss under Chapter 3. 15

(6) Where this Part provides that an election may be made, then that election may be made for domestic purposes to the extent that such an election would affect the calculation of domestic top-up tax for a qualifying entity. 20

(7) For the purposes of subsection (6), a foreign IIR election is to be treated as an election made under this Part.

**Scope of application of qualifying domestic top-up tax** 25

**111AAE.** This Chapter shall apply to a qualifying entity—

(a) within the meaning of paragraph (a) or (b), as the case may be, of section 111AAB(1) for fiscal years beginning on or after 31 December 2023, and

(b) within the meaning of paragraph (c) of section 111AAB(1) for accounting periods beginning on or after 31 December 2023. 30

CHAPTER 10

*Administration*

**Interpretation (Chapter 10)**

**111AAF.** (1) In this Chapter— 35

‘assessment’ means an assessment to GloBE tax that is made under this Part and, unless the context otherwise requires, includes a self-assessment;

‘designated local entity’ means the constituent entity of an MNE group or large-scale domestic group that is located in the State and has been appointed by the other constituent entities of the MNE group or large-scale domestic group located in the State to file the top-up tax 40

information return or submit the notification of filer on their behalf;

‘electronic means’ has the same meaning as it has in section 917EA;

‘GloBE return’ means an IIR return, UTPR return or QD TT return, as the case may be;

‘GloBE tax’ means IIR top-up tax, UTPR top-up tax or domestic top-up tax, as the case may be; 5

‘IIR return’ has the meaning assigned to it in section 111AAJ;

‘IIR self-assessment’ means an assessment by a relevant parent entity, or a person acting under the authority of a relevant parent entity, of the amount of IIR top-up tax payable by the relevant parent entity for the fiscal year; 10

‘notification of filer’ has the meaning assigned to it in section 111AAI;

‘prescribed form’ means a form prescribed by the Revenue Commissioners or a form used under the authority of the Revenue Commissioners; 15

‘QD TT group’ has the meaning assigned to it in section 111AAO;

‘QD TT group filer’ has the meaning assigned to it in section 111AAO;

‘QD TT return’ has the meaning assigned to it in section 111AAN;

‘QD TT self-assessment’ means an assessment by a qualifying entity, or a person acting under the authority of a qualifying entity, of the amount of domestic top-up tax payable by the qualifying entity for the fiscal year; 20

‘qualifying entity’ has the meaning assigned to it in section 111AAB;

‘relevant parent entity’ has the meaning assigned to in section 111AAH; 25

‘relevant UTPR entity’ has the meaning assigned to it in section 111AAH;

‘Revenue assessment’ has the meaning assigned to it in section 111AAU;

‘specified return date’ in respect of a fiscal year means— 30

(a) the last day of the period of 15 months beginning on the day immediately following the end of the fiscal year, or

(b) where the fiscal year is a transition year, the last day of the period of 18 months beginning on the day immediately following the end of the fiscal year; 35

‘TIN’ means the tax identification number allocated by the Revenue Commissioners to a constituent entity, or where a constituent entity is located in a jurisdiction other than the State, the tax identification number allocated by the tax authority of the jurisdiction in which that

constituent entity is located;

‘top-up tax information return’ has the meaning assigned to it in section 111AAI;

‘transition year’ means the first fiscal year that a qualifying entity, a relevant UTPR entity or a relevant parent entity, as the case may be, comes within scope of this Part; 5

‘UTPR group’ shall be construed in accordance with section 111AAL;

‘UTPR group filer’ has the meaning assigned to it in section 111AAL;

‘UTPR return’ has the meaning assigned to it in section 111AAK;

‘UTPR self-assessment’ means an assessment by a relevant UTPR entity, or a person acting under the authority of a relevant UTPR entity, of the amount of UTPR top-up tax payable by the relevant UTPR entity for the fiscal year. 10

(2) A notification, notice, return or other such document required to be delivered to the Revenue Commissioners under this Part shall be delivered by electronic means and through such electronic systems as the Revenue Commissioners may make available for the time being for any such purpose, and the relevant provisions of Chapter 6 of Part 38 shall apply. 15

(3) For the purposes of this Chapter a reference to ‘entity’ shall be construed as including a reference to a permanent establishment. 20

(4) For the purposes of this Chapter a reference to ‘fiscal year’ shall be construed as including a reference to an accounting period in respect of an entity to which section 111AAB(1)(c) applies.

**Care and management**

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**111AAG.** (1) IIR top-up tax, UTPR top-up tax and domestic top-up tax shall be under the care and management of the Revenue Commissioners.

(2) Part 37 shall apply to IIR top-up tax, UTPR top-up tax and domestic top-up tax, subject to the following modifications:

(a) a reference to corporation tax in sections 849, 861, 863, 864, 865B, 872 and 874 shall be construed as including a reference to IIR top-up tax, UTPR top-up tax and domestic top-up tax; 30

(b) a reference to the Tax Acts in sections 851, 852, 856, 860, 861, 864, 865A, 868, 869, 873 and 874 shall be construed as including a reference to this Part; 35

(c) a reference to accounting period in section 863 shall be construed as including a reference to fiscal year;

(d) a reference to a chargeable person or a chargeable person (within the meaning of Part 41A) in section 865 shall be construed as including a reference to a qualifying entity, relevant UTPR entity and relevant parent entity; 40

- (e) the definition of ‘chargeable period’ in section 865(1)(a) shall be construed as if “has the same meaning as ‘fiscal year’ in section 111A” were substituted for “has the meaning assigned to it by section 321”;
- (f) in section 870— 5
  - (i) a reference to the Capital Gains Tax Acts shall be construed as including a reference to this Part,
  - (ii) a reference to tax shall be construed as including a reference to IIR top-up tax, UTPR top-up tax and domestic top-up tax, and
  - (iii) a reference to assessment shall be construed as a reference to an assessment within the meaning of this Chapter. 10

**Obligation to register**

- 111AAH.** (1) (a) An entity that is subject to IIR top-up tax for a fiscal year (in this Chapter referred to as a ‘relevant parent entity’), shall give notice to the Revenue Commissioners, in the form and manner specified by the Revenue Commissioners, that it is such an entity, not later than 12 months after the last day of the first fiscal year during which it is a relevant parent entity, immediately following a fiscal year for which it was not a relevant parent entity. 15
- (b) An entity that is subject to UTPR top-up tax for a fiscal year (in this Chapter referred to as a ‘relevant UTPR entity’) shall give notice to the Revenue Commissioners in the form and manner specified by the Revenue Commissioners, that it is such an entity, not later than 12 months after the last day of the first fiscal year during which it is a relevant UTPR entity, immediately following a fiscal year for which it was not a relevant UTPR entity. 20  
25
- (c) A qualifying entity shall give notice to the Revenue Commissioners, in the form and manner specified by the Revenue Commissioners, that it is such an entity, not later than 12 months after the last day of the first fiscal year that it is a qualifying entity, immediately following a fiscal year for which it was not a qualifying entity. 30
- (2) A notice under subsection (1) shall contain—
- (a) the name of the entity,
  - (b) the TIN of the entity, 35
  - (c) the tax or taxes in respect of which the entity is registering,
  - (d) where the entity is a member of an MNE group or a large-scale domestic group—
    - (i) the name of the ultimate parent entity,
    - (ii) the location of the ultimate parent entity, and 40
    - (iii) the TIN of the ultimate parent entity,

- (e) details of the first fiscal year that the entity is a relevant parent entity, relevant UTPR entity or qualifying entity, as the case may be,
- (f) where an entity has been appointed as the designated filing entity on behalf of the MNE group or the large-scale domestic group of which the entity is a member—
  - (i) the name of the designated filing entity,
  - (ii) the location of the designated filing entity, and
  - (iii) the TIN of the designated filing entity,
- (g) where the entity is a member of an MNE group or a large-scale domestic group and an entity has been appointed by the entity and other constituent entities of the group located in the State as the designated local entity—
  - (i) the name of the designated local entity, and
  - (ii) the TIN of the designated local entity,
- (h) where the entity is a member of an MNE group or a large-scale domestic group and the entity has been appointed by other constituent entities of the group located in the State as the designated local entity—
  - (i) the names of the other constituent entities, and
  - (ii) the TINs of the other constituent entities,
- (i) where the entity is a member of an MNE group, large-scale domestic group or joint venture group and the entity and all of the relevant QD TT members of the group elect to be members of a QD TT group—
  - (i) notice in writing of the election to become a member of the QD TT group,
  - (ii) the name of the QD TT group filer,
  - (iii) the TIN of the QD TT group filer, and
  - (iv) where the entity is the QD TT group filer, notification that it is the QD TT group filer,
- (j) where the entity is a member of an MNE group and the entity and all of the relevant UTPR members of the group elect to be members of a UTPR group—
  - (i) notice in writing of the election to become a member of the UTPR group,
  - (ii) the name of the UTPR group filer,
  - (iii) the TIN of the UTPR group filer, and
  - (iv) where the entity is the UTPR group filer, notification that it is

the UTPR group filer,

and

(k) such other information as the Revenue Commissioners may reasonably require for the purposes of this Part.

(3) Where there is any change to the information provided under subsection (2) the entity shall notify the Revenue Commissioners of the change within 12 months of the end of the fiscal year in which the change occurred. 5

(4) Where an entity ceases to be a qualifying entity, relevant UTPR entity or relevant parent entity, as the case may be, the entity shall notify the Revenue Commissioners of the cessation within 12 months of the end of the first fiscal year in which the entity is not such an entity immediately following a fiscal year in which the entity was such an entity. 10

(5) Where an entity fails to give notice to the Revenue Commissioners in accordance with subsection (1) the entity shall be liable to a penalty of €10,000. 15

(6) Where an entity fails to comply with subsection (3) or (4) that constituent entity shall be liable to a penalty of €10,000.

**Top-up tax information return** 20

**111AAI.** (1) Subject to subsections (2) and (5), a constituent entity located in the State for a fiscal year shall prepare and deliver to the Revenue Commissioners a correct and complete return (in this Part referred to as a ‘top-up tax information return’) for the fiscal year, on or before the specified return date, that— 25

(a) is in accordance with the standardised GloBE Information Return set out in the document referred to in paragraph (f) of the definition, in section 111B, of ‘OECD Pillar Two guidance’, and

(b) contains the information referred to in subsection (3).

(2) (a) A constituent entity may appoint a designated local entity to prepare and deliver to the Revenue Commissioners the top-up tax information return on behalf of the constituent entity, but no more than one entity in an MNE group or large-scale domestic group, as the case may be, may be appointed as a designated local entity. 30

(b) Subsection (1) shall not apply to a constituent entity for a fiscal year where a top-up tax information return for the fiscal year is prepared and delivered to a tax authority in another jurisdiction on or before the specified return date by— 35

(i) the ultimate parent entity located in a jurisdiction that has a qualifying competent authority agreement in effect with the State for that fiscal year, or 40

(ii) a designated filing entity located in a jurisdiction that has a

qualifying competent authority agreement in effect with the State for that fiscal year.

