DÁIL ÉIREANN

AN ROGHCHOISTE UM AIRGEADAS, CAITEACHAS POIBLÍ AGUS ATHCHÓIRIÚ, AGUS AN TAOISEACH

SELECT COMMITTEE ON FINANCE, PUBLIC EXPENDITURE AND REFORM, AND TAOISEACH

Déardaoin, 8 Samhain 2018

Thursday, 8 November 2018

The Select Committee met at 10 a.m.

MEMBERS PRESENT:

Deputy Peter Burke,	Deputy Pearse Doherty,
Deputy Joan Burton,	Deputy Michael McGrath,
Deputy John Deasy,	Deputy Paul Murphy,
Deputy Paschal Donohoe (Minister for Finance),	Deputy Jonathan O'Brien.+

+ In the absence of Deputy Pearse Doherty for part of meeting.

In attendance: Deputies Richard Boyd Barrett and Jonathan O'Brien.

DEPUTY JOHN MCGUINNESS IN THE CHAIR.

Deputy Peter Burke took the Chair.

Finance Bill 2018: Committee Stage (Resumed)

Acting Chairman (Deputy Peter Burke): I remind members to ensure that their mobile phones are switched off. This is important as it causes serious problems for broadcasting, editorial and sound staff. I welcome the Minister for Finance, Deputy Donohoe, and his officials back to resume our consideration of the Finance Bill 2018.

The select committee meeting will be suspended at 12.30 p.m. to facilitate a meeting of the Joint Committee on Finance, Public Expenditure Reform, and Taoiseach. The select committee will resume its consideration of the Finance Bill at 6.30 p.m. and adjourn at 10 p.m. Is that agreed? Agreed. The meeting will also be suspended for Dáil votes. Is that agreed? Agreed.

To provide for the smooth running of the meeting, any member acting in substitution for a member of the committee should formally notify the clerk now if they have not already done so. Divisions will be taken as they arise, and members attending this meeting in accordance with Standing Order 95(3) should be aware that, pursuant to that Standing Order, they may move their amendments but cannot participate in voting on those amendments.

NEW SECTIONS

Acting Chairman (Deputy Peter Burke): Amendments Nos. 142 and 143 are related and may be discussed together.

Deputy Pearse Doherty: I move amendment No. 142:

In page 121, between lines 6 and 7, to insert the following:

"Report on introducing betting duty rate

34. The Minister shall, within 6 months of the passing of this Act, prepare and lay before Dáil Éireann a report on introducing a 3 per cent rate of betting duty to be paid by the punter directly when placing a bet.".

Amendment No. 142 seeks a report on the issue of the betting duty of 3% paid by the punter. This was discussed at length last night as we discussed section 33, and with that in mind I withdraw this amendment and may consider tabling it on Report Stage.

Amendment, by leave, withdrawn.

Acting Chairman (Deputy Peter Burke): In the absence of Deputy Michael McGrath, amendment No. 143 will fall.

Amendment No. 143 not moved.

Sections 34 and 35 agreed to.

SECTION 36

Acting Chairman (Deputy Peter Burke): Amendments Nos. 144 to 146, inclusive, in the absence of Deputy Michael McGrath, cannot be moved.

Amendments Nos. 144 to 146, inclusive, not moved.

Question proposed: "That section 36 stand part of the Bill."

Deputy Pearse Doherty: Section 36 relates to car rental, and there is an issue with the sector that has been brought to the attention of a number of us and of which I am sure the Minister and his officials are well aware. Deputy McGrath's amendments, which cannot be moved, deal with some of those concerns as well. There is a concern from those in the sector that leases cars that this will have a detrimental impact on them. I am aware that this was a temporary measure that has lasted a quarter of a century, as only Ireland does. I want to know the Minister's opinion and his views on the concern that has been expressed by a section of the industry about not being able to claim back the VAT on the vehicle registration tax, VRT, as will be the case now with this section.

Minister for Finance (Deputy Paschal Donohoe): In fairness, I should acknowledge that this is a matter that Deputy McGrath has raised with me and I note that he has just joined us now. I am sure he will be raising this on Report Stage as well as he has related amendments. I will say a word about the section and my approach to it.

On the section itself, a partial repayment of VRT has been available since 1993 on certain vehicles acquired by vehicle leasing or hiring businesses or for providing driving lessons. This repayment reflects the VRT charged on the VAT element of the vehicle and currently represents 18.7% of the full VRT charge.

This repayment is a legacy from 1993, when vehicle excise duty was being replaced by the VRT to ease the transition for car leasing and hire companies by ensuring their costs did not increase under the new VRT regime. This repayment can no longer be justified as a tax expenditure which is not available to other sectors and in the context of typical VRT charges having reduced very substantially since the introduction of the CO2-based VRT charging in 2008.

I have decided that the repayment will not be available for vehicles registered on or after 1 January 2019. However, until 1 April 2019, it will be possible to make claims for vehicles registered up to and including 31 December 2018.

I will make two broad points about this. First, When I became Minister for Finance, the main piece of work I asked my Department to do was to come back to me with tax and policy changes that were made across the period of our greatest economic difficulty that were no doubt justified then - we will begin debating another one of these measures later on this morning or tonight - in order for me to reassess them now in the light of where we are now. If we do not do this now we are going to end up with a tax code that is full of exemptions and changes that were made at a time that they were needed, and we will not be able to do something similar when we face another need in the future.

What I also asked them to do was to come back to me with different matters within our tax code, changes made even before the crash period that are still there.

This is a transitionary agreement for a transitionary policy that has now been in place since 1993. If we do not become more focused on ensuring that changes that we made when they are needed are re-examined at a time when the need is less, then two things are going to happen. The first is that our tax base will become narrower and we will only appreciate how narrow it becomes at a time of need again. The second thing is that interests and groups come looking for changes that at times are justified. We have to be willing then to hold the line and make the

case that if that change was made at a time when it was needed, if the need is no longer there and the time has passed we should be able to undo it. If we are not willing to do this change by change, then the role of my Department, and the State overall, becomes progressively challenged. I do not want to see that happening. I am going to go through all of these changes, both big and small. This is one of the smaller ones but I believe its time has passed. We will examine whether it is needed and make a case accordingly. As to whether it will have an effect, the honest answer is it probably will have an effect on some companies that are involved in this sector. For example, it may have an effect on the availability of cars and what fleet companies have available. They should be able to manage this change as the relief has been available for a long time. We should be clear that, if we are to make changes such as this, we will undo them when the time is right. The time is now right.

Deputy Pearse Doherty: I agree with the vast majority of what the Minister said. A tax relief introduced at a certain point in time should always be automatically reviewed within a short period, by which I do not mean 25 years. I welcome the Minister's approach of reviewing these reliefs and questioning whether they are still warranted. It is the appropriate approach to take. My concern is that this change was not flagged to the industry. Last night we discussed betting duty at length. It was clearly flagged that there would be some change, given the tax strategy papers, as well as the Minister's comments that the industry needed to pay more. However, this change has come on the sector suddenly. The relief was meant to be temporary, but having been part of the tax code for 25 years, there was probably an expectation that it would not be changed. I am not arguing that it should not be changed; rather, I am questioning whether sections of the industry have involved themselves in the practice of leasing fleets in the belief there would be tax relief. They would have taken the decision on that basis. Of course, we can change, introduce and abolish rates and reliefs at any time - I do not wish to take away from that - but there was a genuine expectation surrounding this relief and a genuine practice was employed as a result. The change is sudden and the Minister has acknowledged that there will be an impact. I am concerned that it will be felt more by smaller operators in rural areas. Should it be implemented now or should there be a delay of one year to give the industry the clear signal that, although it will be part of the finance code, it will take effect from 1 January 2020, as opposed to 1 January 2019? Perhaps there could be a commencement order or something of that nature. Significant concerns have been raised. While these reliefs need to be reviewed, re-evaluated and, where necessary, ended, it is also important that we not do anything that will cause a sudden shock that will not allow the sector to rearrange its operations in order that it can continue to provide services for the tourism industry, to which this sector primarily relates, and employment in many of the more rural parts of the State.

Deputy Michael McGrath: It is important to outline the position of the sector because, to the best of my knowledge, there was no consultation between it and the Department. I am concerned about the impact on the tourism industry which has already seen an increase in the lower VAT rate. This change will mean a difference of €600 to €700 per vehicle, a cost that will be passed on to the person who is renting a car. The view in the sector is that this will impact on the supply of cars to the car rental fleet and car rental rates for tourists and may impact on the regional spread of tourism. The refund scheme never represented a cost to the Exchequer; rather, it was a VAT equalisation policy in the pre and post-VRT eras to maintain parity, with the full cost of the vehicle being VAT deductible, rather than being seen as a tax expenditure. It recognised the unique profile of short-term rental fleet movements and the industry's requirement to increase the size of the rental fleet rapidly for the peak tourism season and deplete it rapidly thereafter.

Is there an expected yield from this measure? It was not flagged on budget day or in any of the budget day documentation. Is it something the Minister is willing to re-examine? He views the relief as a temporary measure, just one that still happens to be in place 25 years on. I do not have an issue with the change, but it needs to be carefully thought through. Its implications, if any, need to be considered.

Deputy Paschal Donohoe: I thank the Deputies for their contributions. It is fair to acknowledge that this change was not subject to consultation. However, we have so many examples of reliefs like this across the tax code that we have to recognise the right of the Government of the day to make changes. If we are to be guided by consultation in every difficult change we make, the bias will always be towards not making the change. I feel strongly that we have to be willing to consider how incrementally the tax base has become compressed owing to there being reasons for us to be unwilling to undo changes. I have acknowledged that this change will have an effect. As I said on another matter last night, there are few opportunities available to me to make or undo policy changes that do not cause difficulty somewhere.

Regarding Deputy Michael McGrath's point about cost, I can only provide a speculative yield at this point because the relief has been in place for a long time. The figure is based on our judgment of the yield. It is a big figure. We estimate that the cost could be approximately €20 million, although we have not included it in our budgetary arithmetic. Were I to put that figure in front of the Oireachtas and given that it is 20 odd years since the relief was put in place, I would fairly be asked how we could be sure such a yield would accrue. It is a significant figure.

We had a similar debate last night on the betting charge. It was pointed out to me that, at the time of our greatest economic difficulty in 2008 and 2009, a change was proposed to the betting levy that subsequently was not implemented. Were I to take that approach to the current proposal on the betting levy, it means that I would need to find €50 million somewhere else. That argument does not apply in this instance, as I did not include the €20 million in my budgetary yield figures, but it is a figure the taxpayer has to find and one that has been embedded in the tax code for a quarter of a century.

Will the change have an effect on fleets and the choices companies need to make in terms of the availability and of vehicles and their types? It probably will. Such companies should, however, be able to respond to the change. If Deputies wish between now and Report Stage to flag further difficulties or points of which I might not be aware, I will be happy to engage with the committee on them, but we should be willing to make this change.

Deputy Joan Burton: Has there been an economic assessment of the change? Clearly, many of the representations made raise concerns about its potentially negative impact on the tourism sector and certain commercial sectors which have an involvement in car leasing. There has been a large amount of advertising of the notion of fly drive holidays in Ireland, particularly in the west in the context of the development of the Wild Atlantic Way and where the tourism industry is significant. Prior to this arrangement being introduced by, I believe, former Deputy Ruairí Quinn, there were periods when it was almost impossible to hire cars because of how the arrangements in place at the time worked. Prices also soared. This arrangement has stood the test of time, including periods when the tourism business advanced. To everyone's delight, tourism along the west coast, which inevitably includes a long car drive, is thriving. Has the Minister done an economic assessment of the likely impact of the measure? Has he had discussions with the sector about the flow of cars? As the Minister knows, we are a little in the dark about how Brexit will roll out. We are, therefore, in a transitory period for the economy. Has the Minister had an opportunity to do have an economic assessment done and, if so, will he

share the outcome with members? This is an issue where "do no harm" should be a watchword in the context of all the other uncertainties that we face.

Deputy Michael McGrath: A figure of €20 million is a lot of money, although I know it is an estimate of the potential yield from this change. The point I ask the Minister to consider over the next two weeks, before Report Stage, is that it is ultimately a further charge on the tourism sector. The Minister has already decided to increase the lower VAT rate, which will generate between €400 million and €500 million in additional revenue from the broader hospitality and tourism sector. This extra money will principally come from tourists. The Minister says he believes companies will have the capacity to respond. They will do so by increasing car rental rates and that should be acknowledged. I understand that this measure was brought in when a new vehicle registration tax, VRT, regime was introduced 25 years ago to compensate leasing companies, rental car providers and driving school businesses for the change in how the excise duty was calculated on motor vehicles. We are talking about the VAT applied to vehicle registration tax. We will revisit the issue on Report Stage. It is a further burden on the tourism sector at a time when a significant change has been made to the taxation code in that area.

Deputy Paschal Donohoe: Deputy Burton asked if we had done an economic appraisal of this beyond knowing what would be the potential revenue gain. We have not done such an appraisal because I decided we would be better off doing economic appraisals of the much larger decisions we had to make, for example, on the VAT rate applied to the tourism sector. I do not ask my Department to do detailed economic appraisals of every decision we make because of the use of resources involved and, in this case, the scale of the decision involved.

As to whether we engaged with the sector about this decision before it was made, we did not do so. As I informed the committee, this measure is part of a process I have undertaken where I asked my Department to examine reliefs that have been in place for a long time and tax changes made during the crash. I asked it to provide me with a list of these reliefs and changes and an assessment of the pros and cons of changing them. We looked at this measure as part of that process.

On the tourism impact, which is the point raised by Deputy McGrath, I would hazard a guess that the cost was not shared with him when people came to him seeking a change in this policy decision. Approximately half of the cost of between €10 million and €20 million relates to fleet cars and how fleets are leased, as opposed to tourism. Half of it has to do with reliefs that we have in place for the leasing of fleets of cars to companies. We have to ask if between €10 million and €20 million of the State's money is best used for doing something like that. This was not a policy decision to stimulate the growth of the car rental and leasing sector. It was a decision made in the early 1990s when we were going from excise to VRT. Yes, there has been huge growth in the car rental sector since then, but I contend that the reason there has been huge growth and a huge decrease in the price of car rental across that period has been the massive growth in tourism and the rising incomes of people who have been visiting our country, as opposed to this change.

The view I am advocating to the committee and which I will advocate again on Report Stage is that while this may well have an effect on leasing arrangements that companies make and on the kinds of cars that are being offered to rent by car rental companies, and while it could have an effect on price, this is also a very competitive sector, so should it not be the case that we allow the private sector to work its way through those issues as opposed to maintaining a concession in our system that could have a price of up to €20 million to it? Over the next fortnight, before we go to Report Stage, I am happy to engage with members on the matter. The

cost of this could be as high as €20 million. That figure has perhaps not been present in some of the lobbying or advocacy relating to this change over recent weeks. I note, in fairness to the committee, that nobody to date has advocated that this is a change that we should not make. I think what colleagues are emphasising is that we should perhaps look at the timing of it or do an analysis of it. My view is that this is a change that we should make, and we should make it in the way I have prescribed. As I have said, if colleagues want to make me aware of any more significant issues beyond those of which I am aware, I am happy to engage with people on those.

Deputy Joan Burton: Would the Minister agree to carry out an assessment and share it with us? I am conscious from my experience of the tourism industry that it is very price sensitive. We have a number of sensitivities that are particularly acute at the moment. One is the likely impact of Brexit, the immediate significance of which, as the Minister knows, relates to currency fluctuations. We are talking about the Wild Atlantic Way, which has been significantly successful in ensuring that, while there is a vast amount of tourism in Dublin, a very significant amount of tourism goes outside of Dublin, and it is to be hoped it is high-value tourism. Many of our tourism plans are posited around that. It is especially significant for counties from Donegal down to Kerry and beyond. There have not been large numbers of jobs coming to these areas. Along with the change in the VAT rate, which may well be and will have to be absorbed by much of the industry, we are talking potentially about two big changes.

I agree with the Minister that fleets are also an issue in this, but the primary and immediate knock-on effect is on the fly drive tourism business, into which Cork, Shannon and Knock airports and smaller airports such as in Kerry and Donegal are all tied. I would like to see some level of assessment of how this would be phased in in a way that would not be negatively disruptive. For instance, there is a big development in Longford, Center Parcs, which will not come on stream for some time. However, given the way it is going about its marketing, it is obviously intended for people who will drive a car and, if it gets the custom it anticipates, it may include people who have hired cars. In that case, people are not supposed to use a car after getting there but, of course, they have to get there in the first place. I suggest the Minister has an analysis done and that he shares that analysis with us.

Deputy Paschal Donohoe: To look at the figures that have been put forward by the sector in regard to the on-cost this could pose to them, my understanding is that it has suggested it could be between €600 and €700 per vehicle. With regard to what that means from a tourism point of view, let us say all of that €600 or €700 was to be passed on to the tourist. Most car rental agreements for tourists tend to be over a number of days and they could be for a week or a bit longer. If the company makes the choice to pass all of this on to a tourist, it means an additional cost of €1.50 to €2 per day. The question I would put to the committee is whether it is good use of the State's resources to be unknowingly investing €20 million per year in maintaining a discount like this. My view is that the answer to that question is "No". We should be willing, area by area, to find examples of things like this that we are willing to change. Three, four or five changes like this in every budget is €50 million to €100 million extra of base broadening in a way that is sustainable for our country, and I think that is what we should be doing.