- (c) Where paragraph (b) applies, the constituent entity or a designated local entity on behalf of the constituent entity shall, on or before the specified return date, prepare and deliver to the Revenue Commissioners a notification (in this section referred to as a ‘notification of filer’) containing the information specified in subsection (7). 5
- (3) A top-up tax information return shall include the following information in respect of the MNE group or large-scale domestic group for a fiscal year: 10
  - (a) the name, TIN, location and status for the purposes of the Directive of each entity;
  - (b) information on the overall corporate structure of the MNE group or large-scale domestic group, including controlling interests in the constituent entities held by other constituent entities; 15
  - (c) such information that is necessary to calculate—
    - (i) the effective tax rate for each jurisdiction,
    - (ii) the top-up tax for each constituent entity,
    - (iii) the top-up tax of a member of a joint venture group, and 20
    - (iv) the allocation of the top-up tax amount under the qualified IIR and the qualified UTPR for each jurisdiction;
  - (d) a record of the elections made or withdrawn;
  - (e) such other information in relation to this Part as the Revenue Commissioners may reasonably require. 25
- (4) For the purpose of subsection (3), where a constituent entity is required to prepare and deliver a top-up tax information return, the constituent entity shall request from the ultimate parent entity of the MNE group or large-scale domestic group such information as is required to complete the top-up tax information return and, where the ultimate parent entity fails to so provide all information required, the constituent entity shall notify the Revenue Commissioners, in such form and manner as may be specified by the Revenue Commissioners, of that refusal when delivering the return. 30
- (5) Where the ultimate parent entity of a constituent entity is located in a third country jurisdiction that applies rules that have been assessed as equivalent to the rules of the Directive, pursuant to Article 52 of the Directive, subsection (1) shall not apply to the constituent entity and the constituent entity or the designated local entity shall prepare and deliver to the Revenue Commissioners, on or before the specified return date, in the prescribed form, a top-up tax information return containing the following information: 35 40



- (a) all information that is necessary for the purposes of the application of section 111H, including—
  - (i) identification of all the constituent entities in which a partially-owned parent entity located in the State holds or held, directly or indirectly, an ownership interest at any time during the fiscal year and the structure of those ownership interests, 5
  - (ii) all information that is necessary to calculate the effective tax rate of the jurisdictions in which a partially-owned parent entity located in the State holds ownership interests in constituent entities to which subparagraph (i) refers and the amount of the top-up tax due, and 10
  - (iii) all information that is relevant for that purpose in accordance with section 111I, 111J or 111K, as the case may be;
- (b) all information that is necessary for the application of section 111M, including— 15
  - (i) identification of all the constituent entities located in the ultimate parent entity jurisdiction and the structure of those ownership interests,
  - (ii) all information that is necessary to calculate the effective tax rate of the ultimate parent entity’s jurisdiction and the amount of the top-up tax due, and 20
  - (iii) all information necessary for the allocation of that top-up tax based on the UTPR allocation formula set out in section 111N;
- (c) all information that is necessary for the application of a qualified domestic top-up tax of a Member State. 25
- (6) A return required to be prepared and delivered under this section may be amended only where such an amendment is necessary to—
  - (a) correct either an error or mistake, or
  - (b) comply with any other provision of this Part.
- (7) A notification of filer, in respect of a constituent entity, shall include— 30
  - (a) the name of the constituent entity,
  - (b) the TIN of the constituent entity,
  - (c) the name of the entity filing the top-up tax information return,
  - (d) the location of the entity filing the top-up tax information return,
  - (e) the TIN of the entity filing the top-up tax information return, and 35
  - (f) such other information in relation to this Part as the Revenue Commissioners may reasonably require.
- (8) A qualifying entity within the meaning of section 111AAB(1)(c) for an accounting period shall prepare and deliver to the Revenue

Commissioners a correct and complete top-up tax information return, in respect of that entity for the accounting period, on or before the specified return date.

**IIR return and self-assessment**

- 111AAJ.** (1) An entity that is a relevant parent entity for a fiscal year shall prepare and deliver to the Revenue Commissioners a full and true return (in this Chapter referred to as an ‘IIR return’) for the fiscal year, in the prescribed form, on or before the specified return date. 5
- (2) An IIR return shall include—
- (a) an IIR self-assessment, 10
  - (b) a declaration to the effect that the return is full and true, and
  - (c) such further particulars as the Revenue Commissioners may reasonably require for the purposes of this Part as provided for in the prescribed form.
- (3) An IIR return and IIR self-assessment may be amended in accordance with section 959V, as applied by section 111AAT. 15

**UTPR return and self-assessment**

- 111AAK.** (1) An entity that is a relevant UTPR entity for a fiscal year shall prepare and deliver to the Revenue Commissioners a full and true return (in this Chapter referred to as a ‘UTPR return’) for the fiscal year, in the prescribed form, on or before the specified return date. 20
- (2) A UTPR return shall include—
- (a) a UTPR self-assessment,
  - (b) a declaration to the effect that the return is full and true, and
  - (c) such further particulars as the Revenue Commissioners may reasonably require for the purposes of this Part as provided for in the prescribed form. 25
- (3) A UTPR return and UTPR self-assessment may be amended in accordance with section 959V, as applied by section 111AAT.

**UTPR group**

- 111AAL.** (1) For the purposes of this Chapter, a ‘UTPR group’ for a fiscal year shall comprise all of the constituent entities of an MNE group that would, in the absence of subsection (2), be required, in accordance with section 111AAK, to prepare and deliver to the Revenue Commissioners a UTPR return for the fiscal year (in this Chapter referred to as the ‘relevant UTPR members’), where all such relevant UTPR members— 30
- (a) have elected to be members of the UTPR group, and
  - (b) have appointed one such member (in this Part referred to as the ‘UTPR group filer’) to prepare and deliver the UTPR return on behalf of the relevant UTPR members, 40

before the specified return date for the fiscal year.

- (2) A UTPR group filer shall prepare and deliver a UTPR return, in respect of all of the relevant UTPR members, for the fiscal year on or before the specified return date.
- (3) Where a UTPR group filer prepares and delivers a UTPR return, in respect of all relevant UTPR members, for a fiscal year on or before the specified return date—
  - (a) section 111AAK shall not apply to the other relevant UTPR members other than the UTPR group filer (in this subsection referred to as ‘the other relevant UTPR members’) for the fiscal year,
  - (b) the other relevant UTPR members shall not be chargeable to UTPR top-up tax in respect of the fiscal year, and
  - (c) the UTPR group filer shall be chargeable to an amount of UTPR top-up tax in respect of all of the relevant UTPR members in respect of whom the return is prepared and delivered for the fiscal year and such an amount shall be equal to the UTPR top-up tax amount of the MNE group allocated to the State, as determined in accordance with section 111N(2).
- (4) A payment made by a relevant UTPR member to the UTPR group filer in respect of, but not exceeding, the amount of UTPR top-up tax that the relevant UTPR member would have been chargeable to in respect of the fiscal year if subsection (3) did not apply, shall not—
  - (a) be taken into account in calculating profits or losses of either company for corporation tax purposes, and
  - (b) be regarded as a distribution or a charge on income for any of the purposes of the Corporation Tax Acts.
- (5) A relevant UTPR member may withdraw an election made under subsection (1) and where such a withdrawal is made subsections (2) to (4) shall not apply to fiscal years in respect of which the specified return date occurs after the date on which the withdrawal of the election is submitted to the Revenue Commissioners.

**UTPR group recovery**

- 111AAM.** (1) (a) In this section ‘authorised officer’ means an officer of the Revenue Commissioners authorised by them in writing to exercise the powers conferred by this section.
- (b) For the purposes of this section, any reference to an amount of UTPR top-up tax shall be construed as including a reference to any interest, surcharge or penalty relating to such an amount.
- (2) This section shall apply where UTPR top-up tax payable by a UTPR group filer in respect of a fiscal year is not paid within 12 months after the date on or before which the UTPR top-up tax is due and payable.

- (3) (a) An authorised officer may, at any time before the end of the period—
- (i) beginning with the date that is 12 months after the date on which UTPR top-up tax is due and payable, and
  - (ii) ending 4 years after the date on which UTPR top-up tax is due and payable, 5
- serve on a relevant UTPR member of a UTPR group for the fiscal year (hereinafter referred to as the ‘specified relevant UTPR member’), a notice in writing—
- (I) stating the amount which remains unpaid of the UTPR top-up tax payable and the date on which the tax became due and payable, and 10
  - (II) requiring the specified relevant UTPR member to pay that amount within 30 days of service of the notice, 15
- and, where such a notice is served, the amount referred to in clause (I) shall be so payable by the specified relevant UTPR member.
- (b) Any amount which a specified relevant UTPR member is required to pay pursuant to a notice under this subsection may be recovered from the specified relevant UTPR member as if it were tax due by that specified relevant UTPR member, and that specified relevant UTPR member may recover any such amount paid pursuant to a notice under this subsection from the UTPR group filer. 20
- (c) Where the amount of tax included in a notice served under this subsection is not paid in full by the specified relevant UTPR member, an authorised officer may— 25
- (i) revoke the notice, and
  - (ii) serve a notice under this subsection on another relevant UTPR member until the full amount of tax due and payable is paid.

#### **QD TT return and self-assessment**

- 111AAN.** (1) An entity that is a qualifying entity for a fiscal year shall prepare and deliver to the Revenue Commissioners a full and true return (in this Chapter referred to as a ‘QD TT return’) for the fiscal year, in the prescribed form, on or before the specified return date. 30
- (2) A QD TT return required under subsection (1) shall include—
- (a) a QD TT self-assessment, 35
  - (b) a declaration to the effect that the return is full and true, and
  - (c) such further particulars as the Revenue Commissioners may reasonably require for the purposes of this Part as provided for in the prescribed form.
- (3) A QD TT return and QD TT self-assessment may be amended in accordance with section 959V, as applied by section 111AAT. 40

**QD TT group**

- 111AAO.** (1) For the purposes of this Chapter, a ‘QD TT group’ for a fiscal year shall comprise—
- (a) all of the constituent entities of an MNE group,
  - (b) all of the constituent entities of a large-scale domestic group, or 5
  - (c) the joint venture and all the joint venture affiliates of a joint venture group,
- as the case may be, that would, in the absence of subsection (2), be required, in accordance with section 111AAN, to prepare and deliver to the Revenue Commissioners a QD TT return for the fiscal year (in this Chapter referred to as ‘the relevant QD TT members’), where all such relevant QD TT members— 10
- (i) have elected to be members of the QD TT group, and
  - (ii) have appointed one such member (in this Part referred to as the ‘QD TT group filer’) to prepare and deliver the QD TT return on behalf of the relevant QD TT members, 15
- on or before the specified return date for the fiscal year.
- (2) A QD TT group filer shall prepare and deliver a QD TT return, in respect of all of the relevant QD TT members, for the fiscal year on or before the specified return date. 20
- (3) Where a QD TT group filer prepares and delivers a QD TT return, in respect of all relevant QD TT members, for a fiscal year on or before the specified return date—
- (a) section 111AAN shall not apply to the relevant QD TT members other than the QD TT group filer (in this subsection referred to as ‘the other relevant QD TT members’) for the fiscal year, 25
  - (b) the other relevant QD TT members shall not be chargeable to domestic top-up tax in respect of the fiscal year, and
  - (c) the QD TT group filer shall be chargeable to an amount of domestic top-up tax in respect of all of the relevant QD TT members, in respect of whom the return is prepared and delivered, for the fiscal year and such an amount shall be equal to the jurisdictional top-up tax for the QD TT group for the fiscal year, as would be determined in accordance with section 111AAD for domestic purposes when calculating the domestic top-up tax of the relevant QD TT members if this section did not apply. 30 35
- (4) A payment made by a relevant QD TT member to the QD TT group filer in respect of, but not exceeding, the amount of domestic top-up tax that the relevant QD TT member would have been chargeable to in respect of the fiscal year if subsection (3) did not apply, shall not— 40
- (a) be taken into account in calculating profits or losses of either company for corporation tax purposes, and

(b) be regarded as a distribution or a charge on income for any of the purposes of the Corporation Tax Acts.

(5) A relevant QD TT member may withdraw an election made under subsection (1) and where such a withdrawal is made subsections (2) to (4) shall not apply to fiscal years in respect of which the specified return date occurs after the date on which the withdrawal of the election is submitted to the Revenue Commissioners. 5

### **QD TT group recovery**

**111AAP.** (1) (a) In this section ‘authorised officer’ means an officer of the Revenue Commissioners authorised by them in writing to exercise the powers conferred by this section. 10

(b) For the purposes of this section any reference to an amount of domestic top-up tax shall be construed as including a reference to any interest, surcharge or penalty relating to such an amount.

(2) This section shall apply where domestic top-up tax payable by a QD TT group filer in respect of a fiscal year is not paid within 12 months after the date on or before which the domestic top-up tax is due and payable. 15

(3) (a) An authorised officer may, at any time before the end of the period— 20

(i) beginning with the date that is 12 months after the date on which the domestic top-up tax is due and payable, and

(ii) ending 4 years after the date on which the domestic top-up tax is due and payable,

serve on a relevant QD TT member of a QD TT group for the fiscal year (hereinafter referred to as the ‘specified relevant QD TT member’), a notice in writing— 25

(I) stating the amount which remains unpaid of the domestic top-up tax payable and the date on which the tax became due and payable, and 30

(II) requiring the specified relevant QD TT member to pay that amount within 30 days of service of the notice,

and, where such a notice is served, the amount referred to in clause (I) shall be so payable by the specified relevant QD TT member. 35

(b) Any amount which a specified relevant QD TT member is required to pay pursuant to a notice under this subsection may be recovered from the specified relevant QD TT member as if it were tax due by that specified relevant QD TT member, and that specified relevant QD TT member may recover any such amount paid pursuant to a notice under this subsection from the QD TT group filer. 40

(c) Where the amount of tax included in a notice served under this

subsection is not paid in full by the specified relevant QD TT member, an authorised officer may—

- (i) revoke the notice served, and
- (ii) serve a notice under this section on another relevant QD TT member until the full amount of tax due and payable is paid.

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### **Expression of doubt**

**111AAQ.** (1) In this section—

‘law’ means one or more provisions of this Part;

‘letter of expression of doubt’, in relation to a matter, means a communication by electronic means which—

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- (a) sets out full details of the facts and circumstances of the matter,
- (b) specifies the doubt, the basis for the doubt and the law giving rise to the doubt,
- (c) identifies the amount of GloBE tax in doubt in respect of the fiscal year to which the expression of doubt relates,
- (d) lists or identifies the supporting documentation that is being submitted to the Revenue Commissioners in relation to the matter, and

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- (e) is clearly identified as a letter of expression of doubt for the purposes of this section,

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and a reference to ‘an expression of doubt’ shall be construed accordingly.

- (2) Where an entity is in doubt as to the correct application of the law to any matter to be contained in a GloBE return, required for a fiscal year by this Part, which could—

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- (a) give rise to a liability to GloBE tax by that entity, or
- (b) affect that entity’s liability to GloBE tax or entitlement to a refund of GloBE tax,

then, the entity may—

- (i) prepare the return for the fiscal year to the best of that entity’s belief as to the correct application of the law to the matter, and deliver the return to the Revenue Commissioners,

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- (ii) include a letter of expression of doubt with the return, and

- (iii) submit supporting documentation to the Revenue Commissioners in relation to the matter.

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- (3) This section applies only if—

- (a) the return referred to in subsection (2) is delivered to the Revenue Commissioners, and

- (b) the documentation referred to in paragraph (iii) of subsection (2) is delivered to the Revenue Commissioners,  
on or before the specified return date for the fiscal year involved.
- (4) Where a return is delivered in accordance with subsection (2), a self-assessment shall, where required under this Part, be included in the return by reference to the particulars included in the return. 5
- (5) Subject to subsection (6), where a letter of expression of doubt is included with a return delivered by an entity to the Revenue Commissioners for a fiscal year—
- (a) that person shall be treated as making a full and true disclosure with regard to the matter involved, and 10
- (b) any additional GloBE tax arising from the amendment of an assessment for the fiscal year by a Revenue officer to give effect to the correct application of the law to that matter shall be due and payable in accordance with section 959AU(2). 15
- (6) Subsection (5) shall not apply where a Revenue officer does not accept as genuine an expression of doubt in respect of the application of the law to a matter, and an expression of doubt shall not be accepted as genuine in particular where—
- (a) the officer is of the opinion, having regard to any guidelines published by the Revenue Commissioners on the application of the law in similar circumstances and to any relevant supporting documentation delivered to the Revenue Commissioners in relation to the matter in accordance with subsections (2) and (3), that the matter is sufficiently free from doubt as not to warrant an expression of doubt, or 20 25
- (b) the officer is of the opinion that the constituent entity was acting with a view to the evasion or avoidance of GloBE tax.
- (7) Where a Revenue officer does not accept an expression of doubt as genuine, he or she shall notify the entity accordingly and any additional GloBE tax arising from the amendment of an assessment for the fiscal year by a Revenue officer to give effect to the correct application of the law to the matter involved shall be due and payable in accordance with section 959AU(1). 30
- (8) An entity aggrieved by a Revenue officer's decision that the entity's expression of doubt is not genuine may appeal the decision to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of the notice of that decision. 35

**Actions by person acting under authority**

- 111AAR.** (1) A return required by this Part to be prepared and delivered to the Revenue Commissioners may be prepared and delivered by an entity or by a person acting under the authority of the entity. 40
- (2) Where a return is prepared and delivered by a person acting under the



authority of an entity, this Part shall apply as if the return had been prepared and delivered by the entity.

- (3) Anything required or allowed to be done by an entity under this Part may be done by a person acting under the authority of the entity, unless the contrary is proved. 5

#### **Date for payment**

**111AAS.** GloBE tax payable by an entity in respect of a fiscal year shall be due and payable to the Revenue Commissioners on or before the specified return date in respect of the fiscal year.

#### **Assessments and enquiries 10**

**111AAT.** (1) Sections 959V, 959Y, 959Z, 959AA, 959AC, 959AD, 959AE, 959AU, 959AV and 959AW shall apply to GloBE tax, subject to the following modifications:

- (a) a reference to a chargeable person shall be construed as including a reference to a qualifying entity, relevant UTPR entity and relevant parent entity; 15
- (b) a reference to a chargeable period shall be construed as including a reference to a fiscal year;
- (c) a reference to income, profits or gains, or, as the case may be, chargeable gains shall be construed as including a reference to amounts in respect of which an entity is subject to GloBE tax; 20
- (d) a reference to a return shall be construed as including a reference to a GloBE return within the meaning of this Part;
- (e) a reference to the specified return date for the chargeable period shall be construed as including a reference to the specified return date under this Part; 25
- (f) a reference to tax shall be construed as including a reference to GloBE tax under this Part;
- (g) a reference to assessment, Revenue assessment or self-assessment, as the case may be, shall be construed as including a reference to an assessment, Revenue assessment or self-assessment within the meaning of this Part, as the case may be; 30
- (h) a reference to the Acts shall be construed as including a reference to this Part;
- (i) the reference in section 959V(5) to section 959L shall be construed as including a reference to section 111AAR. 35

#### **Revenue assessment**

**111AAU.** (1) An assessment under section 959Y, as applied by section 111AAT, of the GloBE tax payable by an entity in respect of a fiscal year shall be referred to in this Chapter as a 'Revenue assessment'. 40

- (2) A Revenue assessment shall be made by a Revenue officer and shall

involve an assessment of—

- (a) the amount of GloBE tax payable for the fiscal year, and
  - (b) the balance of GloBE tax, taking account of any amount of GloBE tax paid directly by the entity to the Collector General for the fiscal year, which under this Part—
    - (i) is due and payable by the entity to the Revenue Commissioners for the fiscal year, or
    - (ii) is overpaid by the entity for the fiscal year and which, subject to this Part, is available for offset or repayment by the Revenue Commissioners.
- (3) A Revenue assessment shall, where required under section 111AAX, include the amount of the surcharge due for the fiscal year.
- (4) Where a Revenue officer makes a Revenue assessment, any self-assessment previously made under this Chapter shall, for the purposes of determining the entity's liability to tax for the fiscal year, be treated as if it had not been made and shall be void for such purposes.

**Notice of Revenue assessment**

- 111AAV.** (1) (a) A Revenue officer shall give notice of a Revenue assessment to the entity assessed.
- (b) A notice of a Revenue assessment under subsection (1) may be given by the Revenue officer by electronic means.
- (2) Where a return is prepared and delivered in accordance with section 111AAR by a person acting under the authority of the entity, a copy of the notice of Revenue assessment shall be given to that other person.
- (3) Subject to section 959AC as applied by section 111AAT, a notice of Revenue assessment shall include details of—
- (a) the calculation and amount of GloBE tax for the fiscal year,
  - (b) the balance of GloBE tax, taking account of any amount of GloBE tax paid directly by the entity to the Collector General for the fiscal year, which under this Part—
    - (i) is due and payable by the entity to the Revenue Commissioners for the fiscal year, or
    - (ii) is overpaid by the entity for the fiscal year and which, subject to this Part, is available for offset or repayment by the Revenue Commissioners.
  - (c) the amount of any surcharge which, under section 111AAX, is due for the fiscal year,
  - (d) the name of the Revenue officer who is giving notice of the Revenue assessment and the address of the Revenue office at which that officer is based, and

- (e) the time allowed under section 111AAW for giving notice of appeal against the assessment to which the notice relates.

### **Appeal to Appeal Commissioners**

- 111AAW.** (1) An entity aggrieved by a Revenue assessment made on that entity may appeal that assessment to the Appeal Commissioners, in accordance with section 949I, within 30 days after the date of the notice of assessment. 5
- (2) No appeal may be made against—
- (a) a surcharge imposed under section 111AAX where that is the entity’s sole ground for the appeal, other than where the ground for the appeal relates to a matter referred to in section 111AAX(4), or 10
  - (b) a self-assessment.