Am I willing to undertake a further economic appraisal of it beyond what we have done? No, I am not. As I said, given what an economic appraisal looks like and the amount of work involved in doing this, it is good use of my Department's resources to only do this in regard to decisions above a certain level. I could say, for every single decision I make, that I will not make that decision because it is going to create the potential for cost somewhere. That is the

reason none of these things has changed for 20 years and it is the reason that, in bigger areas, one of which we will come onto later in the day, we have been willing to leave really big issues in place in our tax code for too long. I believe we should adopt a different approach and this is one example of it. As I said, if there are any further issues I have missed in this regard which committee members want to make me aware of, I am happy to engage on that. However, I want to be clear that I believe this is a change that is needed and that we should be willing to make the case for changes like this to be made.

Question put and agreed to.

Amendment No. 147 not moved.

Sections 37 to 39, inclusive, agreed to.

NEW SECTIONS

Deputy Joan Burton: I move amendment No. 148:

In page 130, between lines 4 and 5, to insert the following:

"**Amendment of section 78A of Finance Act 2003 (relief for small breweries)**

40. Section 78A of the Finance Act 2003 is amended in subsection (1)(a) by substituting "60,000 hectolitres" for "40,000 hectolitres with effect from 1 January 2019".".

I commend the amendment to the Minister. This applies to a small number of microbreweries which are at the point of sustainability and where the extra allowance would add to their sustainability and viability. We are talking about a very small number of microbreweries which are in an intermediate phase, so the cost to the Exchequer would not be in any way significant and, at a certain stage of development, it would allow these breweries to get an additional advantage. There are a number of examples of companies that are currently at an intermediate stage and employ up to 100 people each, but they are at their limit. In addition, there are four or five breweries employing 100 employees or more and, allowing for current trends, they will be at their limit within 12 months.

I believe the industry favours the incremental increase which has been set out in this amendment so that progress is sustainable and targeted to the domestic brewing industry. This is an industry that has a vital connection to tourism all around Ireland. The interesting thing about the microbreweries is that they have brought employment and economic development prospects to areas which have not had much foreign direct investment. The same could be said, of course, about the distilleries, in particular the specialised brands of whiskey and gin being developed. They have become very fashionable and have taken off with many younger drinkers, and they are a feature of an Irish holiday for many tourists.

I can understand that the Minister and his officials might be rather cautious about this but I am sure they have done the maths. The cost of this change is extremely modest but it would allow developing businesses in the sector which are at a critical development stage to continue to expand and, in that way, to become embedded and to have much stronger prospects for continued viability, growth and success.

Deputy Paschal Donohoe: This amendment concerns the 50% excise relief for qualifying microbreweries, which works out at about 27 cent per pint. The amendment proposes to increase the production ceiling from 40,000 hectolitres to 60,000 hectolitres. The current pro-

duction ceiling is 40,000 hectolitres and the claim ceiling is 30,000 hectolitres. By way of illustration, 40,000 hectolitres is equivalent to 7 million pints or 12 million 330 ml bottles, so it is a very significant amount of production. In fact, where two or more microbreweries operate in conjunction, the scheme allows that they may produce up to 80,000 hectolitres, claiming excise relief on up to 60,000 hectolitres. This enables small breweries to work together and produce larger amounts while still qualifying for the relief.

I am informed that increasing the production ceiling as proposed would benefit a very small number of local microbreweries in the near term. It may benefit microbreweries located elsewhere in the EU which are equally entitled to claim the microbreweries relief for produce sold in Ireland, which is a very important point. The proportion of relief claimed by microbrewers and claimants outside the State increased from 1.4% in 2016 to 8.5% in 2017. An increase in the production ceiling to 60,000 hectolitres would likely further encourage non-Irish microbreweries to avail of the relief and potentially compete in the Irish market. My Department has not been approached about this proposed change. I understand the companies supporting it are at the largest end of production. If we were to bring in this change, it would mean that microbreweries located elsewhere in the EU would benefit provided their products are sold in Ireland. There is already a very significant relief in place, amounting to 27 cent per pint.

While I am willing to consider the proposal, I will not give a definite commitment to change it at this point. That it has not been the subject of broad representations to me gives me food for thought. Moreover, the benefit would be confined to the larger craft microbreweries and the measure would have a neutral effect elsewhere. The benefit would also accrue to larger breweries located outside Ireland. These factors make me wonder whether it is a change worth making. I am not rejecting it out of hand now because I have great respect for what has happened in craft brewing in Ireland. While I no longer classify myself as a young tourist, or even a particularly young citizen, the development of this industry is a credit to everyone involved in it. Whether one is a tourist or a citizen, the industry has brought great enjoyment to those who have sampled the products brewed here. It is an important area of innovation in Irish food and drink. That is the spirit in which I view the development of the industry.

The facts that my Department was not approached on this matter in the run-up to the budget and that the measure is focused on large companies gives me pause. I will consider this matter before Report Stage but I want to carefully examine who would benefit from it.

Deputy Joan Burton: There is a problem for businesses in Ireland. Pearse Lyons, who sadly died this year, was doing great work in the microbrewing and microdistilling sector ten or 15 years ago when he came back to Ireland. He got people to think about brewing and distilling. Many developments have taken place since then. It is particularly noticeable that areas which have not enjoyed the kind of foreign direct investment from which the large cities have benefitted are now experiencing a significant organic economic development. Such development can deliver a substantial dividend in terms of jobs in areas that otherwise have been left behind. I would be delighted to see more developments at local level similar to the Longford example I gave earlier. It is interesting to note how the Scotch whisky industry developed on the Scottish islands 100 years ago, particularly in the context of the First World War. That development left Ireland behind. I am anxious to ensure we are proactive in assisting these kinds of developments. They can add significantly to the economy. Microbreweries and microdistilleries are fashionable at the moment. I do not know if all of them will survive, but I certainly think that when they get to critical mass stage, for instance, when they have significant numbers of employees, particularly in isolated rural areas or smaller towns, they will potentially have an

enormous role to play in generating the rural economy, allied with the generation of the food economy which has also been progressing. Places such as west Cork come to mind immediately.

I thank the Minister for his comments. This conversation will continue. I am happy to withdraw the amendment on the basis that the Minister has indicated that he is open to further discussions with the committee and the industries. It is important that we maximise their employment potential. There have been very strong links between them and institutes of technology. Modern scientific knowledge and qualifications have helped students studying in this area. Employment opportunities have been created for people who 12 years ago would have moved abroad to gain experience. Now there are opportunities at home. The entrepreneurial interests of many younger people have also been stimulated in a very positive way. I will withdraw the amendment and encourage people to take up the Minister's invitation to have a conversation about how the industries will grow. We are talking about a tax advantage which, correctly, should be examined and reviewed, as opposed to a grants-based approach whereby very significant grants are given. The summer festival season in Ireland now runs from Easter. This time period is really important to rural Ireland in areas outside the big cities. The opportunity for these businesses to have a presence at these events is enormous and adds to the potential for employment creation and economic development. Farmers' produce is used in these industries. It is an important and solid market for them if the industries can reach a certain scale, creating a demand that can be relied upon by those growing crops for them

Amendment, by leave, withdrawn.

Deputy Pearse Doherty: I move amendment No. 149:

In page 130, between lines 4 and 5, to insert the following:

"Report on increasing floor of diesel rebate scheme

40. The Minister shall, within 6 months of the passing of this Act, prepare and lay before Dáil Éireann a report of increasing the floor at which the diesel rebate scheme becomes available for Hauliers.".

This amendment concerns the diesel rebate scheme. There is an error in my amendment, of which the Minister's officials have been advised. It should read "decreasing the floor", rather than "increasing the floor". It is a substantial error, but I know that the Minister is aware of the objective. There was an expectation that there would be moves to bring diesel and petrol into line in the budget, but that did not happen.

There is also concern about the operation of the diesel rebate scheme, particularly in the context of Brexit and the resultant longer journeys. There is still a lot of uncertainty. Hopefully we will get a deal that will mitigate many of these concerns. The industry has been arguing before Oireachtas committees in favour of amending this scheme. Its spokespersons argue that the floor, which is currently set at €1 before value added tax, VAT, should be reduced to 85 cent. They also argue that the rebate rate should be increased from 7.5% to 15%. I do not agree that the rate should be at that level, but there is merit in reducing the floor from €1 to 85 cent. Through the Department of Finance we costed this at €5 million, which is a significant cost but not a huge one in the context of the budget. The question is whether the industry needs support. Moreover, is this an industry facing serious challenges, particularly in light of Brexit? When we look at international comparisons, is the rebate scheme supportive of an industry comparable with other areas? Is fuel tourism still taking place? The answer to some of those

questions is "Yes". There are serious challenges and concerns.

The environment is another issue we have to weigh up. We know we need to move people to more energy-efficient fuels. Is that possible at this point for the haulage sector? The information provided to me suggests that this is not the case. Other types of fuel would increase the weight load and payload and therefore require hauliers to carry lighter loads in their trucks. That would require them to make more journeys. Instead of taking one trip from Donegal to Dublin, they would have to do two because they would not be able to carry as much bulk as a result of having to move to other fuels. We have not come up with a real alternative at this point. There have been very positive moves on Euro 6 engines, which are much cleaner than older engines.