### **Surcharge for late return**

- 111AAX.** (1) Where an entity fails to deliver a GloBE return on or before the specified return date, the amount of GloBE tax which would have been payable if such a return had been delivered on or before that date shall be increased by an amount (in this section referred to as the ‘surcharge’), equal to the percentage, specified in column (2) of the Table to this section, opposite the timing of the delivery of the return relative to the specified return date, specified in column (1) of the Table. 15 20
- (2) Where subsection (1) applies, the amount of the surcharge shall not exceed—
- (a) €50,000, where the surcharge applicable is 5 per cent, or
  - (b) €200,000, where the surcharge applicable is 10 per cent. 25
- (3) Interest is payable under section 111AAY on any surcharge as if the surcharge were GloBE tax, and the surcharge and any interest on that surcharge is chargeable and recoverable as if the surcharge and that interest were GloBE tax.
- (4) For the purposes of subsection (1)— 30
- (a) where an entity deliberately or carelessly delivers an incorrect GloBE return on or before the specified return date, that entity shall be deemed to have failed to have delivered the return on or before that date unless the error in the return is remedied by the delivery of a correct return on or before that date, 35
  - (b) where an entity delivers an incorrect GloBE return on or before the specified return date, but does so neither deliberately nor carelessly and it comes to the entity’s notice that it is incorrect, the entity shall be deemed to have failed to have delivered the return on or before the specified return date unless the error in the return is remedied by the delivery of a correct return without unreasonable delay, and 40
  - (c) where an entity delivers a GloBE return on or before the specified

return date, but the Revenue Commissioners, by reason of being dissatisfied with any information contained in the return, require that entity, by notice in writing, to deliver evidence, or a further return or evidence, as may be required by them, the entity shall be deemed to have failed to have delivered the return on or before the specified return date unless the entity delivers the evidence, or further return or evidence, within the period specified in the notice. 5

- (5) In this section, ‘carelessly’ has the same meaning as it has in section 1077F.

**Table** 10

Timing of delivery of return relative to specified return date (1)	Surcharge (2)
Return delivered between 0 and 2 months from the specified return date	5 per cent
Return not delivered within 2 months from the specified return date	10 per cent

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**Interest on overdue amounts**

**111AAY.** (1) Any GloBE tax payable under this Part by an entity shall carry interest from the date when the GloBE tax becomes due and payable until payment and the amount of that interest shall be determined in accordance with subsection (2). 20

- (2) The interest referred to in subsection (1) shall be determined by the following formula—

$$T \times D \times R \quad 25$$

where—

T is the GloBE tax which remains unpaid,

D is the number of days (including part of a day) in the period during which the tax remains unpaid, and

R is the rate, represented by P in the formula  $T \times D \times P$  in section 1080(2)(c)(i), that would apply under that formula if the GloBE tax due under this Part was tax within the meaning of that section, and the period during which the tax remains unpaid was the period of delay, within the meaning of that section. 30

- (3) Subsections (3) to (5) of section 1080 shall apply to interest payable on GloBE tax under subsection (1) as those subsections apply to interest payable on a tax under that section. 35

**Obligation to keep certain records**

**111AAZ.** (1) An entity shall retain, or cause to be retained on behalf of the entity, such records as are required to enable a full and true GloBE return to 40

be made for the purposes of this Part.

- (2) Without prejudice to the generality of subsection (1), the records required to be retained under that subsection shall include, but are not limited to, books, accounts, documents (including documents drawn up in the making up of accounts and showing details of the calculations linking the records to the accounts), and any other data relating to a GloBE return and the calculation of GloBE tax. 5
- (3) Records required to be retained under this section shall be retained in an official language of the State—
- (a) in written form, or 10
- (b) by means of electronic, photographic or other process in accordance with paragraphs (a) to (d) of section 887(2).
- (4) Notwithstanding any other law, records required to be retained under this section shall, subject to subsection (5), be retained by or on behalf of the entity required to retain the records, for the longer of the following periods— 15
- (a) where enquiries into a return are made by a Revenue officer, the period ending on the day on which those enquiries are treated as completed by the officer;
- (b) the period of 6 years beginning from the end of the fiscal year to which they relate or, in the case where they relate to more than one fiscal year, the period of 6 years beginning from the end of the later fiscal year. 20
- (5) For the purposes of this section, where the constituent entity—
- (a) is wound up, the liquidator, or 25
- (b) is dissolved without the appointment of a liquidator, the last directors, including any person occupying the position of director by whatever name called, of the company,
- shall retain the records required to be retained under this section for a period of 5 years from the date from which the company is wound up or dissolved. 30
- (6) A person who fails to comply with this section in respect of the retention of any records relating to a GloBE return or the calculation of GloBE tax shall be liable to a penalty of €10,000.

**Use of currency** 35

**111AAAA.** (1) In this section—

‘rate of exchange’ has the same meaning as it has in section 79;

‘representative rate of exchange’ has the same meaning as it has in section 402.

- (2) (a) For the purposes of determining IIR top-up tax or UTPR top-up tax of a constituent entity of an MNE group or large-scale domestic 40

group, all calculations shall be made using the presentation currency of the consolidated financial statements of the ultimate parent entity of the MNE group or large-scale domestic group.

- (b) If an amount that is relevant to the calculation of IIR top-up tax or UTPR top-up tax of a constituent entity of an MNE group or large-scale domestic group for a fiscal year is denominated in a currency other than the presentation currency of the consolidated financial statements of the ultimate parent entity of the MNE group (referred to in this paragraph as the ‘relevant presentation currency’) and is not converted to the relevant presentation currency in the course of preparing the consolidated financial statements, that amount is to be converted to the relevant presentation currency using the foreign currency translation principles of the financial accounting standard that would have been used to convert the amount to the relevant presentation currency if that conversion were undertaken in the course of preparing the consolidated financial statements. 5 10 15
- (3) For the purposes of determining if any materiality or other threshold in this Part that is denominated in euro is satisfied or exceeded by an amount in respect of a group, entity or jurisdiction for a particular fiscal year, if the amount is denominated in another currency, the amount is to be converted from that currency to euro using the average of the daily rates of exchange, in respect of the two currencies for the month of December included in the fiscal year immediately preceding the particular fiscal year, as quoted by— 20 25
- (a) the European Central Bank,
- (b) the Central Bank of Ireland, where the European Central Bank does not quote such a rate of exchange, or
- (c) an equivalent institution which manages that other currency, where both the European Central Bank and the Central Bank of Ireland do not quote such a rate of exchange. 30
- (4) (a) Where, for the purposes of determining the domestic top-up tax of a qualifying entity which is a member of a group, the financial accounting net income or loss of that qualifying entity for a fiscal year is determined in accordance with a local accounting standard pursuant to section 111AAD(2)(e) then if— 35
- (i) all of the qualifying entities of the MNE group, large-scale domestic group or joint venture group, as the case may be, located in the State have financial statements prepared in accordance with a local accounting standard with a euro functional currency, then for the purposes of determining the domestic top-up tax of that qualifying entity, all calculations shall be made using the euro, or 40
- (ii) subparagraph (i) does not apply, then for the purposes of determining the domestic top-up tax of that qualifying entity, the 45

filing constituent entity may elect, in accordance with section 111AAAD, that all calculations of the qualifying entities in the group are made using either—

(I) the presentation currency of the consolidated financial statements of the ultimate parent entity, or 5

(II) the euro,

using the currency translation rules under the local accounting standard.

(b) Where, for the purposes of determining the domestic top-up tax of a qualifying entity which is a member of a group, the financial accounting net income or loss of a constituent entity for a fiscal year is not determined in accordance with a local accounting standard pursuant to section 111AAD(2)(e) then for the purposes of determining the domestic top-up tax of a qualifying entity all calculations shall be made using the presentation currency of the consolidated financial statements of the ultimate parent entity of the MNE group or large-scale domestic group, using the currency translation rules under that financial accounting standard. 10 15

(c) For the purposes of determining the domestic top-up tax of a qualifying entity which is not a member of a group, all calculations shall be made using the presentation currency of its qualifying financial statements. 20

(5) (a) Every entity that is required under this Part to pay an amount to the Revenue Commissioners shall pay the amount in the currency of the State. 25

(b) If an amount payable by an entity for a fiscal year under this Part would, in the absence of this subsection, be denominated in a currency other than the currency of the State, that amount is to be converted to the currency of the State using the average representative rates of exchange of that other currency for currency of the State for the fiscal year or accounting period. 30

## Penalties

**111AAAB.** (1) Where a constituent entity, of an MNE group or large-scale domestic group, located in the State, is required—

(a) in accordance with section 111AAI(1), to prepare and deliver to the Revenue Commissioners a top-up tax information return in respect of the MNE group or large-scale domestic group for a fiscal year and— 35

(i) the constituent entity, or

(ii) where an entity has been appointed as a designated local entity, the designated local entity on behalf of the constituent entity, 40

fails to deliver a correct and complete top-up tax information return to the Revenue Commissioners on or before the specified return

date, or

(b) in accordance with section 111AAI(2)(c), to prepare and deliver to the Revenue Commissioners a notification of filer on or before the specified return date and—

(i) the constituent entity, or 5

(ii) where an entity has been appointed as a designated local entity, the designated local entity on behalf of the constituent entity,

fails to deliver a notification of filer on or before the specified return date,

the constituent entity shall, subject to subsection (5), be liable to a penalty equal to the amount determined by the formula: 10

$$P \times M$$

where—

P is €10,000, and

M is the number of complete months from the specified return date to the day on which the top-up tax information return or notification, as the case may be, is delivered, subject to a maximum of 48 months. 15

(2) Where an entity—

(a) which is required to do so in accordance with this Chapter, fails to deliver any GloBE return on or before the specified return date, or 20

(b) has been required, by notice given under or for the purposes of this Part, to furnish any particulars, to produce any document, or to make anything available for inspection and the entity fails to comply with such notice, 25

the entity shall, subject to subsection (5), be liable to a penalty of €10,000.

(3) In proceedings for the recovery of a penalty incurred under this section, a certificate signed by a Revenue officer which certifies that the Revenue officer has examined the relevant records and that it appears from those records that— 30

(a) a return or other document referred to in subsection (1) was not received, or

(b) a stated notice was duly given to the entity on a stated day and that notice has not been complied with by the entity, 35

shall be evidence, unless the contrary is proved, of the matters referred to in paragraph (a) or (b), as the case may be.

(4) Any person who deliberately assists in or induces the making or delivery for any purposes of this Part any incorrect return, account,



statement or declaration shall be liable to a penalty of €10,000.

- (5) Where an entity would otherwise be liable to a penalty under this Chapter or section 1077F in respect of a fiscal year the entity shall not be liable to that penalty where—
- (a) the penalty relates to a fiscal year beginning on or before 31 December 2026 and ending on or before 30 June 2028, and
  - (b) the entity has taken reasonable care to ensure the correct application of this Part.

### **Transitional simplified jurisdictional reporting**

- 111AAAC.** (1) In this section ‘simplified jurisdictional reporting framework’ means the method of reporting for the purposes of the top-up tax information return, referred to as the simplified jurisdictional reporting framework, in the document referred to in paragraph (f) of the definition, in section 111B, of ‘OECD Pillar Two guidance’.
- (2) Where, for a fiscal year beginning on or before 31 December 2028 and ending on or before 30 June 2030—
- (a) all of the relevant QDTT members of an MNE group, large-scale domestic group or joint venture group, as the case may be, are members of a QDTT group for a fiscal year, and the QDTT group filer has prepared and delivered a QDTT return, in respect of all of the relevant QDTT members, for the fiscal year on or before the specified return date, or
  - (b) there is no more than one member of an MNE group or joint venture group, as the case may be, that is a qualifying entity for the fiscal year,
- then, on the making of an election by a filing constituent entity for the fiscal year, the filing constituent entity shall complete, in accordance with the simplified jurisdictional reporting framework, the top-up tax information return for the fiscal year, in respect of—
- (i) the relevant QDTT members of the MNE group, large-scale domestic group or joint venture group, as the case may be, where paragraph (a) applies, or
  - (ii) the member of the MNE group or joint venture group, as the case may be, where paragraph (b) applies.
- (3) Where, for a fiscal year beginning on or before 31 December 2028 and ending on or before 30 June 2030—
- (a) members of an MNE group or joint venture group, as the case may be, are located in a jurisdiction other than the State for a fiscal year (referred to in this subsection as the ‘other jurisdiction members’),
  - (b) either—
    - (i) no charge to IIR top-up tax or UTPR top-up tax arises under this Part in respect of the other jurisdiction members for the fiscal

year, or

- (ii) where such a charge does arise, there is no requirement for such an amount to be allocated on a constituent entity by constituent entity basis,

and

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- (c) under the tax law of all jurisdictions in which qualified domestic top-up tax, qualified UTPR or qualified IIR may arise in respect of the other jurisdiction members for the fiscal year, the filing constituent entity may complete, in accordance with the simplified jurisdictional reporting framework, the top-up tax information return for the fiscal year, in respect of the other jurisdiction members,

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then, on the making of an election by a filing constituent entity located in the State for the fiscal year, the filing constituent entity shall complete, in accordance with the simplified jurisdictional reporting framework, the top-up tax information return for the fiscal year, in respect of the other jurisdiction members.

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- (4) Subsection (2) shall not apply in respect of an investment entity that is not an excluded entity, of an MNE group or large-scale domestic group.

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### **Elections**

**111AAD.** (1) An election, and a withdrawal of an election, referred to in this Part shall be made on a top-up tax information return prepared and delivered in accordance with section 111AAI on or before the specified return date for the fiscal year in respect of which the election or the withdrawal relates.

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- (2) (a) Subject to subsection (5), the elections referred to in column (1) of the Table to this section shall have effect for a period of 5 fiscal years, (in this subsection referred to as ‘the effective period’), beginning on the first day of the fiscal year in respect of which the election is made, and remain in effect for subsequent effective periods, other than where the filing constituent entity withdraws the election on the top-up tax information return in respect of the fiscal year beginning immediately after the end of an effective period.

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- (b) The withdrawal of an election referred to in paragraph (a) shall be in effect for an effective period beginning on the first day of the fiscal year (referred to in this paragraph as the ‘withdrawal year’) falling immediately after the last day of the fiscal year in respect of which a previous election was in effect, and a filing constituent entity shall not make a new election of the type withdrawn in respect of any of the 4 fiscal years immediately following the withdrawal year.

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- (3) The elections referred to in column (2) of the Table to this section shall be in effect for the fiscal year in respect of which that election

was made and shall remain in effect for subsequent fiscal years, other than where the filing constituent entity withdraws the election in respect of a fiscal year subsequent to the fiscal year in respect of which the election is made.

- (4) The election referred to in section 111P(16) shall be made in respect of each debt release which is included in the financial accounting net income or loss of a constituent entity in a fiscal year. 5
- (5) The election referred to in section 111W(2), shall not be withdrawn where a loss in respect of an ownership interest, other than a qualified ownership interest as referred to in that section, was included in the calculation of the qualifying income or loss of the constituent entity in the five-year period beginning on the first day of the fiscal year in respect of which the election was made. 10
- (6) An election under section 111AN(6) shall—
  - (a) be in effect for the fiscal year in respect of which the election relates, 15
  - (b) remain in effect for all subsequent fiscal years, and
  - (c) not be withdrawn at any time following the fiscal year in respect of which the election is made.
- (7) An election under section 111AJ(2) shall apply to the fiscal year in respect of which the election is made. 20
- (8) An election under section 111AK(2) shall apply to the transition period fiscal year (within the meaning of section 111AK) in respect of which the election is made.
- (9) An election under section 111AI(2) shall apply to the fiscal year in respect of which the election is made. 25
- (10) Where a filing constituent entity makes an election referred to in subsection (7), (8) or (9), as the case may be, such election shall not apply where—
  - (a) the constituent entity, joint venture or joint venture affiliate, as the case may be, concerned— 30
    - (i) is located in the State, and
    - (ii) could be allocated a top-up tax if the effective tax rate for the jurisdiction concerned calculated in accordance with Chapter 5 was below the minimum tax rate, 35
  - and
  - (b) the constituent entity, joint venture or joint venture affiliate, as the case may be, concerned fails to clarify and demonstrate, within the permitted period of 6 months referred to in subparagraph (ii), that the facts and circumstances, referred to in subparagraph (i), did not materially affect its eligibility to make the election, where a 40

Revenue officer in writing—

- (i) notified the constituent entity, joint venture or joint venture affiliate, as the case may be, not later than 36 months after the date of the filing of the top-up tax information return in which the relevant election was made of specific facts and circumstances that may have materially affected the eligibility to make the relevant election, and 5
- (ii) requested the constituent entity, joint venture or joint venture affiliate, as the case may be, to, not later than 6 months after the date of notification under this paragraph, clarify and demonstrate, in writing, the effect of those facts and circumstances on the eligibility to make the relevant election. 10

**Table**

Column 1	Column 2	
Section 111C(3)	Section 111P(7)(a)	15
Section 111P(3)(a)	Section 111U(9)	
Section 111P(6)(a)	Section 111X(1), in the definition of ‘unclaimed accrual’	
Section 111P(9)(a)	Section 111AB(1)(d)	20
Section 111P(13)	Section 111AE(2)(b)	
Section 111P(14)	Section 111AG(1)	
Section 111W(2)	Section 111AS(1)	
Section 111AU(1)	Section 111AAAC(2)	
Section 111AV(1)	Section 111AAAC(3)	25
Section 111AAAA(4)(a)(ii)		

CHAPTER 11

*Application*

**Application (Part 4A)**

- 111AAAE.** (1) Subject to subsection (2) and section 111AAE, this Part shall apply to fiscal years beginning on or after 31 December 2023. 30
- (2) Except for MNE groups to which section 111AZ(1) applies, sections 111L, 111M and 111N shall apply to fiscal years beginning on or after 31 December 2024.”.

**Application of certain provisions of Principal Act to Parts 4A and 22A of Principal Act 35**

- 94.** (1) Section 811C(1) of the Principal Act is amended, in the definition of “the Acts”, by the insertion of the following paragraph after paragraph (v):

- “(va) Part 4A,”.
- (2) Section 851A(1) of the Principal Act is amended, in the definition of “the Acts”, by the insertion of the following paragraph after paragraph (aa):
- “(ab) Part 4A,”.
- (3) Section 858(1)(a) of the Principal Act is amended, in the definition of “the Acts”, by the insertion of the following subparagraph after subparagraph (iva):
- “(ivb) Part 4A,”.
- (4) Section 859(1) of the Principal Act is amended, in the definition of “the Revenue Acts”, by the insertion of the following paragraph after paragraph (da):
- “(db) Part 4A,”.
- (5) Section 865(1) of the Principal Act is amended—
- (a) in the definition of “Acts”, by the insertion of “Part 4A,” after “Capital Gains Tax Acts,” and
- (b) in the definition of “tax”, by the insertion of “or IIR top-up tax, UTPR top-up tax or domestic top-up tax (each within the meaning of Part 4A)” after “vacant homes tax”.
- (6) Section 865B(1) of the Principal Act is amended—
- (a) in the definition of “Acts”, by the insertion of the following paragraph after paragraph (c):
- “(ca) Part 4A,”.
- (b) in the definition of “relevant period”—
- (i) in paragraph (f), by the substitution of “arises,” for “arises, and”,
- (ii) in paragraph (g), by the substitution of “arises,” for “arises;”, and
- (iii) by the insertion of the following paragraphs after paragraph (g):
- “(h) in the case of IIR top-up tax (within the meaning of Part 4A), the fiscal year in respect of which the repayment arises,
- (i) in the case of UTPR top-up tax (within the meaning of Part 4A), the fiscal year in respect of which the repayment arises, and
- (j) in the case of domestic top-up tax (within the meaning of Part 4A), the fiscal year or accounting period, as the case may be, in respect of which the repayment arises;”,
- and
- (c) in the definition of “tax” by the insertion of “or IIR top-up tax, UTPR top-up tax or domestic top-up tax (each within the meaning of Part 4A)” after “local property tax”.
- (7) Section 874A(1) of the Principal Act is amended, in the definition of “the Acts” by the insertion of the following paragraph after paragraph (b):

- “(ba) Part 4A,”.
- (8) Section 917D(1) of the Principal Act is amended—
- (a) in the definition of “Acts” by the insertion of the following after paragraph (f):
- “(fa) Part 4A,”,
- and
- (b) in the definition of “tax”, by the insertion of “or IIR top-up tax, UTPR top-up tax or domestic top-up tax (each within the meaning of Part 4A)” after “(within the meaning of the Energy (Windfall Gains in the Energy Sector) (Temporary Solidarity Contribution) Act 2023)”.
- (9) Section 949A of the Principal Act is amended—
- (a) in the definition of “the Acts” by the insertion of the following after paragraph (b):
- “(ba) Part 4A,”,
- and
- (b) in the definition of “tax”, by the insertion of “or IIR top-up tax, UTPR top-up tax or domestic top-up tax (each within the meaning of Part 4A)” after “(within the meaning of the Energy (Windfall Gains in the Energy Sector) (Temporary Solidarity Contribution) Act 2023)”.
- (10) Section 960A of the Principal Act is amended—
- (a) in the definition of “Acts”, by the insertion of the following after paragraph (f):
- “(fa) Part 4A,”,
- and
- (b) in the definition of “tax”, by the insertion of “or IIR top-up tax, UTPR top-up tax or domestic top-up tax (each within the meaning of Part 4A)” after “(Windfall Gains in the Energy Sector) (Temporary Solidarity Contribution) Act 2023)”.
- (11) Section 1002(1) of the Principal Act is amended, in the definition of “the Acts”, by the insertion of the following after paragraph (iiia):
- “(iiiaa) Part 4A,”.
- (12) Section 1006(1) of the Principal Act is amended, in the definition of “the Acts”, by the insertion of the following after paragraph (aa):
- “(aaa) Part 4A,”.
- (13) Section 1077A of the Principal Act is amended, in the definition of “the Acts”, by the insertion of the following after paragraph (b):
- “(ba) Part 4A,”.
- (14) Section 1077F of the Principal Act is amended—
- (a) in subsection (1)—