There is a genuine reason to consider this issue. The Minister should be open to changing the floor because for some years now there has been no real benefit to the industry because of the price of diesel. The benefit is now 1.8 cent or 1.9 cent per litre. Due to the price of diesel previously, there was a negligible benefit and in some years there was no benefit whatever. The best way of doing this would not be to increase the rate but to change the floor, which would allow more people to avail of the scheme at the same rates. It would come at a cost to the Exchequer. I put this forward as a Brexit mitigation proposal regardless of whether there is a hard or soft border. In the best-case scenario there will be an impact on the haulage industry. That is without question. This is one way we can support it. It is not a huge amount of money, but I am not minimising the amount involved either. It would be a positive signal on this issue.

I would prefer if this were in the budget. We argued for this in our alternative budget. I am looking for an indication from the Minister that he will consider this issue in the context of Brexit and the challenges this industry will face.

Deputy Paschal Donohoe: The diesel rebate scheme was introduced by my predecessor in 2013 in recognition of the high price of fuel at that time and its adverse affect on the transport sector. The scheme offers a partial excise refund for qualifying hauliers and bus operators based on the retail price of diesel. The repayment amount is calculated based on the average price at which auto diesel is available for purchase during the repayment period. Relief can be claimed when the retail price reaches €1.23, including value added tax, VAT, up to a maximum rate of 7.5 cent when the price reaches €1.54. Despite recent increases in international fuel prices, with a cap of €1.54, the scheme continues to compensate hauliers for such increases. The current scheme offers sufficient protection against rising costs and the effect on competitiveness and, as such, I do not intend to conduct a review of it, with a view to amending the floor price. I met representatives of the sector and it appears that there was an expectation that the scheme would change. That expectation did not come from me or my Department. I cannot be in a position where expectations are created and imposed on me and, when I do not make particular changes, I am expected to fix the issue. I never gave an indication that the scheme was going to be changed. In the engagement my Department has had with the sector we have always been very clear that the scheme is in place. The drawdown is still considerably lower than we expected.

The Deputy asked whether there was still diesel tourism. I expect there is. However, the plan we have in place is a proportionate response to the challenges the sector is experiencing. When I met representatives of the sector, I agreed to review the scheme in the context of the Finance Bill and the budget next year. I am happy to have a look at where we stand and engage with the sector. That is the appropriate way to look at the scheme. As I said, the drawdown is lower than we expected. The pricing and capping of the scheme are still within the realm of what I believe works for the industry. There are many aspects at which we will have to look

if things really begin to change next year and we experience many acute difficulties as a result of Brexit. In meetings with sector representatives I have said we will review the scheme in the context of the budget next year, like any other scheme we have in place. In the process of reviewing it, I will meet and engage with representatives of the sector who are aware of my views on the issue. That is the best way to deal with the matter.

Deputy Pearse Doherty: It is welcome that the Minister is open to reviewing the scheme. As I said, there are lot of things we may have to do, depending on the outcome of any Brexit deal. As I have argued, unless there is a complete reversal of the decision taken by the British people two years ago, there is no possible deal that will not have an impact on the haulage sector. In my wildest dreams I cannot envisage an outcome that will not have some impact. The question is how significant it will be.

I do not want to rehearse the matter, but there is an issue about the drawdown. First, for several years the scheme was of no benefit to hauliers. For about two years after it was introduced there was a benefit. Because the floor had been set at €1 without VAT or €1.23 with VAT, there was no cost to the Exchequer for two years as the price of diesel was below that figure. The scheme has only started to be of benefit in recent times. The benefit is currently in the region of 1.8 cent per litre, but I am subject to correction. Even with that figure, hauliers who travel internationally fill up abroad. I talk to hauliers and know people involved in the industry, including family members, and they tell me that that is what is happening. The rebate schemes available in other jurisdictions are much more generous than for what we are arguing. I am not arguing for that. The industry wants two things. It wants the floor decreased to 85 cent and the rate increased to 15 cent, which would cost €22 million. I am suggesting we do just one of those - reducing the floor - and it would amount to less than a quarter of the amount requested by the industry. It is the best way to capture more people. It gives a small bit of benefit which I hope would offset some of that fuel tourism in the first place.

There is the matter, which I will mention again, of equalisation between diesel and petrol. I agree with the Minister about expectations and I have never heard an expectation created about this. The only expectation I understood relating to this would be that it would exist to offset an equalisation measure. What is the Minister's opinion on equalisation of diesel and petrol? It is a matter of concern and it would require mitigating factors for the industry.

Deputy Michael McGrath: It is very evident for anybody engaging with people in the haulage sector that there has been quite a significant shift in base of operations abroad. It is very evident from people we interact with and know. The diesel rebate scheme for the haulage sector is approximately five years old at this stage. Will the Minister confirm, if he has not already done so, whether he intends to do a review on the matters raised by Deputy Doherty?

Deputy Paschal Donohoe: I said earlier that I would look at the operation of this scheme in the context of next year's Finance Bill and as part of that we will engage with the sector. I only make that commitment in the context of the normal reviews that we would do of key schemes in advance of the budget. A change through this scheme was put in place in recognition of the challenges faced by the sector. I am being careful currently as many different needs are being advanced to me under the heading of "Brexit" or precautionary measures to be taken in advance of Brexit. I am being careful about what we do as all of this has consequences elsewhere.

I agree with Deputy Pearse Doherty as no scenario is likely beyond the British people making the decision to reverse Brexit that gets us to a place in which trade and contact with the UK would be identical to what it is today. That is because of the simple reason that the UK will be-

come a third country. It is the choice it has made. We will work very hard to mitigate the effects of this and we hope we can get through the current phase - which we will - so we can play our part in seeing that agreement is reached between the European Union and the UK, respecting the importance of trade between both. There will be change and this will have consequences for different parts of our economic sectors. We will have a look at this scheme in advance of next year's Finance Bill and we will engage with the sector as part of that.

In responding to Deputy Pearse Doherty, it is fair to say that I am informed the price of diesel went as high as €1.50 in the early years of the scheme, although in subsequent years it has dipped. That has affected the drawing down. As we can see, changes in the price of diesel now should affect use of incentives available to the sector and I expect to see more drawing down through the scheme than we have seen recently.

The Deputy also asked about equalisation and I decided not to do it in this year's budget for many reasons. For one, I am conscious of the tremendous importance of diesel in how we fund access in and out of our country. With the nature of Brexit becoming clear in a few months, I decided to take this decision at a future point, when I will be clearer on where we stand on big matters of transit. To be honest, if I was sitting before the committee having made a decision on equalisation or carbon taxation, it would have been fair to ask me why I was making those changes. As I did not make changes in carbon taxation or diesel equalisation, it is a fair enough position to advocate leaving the scheme unchanged.

Deputy John McGuinness took the Chair.

Deputy Pearse Doherty: I welcome that the Minister did not make changes. In fairness to him, he tried very hard on the latter point but the rug was pulled from under him with the carbon tax by his partners in Government. That must be put on the record. I take the Minister at face value on equalisation in the Brexit context.

Deputy Michael McGrath: Of what is the Deputy accusing us?

Deputy Pearse Doherty: I mentioned the Minister's partners in Government.

Deputy Michael McGrath: I thought it was a dig at us.

Deputy Pearse Doherty: No, the other partners in Government.

Deputy Michael McGrath: The real partners.

Deputy Paschal Donohoe: If the Deputy is going to put that on the record, I should say there were many different rugs and there will be many different interpretations of who pulled what. I will leave it at that.

Deputy Pearse Doherty: It is a minor matter. I welcome that there will be a review. We must examine the issue in a genuine and serious way, taking on board the fuel tourism issue. While there will be an uptick in drawdown because of the price of diesel, it will not be at the level it should be at because the practice is that when a haulier goes abroad, he or she fills up before coming back. They do this because it is beneficial.

Amendment, by leave, withdrawn.

Section 40 agreed to.

SECTION 41

Question proposed: "That section 41 stand part of the Bill."

Deputy Paschal Donohoe: This section amends the Value-Added Tax Consolidation Act 2010 with respect to rates of VAT. First, it provides that from 1 January 2019, as announced in the budget, the second reduced VAT rate of 9% will increase to 13.5% on goods and services predominantly in the tourism sector, with the exception of newspapers, periodicals and the provision of facilities for taking part in sporting activities, which will remain liable at the 9% rate. The 13.5% VAT rate will apply to supplies of catering and restaurant services, tourist accommodation, hotel and other holiday accommodation. It will also apply to admissions to cinemas, theatres, museums, certain musical performances, historic houses and open farms, fairground and amusement park services and hairdressing services. The supply of live horses not normally intended for use in the preparation of foodstuffs or in agricultural production, greyhounds, the hire of horses and the supply of certain printed matter will also be liable to VAT at the 13.5% rate.

Second, it amends Schedule 3 to insert a new definition of electronically supplied publications, which are e-newspapers, e-periodicals and e-books. It provides that the 9% VAT rate will apply to such electronically supplied publications from 1 January 2019. These publications are currently liable to VAT at the standard rate of 23%.

Deputy Pearse Doherty: I oppose the section. I have argued that the VAT rate should be restored for the hotel sector, and there is clear evidence for that. Nonetheless, there are differences throughout the regions and we do not have in some areas the same kind of occupancy and rates being charged in some of the urban areas. We need to formulate innovative ways to support the sector in this respect. Even the Department's report indicated that this was not being passed on. We have some of the highest occupancy rates in Europe and the revenue per available room metric for Irish hotels indicates they are among the busiest and most lucrative in Europe, notwithstanding my comments on regional disparities.

The concern I have and my objection to the section relates to the increase in the VAT rate for the other parts of the tourism sector. It is not warranted at this point. At the very least, it should have been increased incrementally as opposed to going from 9% up to 13.5% in one fell swoop. It would have been more appropriate to have increased it in a number of steps over a couple of years to help the sector. We are talking here about hairdressers and others in the tourism sector. While the tourism sector is doing well, it is not doing well everywhere. There is an uplift in many parts of the country but there are also major parts of this State that have not seen the economic recovery that is taking place in other parts, particularly in our capital city. That is why I oppose this section. In opposing the section I want to make it clear that, as Sinn Féin has argued, it was remiss of the Minister not to get rid of the relief for the hotel sector at an earlier stage. That being said, I acknowledge that he has moved on that now and I welcome that. However, it should have been done by way of separating hotel beds from the rest of the sector and then restoring the rate in an incremental way.

Deputy Paschal Donohoe: My argument could be summed up by, if not now, when? Yes, we do have parts of our country that are not doing as well as others, which I fully acknowledge, but we have an economy overall that is seeing very strong income and employment growth. The reality, as I look beyond this point, is that if we had made the choice to split the two and not to increase the rate for restaurants, then despite what the Deputy has said, it would never happen. If we had separated the two of them and made a move on hotels but not on other sectors,

we would be breaking a link that has always been there. The Deputy may feel differently about it, and he clearly does, but I go back to a thread I have had in many of the different changes that we have argued. If a change is made that benefits many different sectors and we say that change is going to be temporary, if the change goes in one way, affecting all, then the logic I am now establishing is that it has to go in the other way, affecting all as well. If we end up in a place where we are happy to make changes that benefit all, but when we undo them, we are willing to allow the costs to be distributed in a different way, then the changes will never happen.

Yes, I acknowledge that, for those who are working in food or restaurants and some in tourism, this could have a different effect outside of the larger cities. I am aware of that. It was, however, because all of these arguments were put with regard to this relief that it did not change in the past. It is because all of these arguments are continually put with regard to different parts of our tax code that we have not been willing to make changes to reliefs at a time when changes should have been made. It is for that reason that the appropriate way to do this is to undo this change in the way that it was made in the first place. As I have said, if we do not do this now, in a few years' time, we will still have different VAT rates in place in different sectors and with the same issue existing.

Deputy Pearse Doherty: When this was introduced, when the tourism sector was on its knees and really needed a lift, the Government needed to do something that had an impact. The reduction from 13.5% down to 9% had that impact, it has worked, it was successful, and it was a good initiative. Fair play for introducing it at the time, notwithstanding how it was funded. When it is reversed, however, it has the other impact on the way back up.

Deputy Paschal Donohoe: The Deputy almost said something good about a policy decision there.

Deputy Pearse Doherty: I did. I said fair play for introducing it.

Deputy Paschal Donohoe: It was the "notwithstanding how it was funded".

Deputy Pearse Doherty: That is fair enough. The Minister should take it when it is given to him. The issue is, when it is reversed, the impact is the same. The question is whether the industry is robust enough to withstand that impact. Of course the hotel sector, where many of the beds are located, is robust enough because of all the metrics about which we have talked. The issue with the other sector is that there are parts of it that are not able to withstand it or on which it will have a detrimental impact.

The Minister summed up his question as: if not now, when? Let me sum up the answer for him. In this Finance Bill he could raise the rate on the other sectors to 11%, taking effect from 1 January 2019, and increase it in this Finance Bill to 13.5% in the subsequent year. It is not the case that if he does not do it now, he will never do it. He can take these steps now, as we have done in respect of other legislation with which I do not agree. For example, mortgage interest relief is being stepped down every year for a number of years. When we dealt with mortgage interest relief for landlords, it was being increased by 5% every year. That was put into our legislation. We did this in a number of other areas as well.

It could be done like that if the Minister so desired, given he has clearly acknowledged that the sudden impact of a 4.5% increase in VAT may not be as easily absorbed in the sectors in question as in others. The Minister should legislate for the increase in a stepped way, which allows the sectors a bit of breathing space in that, while they would take a hit because the rate

would increase next year, it would allow them time to factor in that it will increase to the full 13.5%.

Deputy Paschal Donohoe: If I had put in varied treatment by sector, for example, if I had said we will do hotels in one go but restaurants on a phased basis, two things would happen. The first is that those in the hotel sector would ask why they were not getting the same treatment as those in the restaurant sector. The second thing is that we would be back here in a year's time with the case being made to me that the next phase of the increase in the restaurant sector should not happen. We would be having that debate then.

This was well expected. It has been debated publicly over the past two years since I have been in this role. In the tax strategy group papers we published earlier on in the year, we gave a very clear indication that this was a very live option for budget day.

Amendment put.

The Committee divided: Tá;, 4; Níl, 1.	
Tá;	Níl;
Burke, Peter.	O'Brien, Jonathan.
Deasy, John.	
Donohoe, Paschal.	
Murphy, Paul.	

Question declared carried.

Staon: Deputies Michael McGrath and John McGuinness.

Sections 42 and 43 agreed to.

NEW SECTIONS

Chairman: Amendments Nos. 150 and 151 are in the name of Deputy Pearse Doherty. Deputy Jonathan O'Brien will move them.

Deputy Jonathan O'Brien: I move amendment No. 150:

In page 130, between lines 23 and 24, to insert the following:

"Report on reform of VAT system

44. The Minister shall, within 6 months of the passing of this Act, prepare and lay before Dáil Éireann a report on the possibility for reform of the VAT system under EU proposal including the option of zero rating for social goods like mountain resource equipment and defibrillators.".

Amendment, by leave, withdrawn.

Deputy Jonathan O'Brien: I move amendment No. 151:

In page 130, between lines 23 and 24, to insert the following:

"Report on VAT treatment of food supplements

44. The Minister shall, within 6 months of the passing of this Act, prepare and lay before Dáil Éireann a report on the VAT treatment of food supplements providing clarity for the food supplement industry.".

Amendment, by leave, withdrawn.

Deputy Michael McGrath: I move amendment No. 152:

In page 130, between lines 23 and 24, to insert the following:

"VAT treatment in respect of children's footwear and clothes

44. The Minister shall within 6 months of the passing of this Act, prepare and lay before the Oireachtas a report examining the options for reviewing, in respect of children's footwear and clothes, the size limits that are currently zero rated for VAT purposes subject to our obligations under EU law.".

This is the old nugget I raised last year as well. I know Ministers for Finance are very reluctant to talk about VAT on children's footwear and clothes but, in essence, what I am seeking is an update, if there is one, as to whether or not the Revenue Commissioners have had any engagement with trade associations in this regard. In summary, the position is that we cannot change the relevant age of the child at which zero-rating ceases to apply, which is currently 11. The question, however, is what the relative sizes are. According to the Revenue and the Department, "The practical application of the measure is that zero rating applies to children's clothing of sizes up to and including a 32 in. chest, a 26 in. waist or 152 cm in height; and children's footwear up to and including a size 5.5 or 38."

We had a good discussion on this last year, primarily with the Minister of State, Deputy D'Arcy. I asked that Revenue would engage with the trade associations again and undertake some consultation on whether the sizes that are deemed by Revenue to be appropriate for children under the age of 11 are still applicable or should be reviewed. That was the thrust of the conversation last year and hopefully there will be an update.

Deputy Paschal Donohoe: As the Deputy stated, this issue was discussed in the debate on last year's Finance Bill and relates to the application of the VAT zero rating that applies to children's clothing and footwear. Under Article 110 of the VAT directive, member states may retain the zero rates on goods and services that were in place on and from 1 January 1991 but cannot extend the zero rate to new goods and services after that date. As the Deputy is aware, the zero rate of VAT applies to clothing and shoes for children and this is possible under EU VAT law because the zero rate applied to these goods on and from 1 January 1991. It is not possible under EU VAT law to extend the application of the zero rate by raising the age limit of children to whom the zero rate could apply in respect of articles of clothing and footwear.