- (i) in the definition of “the Act”, by the substitution of “Parts 4A, 18A, 18B, 18C, 18D, 22A and 22B” for “Parts 18A, 18B, 18C, 18D, 18E, Parts 22A and 22B”,
- (ii) by the substitution of the following definition for the definition of “period”;
- “ ‘period’ means, as the context requires—
- (a) a year of assessment, 5
- (b) an accounting period,
- (c) a return period within the meaning of section 530,
- (d) an income tax month within the meaning of section 983,
- (e) a fiscal year or an accounting period within the meaning of Part 4A, or 10
- (f) a year within the meaning of Part 22A;”,
- and
- (iii) in the definition of “tax”, by the insertion of “or IIR top-up tax, UTPR top-up tax or domestic top-up tax (within the meaning of Part 4A)” after “vacant homes tax”, 15
- and
- (b) in subsection (2)(a) by the substitution of the following subparagraph for subparagraph (i):
- “(i) a deliberate understatement of—
- (I) income, profits or gains, 20
- (II) income tax in respect of emoluments to which Chapter 4 of Part 42 relates,
- (III) a liability to IIR top-up tax, UTPR top-up tax or domestic top-up tax (each within the meaning of Part 4A), as the case may be, or 25
- (IV) the market value of a relevant site for the purposes of Chapter 3 of Part 22A;”.
- (15) Section 1078(1) of the Principal Act is amended, in the definition of “the Acts”, by the insertion of the following paragraph after paragraph (ca):
- “(caa) Part 4A;”, 30
- (16) Section 1079(1) of the Principal Act is amended, in the definition of “the Acts”, by the insertion of the following paragraph after paragraph (ca):
- “(caa) Part 4A;”.
- (17) Section 1086A(1) of the Principal Act is amended, in the definition of “the Acts”, by the insertion of the following paragraph after paragraph (a): 35
- “(aa) Part 4A;”.
- (18) Section 1094(1) of the Principal Act is amended, in the definition of “the Acts”, by

the insertion of the following paragraph after paragraph (ca):

“(caa) Part 4A,”.

- (19) Section 1095(1) of the Principal Act is amended, in the definition of “the Acts”, by the insertion of the following paragraph after paragraph (ca):

“(caa) Part 4A,”.

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- (20) Schedule 29 of the Principal Act is amended in Column 1, by the insertion of the following after “section 653AQ”:

“Section 111AAJ

Section 111AAK

Section 111AAN”.

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#### **Amendments to other enactments**

- 95.** (1) The Ministers and Secretaries (Amendment) Act 2011 is amended, in section 101(3), in the definition of “relevant enactment”, by the insertion of the following paragraph after paragraph (eb):

“(ec) Part 4A of the Taxes Consolidation Act 1997,”.

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- (2) The Finance (Tax Appeals) Act 2015 is amended, in section 2, in the definition of “Taxation Acts”, by the substitution of the following paragraph for paragraph (c):

“(c) Parts 4A, 18A to 18D and 22A of the Act of 1997,”.

- (3) The Provisional Collection of Taxes Act, 1927 is amended, in section 1, in the definition of “tax” by the insertion of “, or IIR top-up tax, UTPR top-up tax, or domestic top-up tax (each within the meaning of Part 4A of the Taxes Consolidation Act 1997),” after “vacant homes tax”.

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#### **Amendment of Schedule 24 to Principal Act (relief from income tax and corporation tax by means of credit in respect of foreign tax)**

- 96.** Schedule 24 to the Principal Act is amended—

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- (a) in paragraph 1(1), by the insertion of the following definitions:

“ ‘fiscal year’ has the meaning given to it in section 111A(1);

‘foreign qualified domestic top-up tax’ means a qualified domestic top-up tax arising under the laws of a territory other than the State that is paid within 4 years from the end of the fiscal year in which it becomes due;

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‘qualified domestic top-up tax’ has the meaning given to it in section 111A(1);”.

- (b) in paragraph 2, by the insertion of the following subparagraph after subparagraph (3):

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“(4) Relief under this Schedule shall not be allowed—



- (a) for any tax which is a qualified IIR (within the meaning of section 111A(1)), or
- (b) for any tax which is a qualified UTPR (within the meaning of section 111A(1)).”,
- (c) in paragraph 9A— 5
  - (i) in subparagraph (4)(a)—
    - (I) in subclause (i), by the substitution of “paid,” for “paid, and”,
    - (II) in subclause (ii), by the substitution of “dividend, and” for “dividend,”, and
    - (III) by the insertion of the following subclause after subclause (ii): 10
      - “(iii) an amount of foreign qualified domestic top-up tax payable or paid by a company paying the dividend (in this subclause referred to as ‘the dividend-paying company’) being—
        - (I) an amount of qualified domestic top-up tax arising under the laws of a territory, other than the State, that is payable or paid by the dividend-paying company in so far as the foreign qualified domestic top-up tax is properly attributable on a just and reasonable basis to the proportion of the profits represented by the dividend, or 15
        - (II) where an amount of qualified domestic top-up tax is payable or paid by an entity under the laws of the territory in which the dividend-paying company is located, for the purposes of the qualified domestic top-up tax laws of the territory, in respect of the aggregate profits of that dividend-paying company and one or more other entities, taken together as a single taxable entity, the amount of qualified domestic top-up tax that is attributable on a just and reasonable basis to the profits represented by the dividend of the dividend-paying company.”, 20
    - and 30
  - (ii) by the substitution of the following subparagraph for subparagraph (7):
    - “(7) In this Schedule, in its application to unilateral relief, references to tax payable or paid under the law of a territory outside the State include only references to taxes which are charged on income or capital gains and which correspond to corporation tax, capital gains tax and, for the purposes of this paragraph, include foreign qualified domestic top-up tax.”, 35
- (d) in paragraph 9B—
  - (i) in subparagraph (1)—
    - (I) in clause (a), by the substitution of “profits,” for “profits, and”, 40
    - (II) in clause (b), by the substitution of “profits,” for “profits.”, and

(III) by the insertion of the following clauses after clause (b):

“(c) any qualified domestic top-up tax attributable to a branch or agency, of the foreign company, located in the State, and

(d) an amount of foreign qualified domestic top-up tax payable or paid by the company paying the dividend (in this clause referred to as ‘the dividend-paying foreign company’) being— 5

(i) an amount of qualified domestic top-up tax arising under the laws of a territory, other than the State, that is payable or paid by the dividend-paying foreign company in so far as the foreign qualified domestic top-up tax is properly attributable on a just and reasonable basis to the proportion of the profits represented by the dividend, or 10

(ii) where an amount of qualified domestic top-up tax is payable or paid by an entity under the laws of the territory in which the dividend-paying foreign company is located, for the purposes of the qualified domestic top-up tax laws of the territory, in respect of the aggregate profits of that dividend-paying foreign company and one or more other entities, taken together as a single taxable entity, the amount of qualified domestic top-up tax that is attributable on a just and reasonable basis to the profits represented by the dividend of the dividend-paying foreign company.”, 15 20

(ii) in subparagraph (2)—

(I) in subclause (i), by the substitution of “profits,” for “profits, and”,

(II) in subclause (ii), by the substitution of “profits,” for “profits.”, and 25

(III) by the insertion of the following subclauses after subclause (ii):

“(iii) any qualified domestic top-up tax attributable to a branch or agency, of the foreign company, located in the State, and

(iv) an amount of foreign qualified domestic top-up tax payable or paid by the foreign company paying the dividend (in this subclause referred to as ‘the dividend-paying foreign company’) being— 30

(I) an amount of qualified domestic top-up tax arising under the laws of a territory, other than the State, that is payable or paid by the dividend-paying foreign company in so far as the foreign qualified domestic top-up tax is properly attributable on a just and reasonable basis to the proportion of the profits represented by the dividend, or 35

(II) where an amount of qualified domestic top-up tax is payable or paid by an entity under the laws of the territory in which the dividend-paying foreign company is located, for the purposes of the qualified domestic top-up tax laws of the territory, in respect of the aggregate profits of that 40

dividend-paying foreign company and one or more other entities, taken together as a single taxable entity, the amount of qualified domestic top-up tax that is attributable on a just and reasonable basis to the profits represented by the dividend of the dividend-paying foreign company.”, 5

and

(iii) in subparagraph (5), by the substitution of the following definition for the definition of “underlying tax”:

“ ‘underlying tax’, in relation to a dividend, means tax, including any foreign qualified domestic top-up tax, borne by the company paying the dividend on the relevant profits (within the meaning of paragraph 8) in so far as it is properly attributable on a just and reasonable basis to the proportion of the relevant profits represented by the dividend.”, 10

(e) in paragraph 9DA, by the substitution of the following subparagraph for subparagraph (7): 15

“(7) In this Schedule, in its application to unilateral relief, references to tax payable or paid under the law of a territory outside the State include only—

(a) references to taxes which are charged on income or capital gains and which correspond to corporation tax and capital gains tax, and 20

(b) references to any amount of foreign qualified domestic top-up tax payable or paid by a branch or agency being—

(i) an amount of qualified domestic top-up tax arising under the laws of a territory, other than the State, that is payable or paid by the branch or agency in so far as the foreign qualified top-up tax is properly attributable on a just and reasonable basis to the income of a company resident in the State from a trade carried on by it through a branch or agency in that territory, or 25

(ii) where an amount of qualified domestic top-up tax is payable or paid by an entity under the laws of the territory in which the branch or agency is located, for the purposes of the qualified domestic top-up tax laws of the territory, in respect of the aggregate profits of that branch or agency and one or more other entities, taken together as a single taxable entity, the amount of qualified domestic top-up tax that is attributable on a just and reasonable basis to the income of a company resident in the State from a trade carried on by it through a branch or agency in that territory.”, 30 35

(f) in paragraph 9FA(1), by the substitution of the following definition for the definition of “foreign tax”: 40

“ ‘foreign tax’ in relation to foreign branch income of a company, means—

- (a) tax which—
  - (i) is paid under the laws of the territory in which the foreign branch is situated on income attributable to that branch, and
  - (ii) corresponds to corporation tax,
 or 5
- (b) an amount of foreign qualified domestic top-up tax payable or paid by a foreign branch or agency being—
  - (i) an amount of qualified domestic top-up tax arising under the laws of a territory, other than the State, that is payable or paid by the foreign branch or agency in so far as the foreign qualified top-up tax is properly attributable on a just and reasonable basis to the foreign branch or agency income of a company, or 10
  - (ii) where an amount of qualified domestic top-up tax is payable or paid by an entity under the laws of the territory in which the foreign branch or agency is located, for the purposes of the qualified domestic top-up tax laws of the territory, in respect of the aggregate profits of that branch or agency and one or more other entities, taken together as a single taxable entity, the amount of qualified domestic top-up tax that is attributable on a just and reasonable basis to the foreign branch or agency income.”, 15 20

and

- (g) in paragraph 9I(1), by the substitution of the following definition for the definition of “tax”:
  - “ ‘tax’, except in the case of corporation tax in the State, means— 25
    - (a) tax imposed in a country other than the State, which corresponds to such corporation tax, including any foreign qualified domestic top-up tax, and
    - (b) tax, corresponding to income tax in the State, which is imposed in a country other than the State by deduction from dividends or other distributions of profits, 30
 but excluding any tax charged by reference to a dividend or other distribution of profits such that most of the value of that dividend or distribution is exempted from that charge to tax.”.