Since the mid-1980s, Irish VAT law has defined children's clothing and footwear as that not exceeding the size appropriate to children of average build and foot size of ten years of age. This includes clothing described, labelled, marked or marketed as being for children under 11 years of age. The practical application of the measure to date is that zero rating applies to children's clothing of sizes up to and including 32 in. chest, 26 in. waist or 152 cm height and children's footwear up to and including size 5½ or 38. These sizes were determined in 1984 after consultation with clothing and footwear trade interests at both manufacturing and distribution levels and, at that time, were considered to be generous. A further review of the average size of footwear for children was carried out in 1997 but there was insufficient evidence at that

time that would warrant a change in the 5½ limit.

Following last year's debate, the Revenue Commissioners recently completed a review of the average shoe and clothing sizes for ten year olds. This review produced no evidence to support a change in the existing guidelines. Revenue approached a number of experts including in the ESRI as well as academics in the field of nutrition and children's health. These experts told Revenue there was no data that would enable them to complete the study that Revenue was seeking. Revenue then reviewed information publicly available from a number of businesses, including the largest retailers in Ireland, on clothing sizes for ten year old children. All of these measurements, with one exception, indicated that the current clothing sizes for chest and waist were below the current published Revenue guidelines.

I would add that Revenue has not received any submissions or contacts from Deputies, businesses or representative bodies in this regard following the discussions last year. As matters stand, I have no basis on which to alter the guidelines but I remain prepared to do so if data becomes available that would support a change. I reiterate that Revenue would welcome submissions from interested parties in this regard. I hope the work we have done to date on this demonstrates to Deputy Michael McGrath that we have taken the matter seriously. We have no evidence to support the change and for that reason, I am not in a position to accept the amendment.

Deputy Michael McGrath: I thank the Minister for his reply. To be clear, I am not advocating on behalf of any sector or trade interests but on behalf of consumers. I welcome the fact that Revenue has undertaken some work in this area. To recap, the Minister mentioned that contact was made with the ESRI and academics in the area of children's health and nutrition. I think he went on to say contact was then made with businesses in the clothing trade and that, with one exception, they did not indicate that the measures used were inappropriate. Is that correct?

Deputy Paschal Donohoe: The first part of the Deputy's statement is correct. We approached the ESRI and then academics in children's health and they advised us that the data to enable us to do this in the manner the Deputy describes were not available. We then reviewed the information on sizing available to us from the largest retailers. The one exception referred to measurements rather than a retailer, so the vast majority, with one exception, of the work we did indicated that the measurements available in the tax code correspond with children's sizing. I imagine there must have been just one outlier in this regard. I ask the Deputy to bear with me for a moment while I consult my officials. There was one brand whose sports trousers appeared to be out of kilter for certain sizes with what we have in our tax law. For all other brands across the retailers we checked, however, sizing was consistent.

Deputy Michael McGrath: Did the revenue also consult on footwear or just on clothes sizes?

Deputy Paschal Donohoe: We looked at publicly available information on shoe sizing. The process we undertook in respect of clothing we undertook for shoes as well.

Deputy Michael McGrath: All this is based on a child of average measurements. When a child is not of average size, for example, he or she is aged ten years, going on 11, and requires size 6 footwear, whether trainers, football boots or whatever else, VAT is paid at the full rate even though the child is under the age at which such products should cease to be zero-rated. On the basis that the child is not of average measurements, the 23% rate applies. The issue here is

that the retailers, in pricing these products, have completely separate price ranges. Taking the example of footwear, there is one price range up to size 5.5 and an entirely different price range above that. The problem is that the difference is not just in the VAT rate. Rather, adult footwear is marketed as a completely separate stream of product and at an entirely different price from children's footwear. What might be €40 for a size 5 or 5.5 could be €70 or €80 for a size 6, 7, 8 or 9. This is the reality that parents and families face when it comes to this issue. This is why it needs to be examined. I think what the Minister is essentially saying is that we are in a straitjacket because of EU VAT law, that the age cannot change because it is the age that was set when the directive came into being and that the only flexibility we have is in respect of what the average sizes are for children in that age bracket. It would appear, therefore, that we have very limited flexibility. I acknowledge that some work has been done in this regard but, from what the Minister says, no change will come of it.

Deputy Paschal Donohoe: That is correct. As someone who is a regular purchaser of football boots in particular, I am well aware that once one goes beyond a certain size, the price can increase from €30 or €40 to a multiple of that. The Deputy is 100% correct about this. The larger driver of this, as he just said, tends to be the price at which the manufacturer seeks to retail the product rather than what is happening with the taxation on it. I take his point but, from our point of view, we do not have flexibility in respect of age. The only flexibility we have is in respect of sizing. The Deputy is correct about us basing this on average sizing, which is the only way we can make such a decision. We have to have a reasonable average on which to anchor our decisions. We have used websites and publicly available information to go through the sizing that we know to be available to Irish consumers. We believe we are in a reasonable place.

Chairman: Is the Deputy pressing the amendment?

Deputy Michael McGrath: I will withdraw it, although I may resubmit it.

Amendment, by leave, withdrawn.

Deputy Michael McGrath: I move amendment No. 153:

In page 130, between lines 23 and 24, to insert the following:

"VAT on food supplements

44. The Minister shall within three months of the passing of this Act, prepare and lay before the Oireachtas a report on the different rates of VAT charged on food supplements and on whether certain categories of food supplements should be retained in the zero rate VAT category.".

This relates to the application of VAT to food supplements, an issue that most Deputies, and certainly every Deputy on this committee, have been contacted about in recent weeks. I engaged on it with some people in my area. The view of someone in this sector whom I know is that, since 2012 when Revenue decided that it was no longer acceptable for all food supplements to continue to be supplied at the zero rate applicable to foods, we have had six years of highly disruptive and costly VAT disputes, with some products remaining VAT free while moves were made to apply the 23% rate to other products. The system has lacked clarity, is laden with disputes between companies and Revenue, and has become dysfunctional.

I acknowledge that this is an area of great change and that change has happened rapidly in recent years. The issue of food supplements and nutrition is evolving quickly. The application of our tax code to it needs to be considered carefully. If the Minister has a note on this amend-

ment, he might place it on the record and we can proceed from there.

Deputy Paschal Donohoe: Currently, the standard rate of VAT applies to food supplements. However, there is a Revenue concession that allows the zero rate to be applied to certain types of food supplements, such as vitamins, minerals and fish oils. The practice of zero rating vitamins, minerals and fish oil food supplements has been applied since the introduction of VAT on 1 November 1972 when the marketplace for food supplements was small. However, this concession is proving to be problematic.

Elements of the food supplement industry have made a sustained challenge to the application of the standard rate of VAT to certain food supplements. There are concerns that, while elements of the industry apply the correct rates, others have a competitive advantage by applying the zero rate to products that are properly liable at the 23% rate. The crux of the argument is generally that the products concerned are similar and compete with other products that are zero rated. Protracted correspondence on the issues has raised concerns regarding possible non-compliance in the sector, in particular the zero rating of products that should be standard rated, which may result in a degree of unfair competition between compliant and non-compliant businesses.

Revenue's position is that food supplements are not food and, as such, are not entitled under VAT law to the zero rate of VAT. Therefore, the standard rate of VAT applies. The concession outlined in Revenue guidance is no longer tenable.

After consultations between Revenue, the Department of Health and my Department concerning policy options that might be considered in the context of Finance Bill 2018, reservations were expressed by the Department of Health as to the implications that a change might have on the promotion of food supplements in certain circumstances. For these reasons, I decided not to make any change in this year's budget and Finance Bill. I am advised that Revenue will now consider how to proceed based on the existing legislation, including whether any change to its guidance is necessary.

Deputy Michael McGrath: I thank the Minister. To clarify, will the guidance that is currently in place continue to apply in the absence of any change under the Finance Bill? When referencing the concession on vitamins, minerals and fish oils, the Minister stated that it was no longer tenable. However, he also stated that there would be no change in the Bill and that Revenue would consider what changes to its guidance might be needed.

I want to be clear on the position for 2019. Is it that the concession will continue to apply? The Minister stated that food supplements were not food and, generally speaking, are not zero rated. Will he provide clarity on the situation for 2019?

Deputy Paschal Donohoe: I am not changing the legal provision. A Revenue concession is in place regarding vitamins, minerals and fish oils, but it has proven difficult for the reasons outlined. It is the view of Revenue that the concession is no longer tenable and it will have to make decisions on how to interpret the legislation.

From a legislative point of view, this is a matter that we considered. Following the views put to me, particularly regarding public health, I decided that no change in legislation was required. This is an important matter and there are public health considerations to it. The Revenue Commissioners make decisions independently of me regarding how legislation is interpreted. I must respect that, but there are some policy decisions at stake that merit consideration. If the Deputy

withdraws the amendment, I will give a commitment to deal with this matter in the context of a specific paper of the tax strategy group, TSG, during the summer period.

Deputy Michael McGrath: As I understand it, the default position is that food supplements are standard rated for VAT purposes and the concession that applies to vitamins, minerals and fish oils still stands even though it has no legal basis. It is a Revenue interpretation as such. Is my understanding correct? I welcome the Minister's statement that the issue will be examined in the context of the TSG, but will he also give a commitment that there will be no change in Revenue practice or interpretation until this issue has been examined by that group?

Deputy Paschal Donohoe: I cannot give that commitment. The Revenue Commissioners will have to make a decision about the availability and implementation of this concession. They are considering that. Their view is that the current concession on vitamins, minerals and fish oils is no longer tenable. They will have to make a decision in that regard in the coming period.

Independent of Revenue's decisions on interpretation, I will put in place a process that will conclude in the TSG papers to examine some of the policy choices that could be available.

Deputy Michael McGrath: In the meantime, the current practice will continue.

Deputy Paschal Donohoe: Not necessarily.

Deputy Michael McGrath: How does it work in practice for a health store with a wide range of generally branded supplements? How is it decided whether VAT is applied? Is it ultimately a matter for the retailer to decide whether the concession applies or is it a matter for Revenue? From the great deal of correspondence I have received, it seems that the area is riven with disputes. The position is unclear. I am concerned that some retailers may be building up potential liabilities by not charging VAT correctly.

Deputy Paschal Donohoe: What is happening at the moment is that at least some retailers are making a decision on what they believe the VAT rate should be on the sale of certain supplements. This is mainly within the area of vitamins, minerals and fish oils. The position in this regard is not clear. The Revenue guidance to date has been that there is a concession in place but due to the implementation and other issues, Revenue will now have to review the guidance in place.

I know the Revenue is aware of the issues raised. The challenge we now have is that we find ourselves receiving representations from manufacturers and retailers, some of whom believe they are correctly implementing the law. We have to ensure we have a level playing field. I want to be crystal clear on this point and I realise the Deputy is not challenging this. This is one of the areas in which I have to support the work being done by the Revenue. It will issue guidance in this area based on its interpretation of the law and this will have my full support. I will work in parallel with that but it is the right of Revenue to issue guidance before my work potentially concludes. If Revenue does that, I will support it and issue a paper on some of the broader policy issues. If the Revenue advises me of issues that I need to clarify to help with the implementation of law, I will be guided by that advice on the matter. Above all, I want to see a level playing field for retail products. I want to see clarity regarding how the law is being implemented. A growing body of evidence is being presented to me to the effect that this is not the case in the sector.

I was concerned that if I made a legislative change at this point, it could compound difficulties that exist. The Revenue will decide how this needs to be implemented. It will issue further

guidance in this area, which I will fully support. While Revenue is looking at this, I will review our policy in the area and the question of whether we need to make changes in next year's finance Bill. Everyone needs to know where they stand, including manufacturers, retailers and consumers. When this clarity is available everyone will have to implement the same law in the same way. That is not happening at the moment and we need to address it.

Amendment, by leave, withdrawn.

Section 44 agreed to.

Sections 45 to 47, inclusive, agreed to.

NEW SECTIONS

Deputy Jonathan O'Brien: I move amendment No. 154:

In page 133, between lines 5 and 6, to insert the following:

"Report on impact of increase on non-residential stamp duty

48. The Minister shall, within 6 months of the passing of this Act, prepare and lay before Dáil Éireann a report on the impact of increasing non-residential stamp duty by 1 per cent and the threat of overheating in the commercial property sector.".

Before withdrawing the amendment, I wish to have a brief conversation with the Minister. He will be aware of the pre-budget submission by the Irish Fiscal Advisory Council and the new tool used in the submission, which in essence is a heat map. It shows that the area at risk of overheating in the coming years is the non-housing construction sector as opposed to the housing construction sector.

I want to have a brief conversation with the Minister about the risks in the non-housing sector. IFAC has been clear in stating this sector poses a significant risk to overheating in the economy. How is it proposed to dampen down the risk? This is relevant, especially given that we have a housing crisis and a housing shortage and, according to the IFAC heat map, there is no risk to overheating in the housing construction sector. Deputy Pearse Doherty is looking for a report within six months of passing the Finance Bill on the impact of increasing non-residential stamp duty by 1% and how that would or could dampen down the non-residential sector. Not only that, I imagine both the Minister and I would agree that capacity and labour shortages in housebuilding are relevant. Even if we put all the money in the world into housebuilding tomorrow, only so many houses can be built given the labour available. Would this not be a way of redirecting some of the labour from the non-housing construction sector, which is going ahead too hotly, into housing construction? I am seeking some brief comments from the Minister on that point.

Deputy Paschal Donohoe: Broadly, the risk identified by the Deputy is the reason I increased stamp duty on commercial property last year from 2% to 6%. I believed there was a risk of overheating in the sector. In particular, I believed that we were facing an issue because, from the point of view of the Government, we had a preference for economic resources and human capital to be deployed in supplying homes but instead it was being absorbed into the delivery of commercial property. We reviewed the position on rates for commercial property. We went from 9% to 6% to 2%. I decided, in the context of the evident risk, that it was appropriate to return the rate to 6%, which is where it used to be. This has meant that we have delivered a significant increase in the yield on stamp duty on commercial property. We are behind target

compared with the figures we had. My expectation is that we will catch up on that target in the remaining months of the year. However, at this point it is likely that we will miss it. The question of by how much will become evident as we move into the end of the year. The way the tax operates means that it tends to be influenced by a small number of high-value transactions. As we move through the year we believe it is likely that the figures will increase beyond where we are, but maybe not come in exactly as we forecasted.

Given that I made such a significant change last year I decided it would not be the appropriate stance to take to change it again this year, especially given where we were with yield. It is a sector in which we have already made a large change in recognition of the risk that Deputy Jonathan O'Brien and IFAC have identified. Given the tripling of the rate last year I decided that a further change this year would not be appropriate. Is this something that we will keep under review? The answer is: "Yes we will."

Deputy Jonathan O'Brien: Do we have any data on how last year's increase has impacted on the potential overheating in the economy in this sector? The Minister said that we tripled the rate last year. In August of this year, IFAC was still looking at 2019, 2020 and 2021 as a period when that sector will overheat more and more. This is despite the tripling of the rate last year. Has any analysis been done on the impact that the increase last year is likely to have in the coming years?

Deputy Paschal Donohoe: The transaction time for commercial properties and all the work that has to be done in that regard is rather long and these projects tend to be big. Given these factors it is still too early to be able to evaluate the effect this measure has had apart from the additional yield it has brought in. I expect that by the time we get to next summer we will be in a position to assess whether it has had the kind of effect on yields and commercial duty pricing that we are keen to see. That would be the appropriate point to make a call on whether the level of stamp duty should be reviewed further. Of course by that point we should be clearer on where we are from the point of view of Brexit. That, in turn, will feed into decisions I will be able to make.

In summary, by the middle of next year we will be in a position to assess whether this has had the desired effect on yields and price levels. It remains open to me in the Finance Bill 2019 to decide whether I want to change it again.

Deputy Jonathan O'Brien: It may not be an issue for the Minister's Department but I presume we will know also whether it has any impact on redirecting labour from non-residential to residential around the same time next year. Will that form part of the data?

Deputy Paschal Donohoe: It will. I am more hopeful that we will see that happen because of indications relating to the supply of homes, accommodation and what is happening with planning permission. I am hopeful we will see that change happen but all these indicators will be much clearer to us in advance of next year's budget. The judgment call I made was that to make a further change so soon after tripling this rate might be counterproductive, but I am open to changing this again. It was at 9%, which is higher than it is now. The sector should be aware that this is a decision that I will be reviewing next year.

Amendment, by leave, withdrawn.

Deputy Jonathan O'Brien: I move amendment No. 155:

In page 133, between lines 5 and 6, to insert the following:

"Report on rate of stamp duty for agricultural land

48. The Minister shall, within 6 months of the passing of this Act, prepare and lay before Dáil Éireann a report on the possibility of a separate rate of stamp duty for agricultural land.".

Amendment, by leave, withdrawn.

Sections 48 to 50, inclusive, agreed to.

SECTION 51

Question proposed: "That section 51 stand part of the Bill."

Chairman: Does Deputy O'Brien want to comment on section?

Deputy Jonathan O'Brien: We are opposing this section for the reason that there was no need for any changes in the thresholds.

Deputy Paschal Donohoe: This relates to-----

Deputy Jonathan O'Brien: The note I have states that it relates to capital acquisitions tax.

Deputy Paschal Donohoe: Yes.

Question put and declared carried.

NEW SECTION

Deputy Michael McGrath: I move amendment No. 156:

In page 133, between lines 23 and 24, to insert the following:

"Agricultural Relief after the United Kingdom leaves the European Union

52. The Minister shall within three months of the passing of this Act, prepare and lay before the Oireachtas a report on whether agricultural land situated in Northern Ireland will qualify for Agricultural Relief on Capital Acquisition Tax and whether land in Northern Ireland will qualify for the 80 per cent test for the Agricultural Relief once the United Kingdom leaves the European Union.".