**Amendment of Part 35B of Principal Act (implementation of Articles 7 and 8 of Council Directive (EU) 2016/1164 of 12 July 2016 (Controlled Foreign Companies))** 35

97. Part 35B of the Principal Act is amended—

- (a) in section 835I(1), by the insertion of the following definitions:
  - “ ‘amount of foreign qualified domestic top-up tax payable or borne by a controlled foreign company’ means— 40

- (a) an amount of foreign qualified domestic top-up tax that is payable or borne by the controlled foreign company, or
  - (b) where an amount of foreign qualified domestic top-up tax is payable or borne by an entity under the laws of the territory in which the controlled foreign company is located, for the purposes of the qualified domestic top-up tax laws of the territory, in respect of the aggregate profits of that controlled foreign company and one or more other entities, taken together as a single taxable entity, the amount of foreign qualified domestic top-up tax that is apportioned to the controlled foreign company on a just and reasonable basis;
    - ‘corresponding qualified domestic top-up tax’ means an amount of qualified domestic top-up tax that would be payable or borne by the controlled foreign company, if the controlled foreign company was located in the State, in accordance with section 111D, and section 111AAO did not apply;
    - ‘fiscal year’ has the meaning given to it in section 111A(1);
    - ‘foreign qualified domestic top-up tax’ means a qualified domestic top-up tax arising under the laws of a territory, other than the State;
    - ‘qualified domestic top-up tax’ has the meaning given to it in section 111A(1);”;
- (b) in section 835S—
- (i) in subsection (2)—
    - (I) in paragraph (a), by the substitution of “period,” for “period, and”,
    - (II) in paragraph (b), by the substitution of “period, and” for “period.”, and
    - (III) by the insertion of the following paragraph after paragraph (b):
      - “(c) the amount of foreign qualified domestic top-up tax payable or borne by the controlled foreign company for that accounting period.”,
  - (ii) by the substitution of the following subsection for subsection (3):
    - “(3) In subsection (2)—
      - (a) references to an amount paid, payable or borne do not include so much of any such amount as has been or falls to be repaid to the controlled foreign company or any other person on the making of a claim or otherwise, and
      - (b) references to an amount of foreign qualified domestic top-up tax payable or borne do not include so much of any amount of foreign qualified domestic top-up tax that is not paid within 4 years from the end of the fiscal year in which it becomes due.”,
- and
- (iii) by the insertion of the following subsection after subsection (4):

“(5) The amount of creditable tax to be allowed against corporation tax in respect of any controlled foreign company charge for an accounting period shall not include any amount in respect of:

- (a) a qualified IIR (within the meaning of section 111A(1)), or
- (b) a qualified UTPR (within the meaning of section 111A(1)).”,

5

and

(c) in section 835T—

(i) by the substitution of the following subsection for subsection (2):

“(2) This subsection applies where the aggregate of the amount of foreign tax and the foreign qualified domestic top-up tax, which is paid, payable or borne by a controlled foreign company for an accounting period, is not less than the difference between—

10

(a) the aggregate of—

(i) the corresponding corporation tax in the State for that accounting period, and

15

(ii) the corresponding qualified domestic top-up tax for that accounting period,

and

(b) the aggregate of—

(i) the amount of such foreign tax paid or borne for the accounting period, and

20

(ii) the amount of foreign qualified domestic top-up tax for the accounting period.”,

and

(ii) by the insertion of the following subsection after subsection (3):

25

“(4) In this section—

(a) references to the amount of foreign tax paid or borne do not include so much of any such amount as has been or falls to be repaid to the controlled foreign company or any other person on the making of a claim or otherwise, and

30

(b) references to the amount of foreign qualified domestic top-up tax, which is payable or borne do not include so much of any such amount as has been or falls to be repaid to the controlled foreign company or any other person on the making of a claim or otherwise or where payable is not paid or borne by the controlled foreign company.”.

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#### **Amendment of section 481A of Principal Act (relief for investment in digital games)**

**98.** (1) Section 481A of the Principal Act is amended—

- (a) in subsection (1)—
- (i) in the definition of “undertaking in difficulty”, by the substitution of “Restructuring Guidelines;” for “Restructuring Guidelines.”,
  - (ii) by the insertion of the following definition:
    - “ ‘valid claim’ means a claim in relation to an interim digital games corporation tax credit or a digital games corporation tax credit, as the case may be, which is—
      - (a) made under and in accordance with this section, and
      - (b) in respect of which all information which the Revenue Commissioners may reasonably require to enable them to determine if, and to what extent, the credit is due to a digital games development company in respect of an accounting period, has been furnished by that company.”,
- and
- (iii) by the deletion of the definitions of “qualifying period” and “specified amount”,
- (b) in subsection (13), by the substitution of the following paragraph for paragraph (h):
- “(h) the digital games development company has been carrying on the trade referred to in paragraph (b) of the definition of ‘digital games development company’ for a period of less than 12 months prior to making a claim.”,
- (c) in subsection (14), by the deletion of paragraphs (a) to (d),
- (d) by the insertion of the following subsection after subsection (14):
- “(14A) A claim by a digital games development company for an interim digital games corporation tax credit under subsection (19) or a digital games corporation tax credit under subsection (20) shall not include expenditure—
    - (a) where it would be reasonable to consider that the amount of such expenditure or any particular item of such expenditure has been inflated,
    - (b) in respect of which the company has obtained relief under Part 29,
    - (c) in respect of which the company has obtained relief under section 481, and
    - (d) that has been or is to be met directly or indirectly by grant assistance or any other assistance which is granted by or through—
      - (i) the State or another Member State of the European Union,
      - (ii) any board established by statute, any public or local authority or any other agency of the State or another Member State or an institution, office, agency or other body of the European Union,

or

- (iii) a state, other than the State or a Member State referred to in subparagraph (i), and any board, authority, institution, office, agency or other body in such state.”,
- (e) in paragraph (e) of subsection (16), by the deletion of “, within the time referred to in paragraph (d).”, 5
- (f) in subsection (17)—
  - (i) in paragraph (i), by the substitution of “qualifying digital game, and” for “qualifying digital game.”,
  - (ii) in paragraph (j), by the substitution of “subsection (16)(a).” for “subsection (16)(a), and”, and 10
  - (iii) by the deletion of paragraph (k),
- (g) in subsection (19), by the deletion of paragraph (a),
- (h) by the insertion of the following subsection after subsection (19):
  - “(19A) A claim under subsection (19) shall be made within 12 months from the end of the accounting period in which the expenditure, giving rise to the claim, is incurred and shall be made in the return, required under Part 41A, in respect of that accounting period.”, 15
- (i) by the substitution of the following subsection for subsection (21):
  - “(21) A claim under subsection (20) shall be made in the return, required under Part 41A, in respect of the accounting period referred to in paragraph (a) of subsection (21A).”, 20
- (j) by the insertion of the following subsection after subsection (21):
  - “(21A) A claim under subsection (20) shall be made—
    - (a) within 12 months from the end of the accounting period in which the last of the expenditure giving rise to the claim is incurred, or 25
    - (b) in a case in which the final certificate is issued after a date which is 3 months prior to the expiry of the 12-month period referred to in paragraph (a), within 3 months from the date on which that certificate is issued.”, 30
- (k) by the substitution of the following subsection for subsection (22):
  - “(22) Where a digital games development company makes a claim for an interim digital games corporation tax credit under subsection (19) or a digital games corporation tax credit under subsection (20), the digital games development company shall specify as regards the amount claimed under subsection (19) or subsection (20), as the case may be, whether that amount or any portion of that amount is to be— 35
    - (a) treated as an overpayment of tax, for the purposes of section 960H, or



(b) paid to the company by the Revenue Commissioners.”,

(l) by the insertion of the following subsections after subsection (22):

- “(22A) Where a claim in respect of an interim digital games corporation tax credit under subsection (19) or a digital games corporation tax credit under subsection (20) is made, the amount of the interim digital games corporation tax credit or the amount of the digital games corporation tax credit, as the case may be, shall be paid or offset in full, in the manner specified by the digital games development company under subsection (22), by the Revenue Commissioners within 48 months from when a valid claim is made. 5 10
- (22B) No amount of the interim digital games corporation tax credit or the digital games corporation tax credit shall be paid or offset under subsection (22A) unless a valid claim has been made to the Revenue Commissioners for that purpose.
- (22C) Nothing in this section shall prevent the Revenue Commissioners from examining a claim subsequent to any payment or offset having been made and making or amending an assessment, as the case may be, under Chapter 5 of Part 41A. 15
- (22D) The interim digital games corporation tax credit or the digital games corporation tax credit, if any, arising to a digital games development company in accordance with this section shall not be income of the digital games development company or another company for the purposes of corporation tax. 20
- (22E) Any claim in respect of an interim digital games corporation tax credit under subsection (19) or a digital games corporation tax credit under subsection (20) (whether, in either case, the amount of the credit is to be treated as an overpayment of tax under subsection (22)(a) or paid to the company under subsection (22)(b)) shall, for the purposes of sections 851A and 851B, Chapter 4 of Part 38 and Part 47, be treated as a claim for a credit and the amount so claimed shall be treated as an amount of tax refundable. 25 30
- (22F) Where a digital games development company specifies that an interim digital games corporation tax credit or a digital games corporation tax credit is to be treated, under subsection (22)(a), as an overpayment of tax, and where that amount is, under section 960H, offset in whole or in part against the company’s corporation tax payable (within the meaning of Part 41A) for the accounting period, then, for the purposes of calculating the amount of preliminary tax due in respect of that accounting period and the subsequent accounting period under section 959AR or 959AS, as the case may be, the amount of corporation tax payable by the company for that accounting period shall be reduced by the amount so offset.” 35 40

(m) by the deletion of subsections (23) and (24),

(n) by the substitution of the following subsection for subsection (25):

- “(25) In respect of any claim in respect of an interim digital games corporation tax credit or a digital games corporation tax credit, as the case may be, that remains unpaid, for the purposes of determining an amount in accordance with subsection (3) or (4) of section 1077F, a reference to an amount of tax that would have been payable for the relevant period by the person concerned shall be read as if it were a reference to the amount so claimed.”, 5
- (o) by the substitution of the following subsection for subsection (26):
- “(26) (a) Subject to paragraph (b), where a digital games development company makes a claim in respect of an interim digital games corporation tax credit or a digital games corporation tax credit and it is subsequently found that the claim is not as authorised by this section, then— 10
- (i) the company,
- (ii) any director of the company, or 15
- (iii) any person referred to in subsection (13)(c),
- may be charged to tax under Case IV of Schedule D for the accounting period, or year of assessment, as the case may be, in respect of which the payment was made, in an amount equal to—
- (I) in the case of a company, 4 times, and 20
- (II) in the case of an individual, one hundred fortieths,
- of so much of the amount of the interim digital games corporation tax credit or the digital games corporation tax credit, as the case may be, as is not so authorised.
- (b) An amount chargeable to tax under this subsection shall be treated— 25
- (i) as income against which no loss, deficit, expense or allowance may be set off, and
- (ii) as not forming part of the income of the company for the purposes of calculating a surcharge under section 440.”, 30
- (p) in subsection (27), by the substitution of “The circumstances in which a claim is not authorised by this section shall include any circumstances where the amount was claimed under either or both subsection (19) and subsection (20), or paid or offset under subsection (22A)” for “The circumstances in which an unauthorised amount arises shall include any circumstances where the amount was claimed under either or both subsection (19) and subsection (20), or paid in accordance with subsection (23)”, 35
- (q) by the substitution of the following subsection for subsection (28):
- “(28) Where an amount is charged to tax in accordance with subsection (26), the amount so charged shall, for the purposes of section 1080, be deemed to be tax due and payable and shall carry interest as 40

determined in accordance with subsection (2)(c) of section 1080 as if a reference to the date when the tax became due and payable were a reference to the date the amount was paid or offset, under section 960H, by the Revenue Commissioners.”,

and 5

(r) by the substitution of the following subsection for subsection (31):

“(31) No amount of an interim digital games corporation tax credit or a digital games corporation tax credit shall be paid or offset under subsection (22A) by the Revenue Commissioners in respect of an interim or final certificate issued after 31 December 2025.”. 10

(2) Subject to *subsection (3)*, *subsection (1)* shall apply in respect of an accounting period commencing on or after 1 January 2024.

(3) *Paragraphs (c), (d), (e) and (j) of subsection (1)* shall have effect on and from 1 January 2024.

#### Miscellaneous technical amendments in relation to tax 15

99. The enactments specified in the *Schedule*—

(a) are amended to the extent and in the manner specified in *paragraphs 1 to 6* of that Schedule, and

(b) apply and come into operation in accordance with *paragraph 7* of that Schedule.

#### Care and management of taxes and duties 20

100. All taxes and duties imposed by this Act are placed under the care and management of the Revenue Commissioners.

#### Short title, construction and commencement

101. (1) This Act may be cited as the Finance (No.2) Act 2023.

(2) *Part 1* shall be construed together with— 25

(a) in so far as it relates to income tax, the Income Tax Acts,

(b) in so far as it relates to universal social charge, Part 18D of the Principal Act,

(c) in so far as it relates to corporation tax, the Corporation Tax Acts, and

(d) in so far as it relates to capital gains tax, the Capital Gains Tax Acts.

(3) *Part 2*, in so far as it relates to duties of excise, shall be construed together with the statutes which relate to those duties and to the management of those duties. 30

(4) *Part 3* shall be construed together with the Value-Added Tax Acts.

(5) *Part 4* shall be construed together with the Stamp Duties Consolidation Act 1999 and the enactments amending or extending that Act.

(6) *Part 5* shall be construed together with the Capital Acquisitions Tax Consolidation Act 2003 and the enactments amending or extending that Act. 35

- (7) *Part 6* in so far as it relates to—
- (a) income tax, shall be construed together with the Income Tax Acts,
  - (b) defective concrete products levy, shall be construed together with Part 18E of the Principal Act,
  - (c) residential zoned land tax, shall be construed together with Part 22A of the Principal Act, 5
  - (d) vacant homes tax, shall be construed together with Part 22B of the Principal Act,
  - (e) corporation tax, shall be construed together with the Corporation Tax Acts,
  - (f) capital gains tax, shall be construed together with the Capital Gains Tax Acts,
  - (g) duties of excise, shall be construed together with the statutes which relate to duties of excise and the management of those duties, 10
  - (h) value-added tax, shall be construed together with the Value-Added Tax Acts,
  - (i) stamp duty, shall be construed together with the Stamp Duties Consolidation Act 1999 and the enactments amending or extending that Act, and
  - (j) gift tax or inheritance tax, shall be construed together with the Capital Acquisitions Tax Consolidation Act 2003 and the enactments amending or extending that Act. 15
- (8) Except where otherwise expressly provided for in *Part 1*, that Part shall come into operation on 1 January 2024.
- (9) Except where otherwise expressly provided for, where a provision of this Act is to come into operation on the making of an order by the Minister for Finance, that provision shall come into operation on such day or days as the Minister for Finance shall appoint either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions. 20

SCHEDULE 1

Section 99

MISCELLANEOUS TECHNICAL AMENDMENTS IN RELATION TO TAX

1. The Taxes Consolidation Act 1997 is amended—
  - (a) in section 20(1), by the substitution of “sections” for “sections sections”, 5
  - (b) in the Table to section 37, by the substitution of “Raidió Teilifís Éireann” for “Radio Telefís Éireann”,
  - (c) in section 216A—
    - (i) in subsection (5), by the substitution of “subsection (7)” for “subsections (6) and (7)”, and 10
    - (ii) in subsection (7), by the substitution of “subsection (5)” for “subsections (5) and (6)”,
  - (d) in section 246A(2)(a)(x), by the substitution of “National Securities Clearing Corporation” for “National Securities Clearing System”,
  - (e) in section 247(4E)(f), by the substitution of “paragraph (b)” for “paragraph (a)”, 15
  - (f) in section 607(1)(d), by the substitution of “Raidió Teilifís Éireann” for “Radio Telefís Éireann”,
  - (g) in section 766(7)(a)(ii), by the deletion of “–”,
  - (h) in section 790AA(1)(a), in the definition of ‘relevant pension arrangement’— 20
    - (i) by the substitution of the following subparagraph for subparagraph (vi):
 

“(vi) a statutory scheme, within the meaning of section 770(1), other than a public service pension scheme referred to in paragraph (v),”, 25

and
    - (ii) by the deletion of “other than a public service pension scheme referred to in paragraph (v);”,
  - (i) in section 790D—
    - (i) in subsection (4), by the substitution of “section 787G, or subsections (1) and (2) of section 787AA” for “787G, or in subsections (1) and (2) of section 787AA”, 30
    - (ii) in subsection (5), by the substitution of “vested PRSA,” for “vested PRSA, and”, and
    - (iii) in subsection (9)(b)(D), by the substitution of “the vested PEPP or vested PEPPs” for “the vested PEPP or PEPPs”, 35
  - (j) in section 817REA, by the substitution of the following subsection for subsection (8):
 

“(8) On there being made of—

- (a) the Registrar of Beneficial Ownership of Companies and Industrial and Provident Societies,
  - (b) the Registrar of Beneficial Ownership of Irish Collective Asset-management Vehicles, Credit Unions and Unit Trusts,
  - (c) the Registrar of Beneficial Ownership of Trusts, or 5
  - (d) in the case of the Central Mechanism of Ownership of Bank and Payment Accounts and Safe-Deposit Boxes, the Central Bank of Ireland,
- as the case may be, by an authorised DAC officer, a request for access, in accordance with subsection (4)(a), to a register or the Central Mechanism of Ownership of Bank and Payment Accounts and Safe-Deposit Boxes, as the case may be, referred to in subsection (4)(a), the Registrar concerned or the Central Bank of Ireland, as the case may be, shall afford the authorised DAC officer access, in a timely manner, to the register or the Central Mechanism of Ownership of Bank and Payment Accounts and Safe-Deposit Boxes, as the case may be.”, 10 15
- (k) in section 838(1)(a), in the definition of “securities”, by the substitution of “Raidió Teilifís Éireann” for “Radio Telefís Éireann”,
  - (l) in section 959AJ(3), by the substitution of “section 959AF(1)” for “section 949AF(1)”, 20
  - (m) in section 1077A, in the definition of “the Acts”—
    - (i) by the deletion of paragraph (cb) (inserted by section 102(3) of the Finance Act 2022), and
    - (ii) by the insertion of the following paragraph after paragraph (cb) (inserted by section 96(14) of the Finance Act 2022): 25
      - “(cc) section 101 of the Finance Act 2022.”,
- and
- (n) in Schedule 13, by the substitution of the following paragraph for paragraph 59: 30
    - “59. Raidió Teilifís Éireann.”.
2. The Capital Acquisitions Tax Consolidation Act 2003 is amended, in section 48—
- (a) in subsection (10), by the substitution of “practising” for “practicing”, and
  - (b) in subsection (11), by the substitution of “practising” for “practicing”.
3. The Stamp Duties Consolidation Act 1999 is amended, in section 83DB— 35
- (a) in subsection (22), by the substitution of “subsection (21)” for “subsection (20)”, and
  - (b) in subsection (23), by the substitution of “subsection (21)” for “subsection (20)”.

4. The Value-Added Tax Consolidation Act 2010 is amended, in paragraph (6)(2)(ed) of Schedule 1, by the substitution of “point (f)” for “point (g)”.
5. The Finance Act 1999 is amended, in section 98(1)—
  - (a) in paragraph (a), by the substitution of “1,011 square metres” for “a quarter of an acre”, and 5
  - (b) in paragraph (b), by the substitution of “278 square metres” for “3,000 square feet”.
6. The Finance Act 2022 is amended, in section 82, insofar as that section relates to the insertion of section 891J(16) of the Taxes Consolidation Act 1997, in paragraph (a) of the said section 891J(16), by the substitution of “Subject to paragraph (b)” for “Subject to paragraph (c)”. 10
7.
  - (a) Subject to *subparagraph (b)*, this Schedule shall have effect on and from the date of the passing of this Act.
  - (b) Paragraph 6 shall come into operation on the day on which section 82 of the Finance Act 2022, insofar as that section relates to the insertion of section 891J(16) of the Taxes Consolidation Act 1997, comes into operation. 15

An Bille Airgeadais (Uimh. 2), 2023

# BILLE

(mar a leasaíodh sa Roghchoiste um Airgeadas,  
Caiteachas Poiblí agus Athchóiriú, agus an  
Taoiseach)

dá ngairtear

Acht do dhéanamh socrú maidir le forchur,  
aisghairm, loghadh, athrú agus rialáil cánachais,  
dleachtanna stampla agus dleachtanna a  
bhaineann le máil agus do dhéanamh socrú  
breise thairis sin i dtaobh airgeadais; agus do  
dhéanamh socrú i dtaobh nithe gaolmhara.

Ordaiodh ag an Roghchoiste a chlóbhualadh,  
8 Samhain, 2023

Finance (No. 2) Bill 2023

# BILL

(as amended in the Select Committee on Finance,  
Public Expenditure and Reform, and Taoiseach)

entitled

An Act to provide for the imposition, repeal,  
remission, alteration and regulation of taxation,  
of stamp duties and of duties relating to excise  
and otherwise to make further provision in  
connection with finance; and to provide for  
related matters.

Ordered by the Select Committee to be printed,  
8th November, 2023

BAILE ÁTHA CLIATH  
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR  
Le ceannach díreach ó  
FOILSEACHÁIN RIALTAIS,  
BÓTHAR BHAILE UÍ BHEOLÁIN, CILL MHAIGHNEANN,  
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