This is something the Minister might be able to clarify quite quickly. It is an issue raised with me by a tax practitioner and it relates to the application of agricultural relief in the context of Brexit. Under the definition of "agricultural property", it relates to agricultural land and pasture woodland situated in a member state. The question that has arisen is in the context of Brexit. When the United Kingdom leaves the European Union, what will be the status of land in Northern Ireland in the context of agricultural relief in this jurisdiction?

Deputy Paschal Donohoe: I want to first set out the current position on capital acquisitions tax, CAT, agricultural relief. The purpose of agricultural relief is to encourage the productive use of agricultural land and to prevent the sale or break-up of farms to pay a CAT liability.

Agricultural relief operates by allowing the value of agricultural assets received to be reduced by 90% of its value for the calculation of the CAT liability. This is a key relief in ensuring the inter-generational transfer of farm assets and plays an important role in farm succession planning. To qualify for the relief, certain conditions must be met. The first condition is that,

following the inheritance or gift, at least 80% of the property owned by the farmer consists of agricultural property. A second condition, known as the active farmer test, is in place to ensure that the farmland will continue to be actively farmed following the inheritance or gift. Agricultural land owned by the farmer and located either inside or outside the State can be used to determine qualification for this relief. Equally, the agricultural land which is inherited or gifted to the farmer, on which CAT is relieved, can be inside or outside the State in any part of the European Union.

I want to reassure the Deputy that the possible impact of Brexit on this specific relief is something of which I and my officials are fully aware.

An agricultural relief for CAT has been in place since CAT was first introduced and I am conscious of the importance of this relief to the farming community. The Deputy will appreciate, however, that Brexit negotiations are still ongoing and there is a very wide array of issues that we will have to deal with, particularly in our tax code. At this point, it would be inappropriate and premature for me to comment on the future of this relief until a clearer picture emerges from the Brexit negotiations.

I hope the Deputies will appreciate that there is sensitivity regarding elements of our tax code that prevent me from giving a further commitment on that point now. However, I want to emphasise the importance of seeing a successful outcome from the negotiations centring on Brexit. I reiterate that given the implications of this particular relief, it is something of which I am very much aware. It depends on the outcome of Brexit negotiations that will take some time to complete.

Before I comment any further on this relief, there is a broader set of principles on which we will need to get agreement. I reiterate for Deputy McGrath's information that I am aware of the importance of this particular relief. The safest thing to do would be to allow us continue with work that we have on the outcome of Brexit. Much of the work that will need to take place on this is still some way down the road. We have a set of other issues that we are trying to get resolved. The wisest thing for us to do will be to look at this relief at a later point in the context of a set of other decisions rather than me committing to a report on it now that will only restate what I have just said to the Deputy. For that reason, I would ask the Deputy to consider withdrawing this amendment in light of the fact that I recognise the importance of this issue, but there are many other issues we need to get resolved first.

Deputy Michael McGrath: I thank the Minister. I understand the predicament the Minister is in, namely, that this is one of a great many issues in the mix in the Brexit negotiations. However, is it not the case that, at its simplest level, this will require a change in our legislation because agricultural relief currently relates to agricultural property, which is defined as being property within a member state? If the UK is gone from the EU by the end of March 2019, it will no longer be a member state. Is it not the case that a change in our legislation will be required? Given that that timeline is only a number of months away, we could have a situation where a small number of individual cases could arise in the first half of next year. That is the reality. I acknowledge that the Minister recognises the importance of the relief but there is a degree of uncertainty on this, as there is on so many other issues in the wider context of Brexit, which I understand. However, the legislation that currently underpins this vital relief provides for the application of it to property within a member state. As things stand, the UK will not be a member state in a short number of months, therefore, this relief will not have a legal basis for land outside the European Union.

Deputy Paschal Donohoe: That is correct. The UK will no longer be a member of the European Union. That means that we will have to change our primary legislation but before I get to the point of being able to make that change there are other issues with our tax code that need to be settled. We need to do that work first and that is the issue we have to deal with.

Deputy Michael McGrath: Is the Minister giving a commitment that this issue will be dealt with and that we will not have a situation where a farmer whose land traverses the Border with some of it in the Republic and some of it in the North will have to have his or her farm split in the context of the application of this relief? I assume that will not be allowed to happen.

Deputy Paschal Donohoe: I cannot give a commitment yet on what we will be able to do on that matter because there are a number of issues that we will have to resolve when the direction of Brexit becomes clear. All I can do at this point is reiterate my understanding that this is an important matter and that I will do my best to resolve it in an orderly and fair way. However, before we can get to that point we have to conclude some other issues.

Deputy Joan Burton: On the 31 March deadline, has the Minister prepared transitional, roll-over legislation to cover the interim period when there may be a transition? I know we all hope that will last as long as possible but many agreements between Ireland and the United Kingdom will clearly be fundamentally changed when the United Kingdom formally and fully exits the European Union as they have suggested they will do. Does the Minister anticipate that emergency legislation will be required to cover a transitional period and are he and his officials preparing same? It would not just relate to agriculture but I anticipate that it would relate to a wide variety of areas.

Deputy Paschal Donohoe: If the UK leaves with a transitionary period in place, legislation will be needed. The importance of having that period means that the legislation will not be emergency legislation because the great benefit of having a transitionary period is that it will give us and the UK the time that is needed to settle a vast array of issues. In the event of the UK leaving without a transitionary period we are looking at our options but we would face an immense number of issues were that to occur.

Deputy Joan Burton: I understand that but given the context of this discussion, would it be helpful if we discussed it in more detail because for instance, there are many people such as hauliers in Ireland who transit to and from the UK? Have there been discussions about what such people will be required to do because there will definitely be changes in legal status and potentially in taxation status also?

Many people are trying to make a living and we already know what happens when there are delays in British ports. I am sure that the Minister has seen the work that is ongoing with a lane in the motorway being reserved near the ports in the south east of England. It would be useful if we could have advice and discussion on this because tens of thousands of people's livelihoods are at stake once the transition period comes in. I hope the transitionary period could last until the end of 2021 as the Minister does. Nonetheless there needs to be a lot of legal clarity because otherwise the people driving trucks could be faced with unexpected demands regarding their data, documentation or clearances in a changed environment.

I wish it was not so but that is how these things work.

Chairman: We will have a broader discussion on it later on.

Deputy Paschal Donohoe: Yes. Discussions are ongoing on transit and access.

Amendment, by leave, withdrawn.

Sections 52 to 58, inclusive, agreed to.

NEW SECTION

Deputy Paschal Donohoe: I move amendment No. 157:

In page 142, between lines 14 and 15, to insert the following:

"**Amendment of Part 5 of Schedule 24A to Principal Act (orders pursuant to section 826(1E) in relation to the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting)**

59. Part 5 of Schedule 24A to the Principal Act is amended by inserting the following:

"The Multilateral Convention to Implement Tax Treaty Related Measures Order 2018 (S.I. No. 440 of 2018).".".

This amendment seeks to introduce a legislative provision to amend the Taxes Consolidation Act 1997 by inserting a reference to the Government order that ratifies the OECD multilateral convention to implement tax treaty related measures to prevent base erosion and profit shifting, BEPS, into Part 5 of Schedule 24A.

The multilateral convention is an OECD and BEPS action which seeks to implement a series of tax treaty measures to update international tax rules and to lessen the opportunity for tax avoidance by multinational enterprises. The Government order which gives effect to the multilateral convention has been discussed primarily in this committee and has been approved by both Dáil Éireann and the Government. The additional reference to the order in Part 5 of Schedule 24A to the Taxes Consolidation Act 1997 is the final legislative step in the process which will ensure that the multilateral convention will have the force of law. Once the Bill becomes law, Ireland can then deposit our instrument of ratification together with the list of reservations and notifications to the OECD depository.

Chairman: We are discussing amendment No. 157. Amendments Nos. 157 and 186 are related and may be discussed together.

Deputy Paschal Donohoe: Will I also address Deputy Michael McGrath's amendment?

Chairman: Yes.

Deputy Paschal Donohoe: Article 12 of the multilateral convention introduces a new test for when an agent can constitute a permanent establishment or a taxable presence in another jurisdiction. This article is not a minimum standard under the multilateral convention so signatories are free to opt out of this article.

I am not adopting this provision but I am committed to keeping it under review. It is open to Ireland to lift our reservation at a later date. The reason I am not adopting Article 12 at this time is that there is significant uncertainty as to how the test will be applied in practice. Similar to Ireland, the majority of signatories to the multilateral convention, including Ireland's major trading partners such as the UK, Germany, Canada, Italy, Sweden and many others, are choosing not to adopt this article due to continuing uncertainty. Ireland's position is in line with the majority of EU member states, the majority of OECD member states and the majority of our tax

treaty partners. I will keep it under review and get a clearer sense of how it is being applied. It is open to us to include this article in treaties bilaterally, on a case-by-case basis, should a treaty partner seek to do so and should there be a sufficiently strong case for both partners. On the basis that Ireland will deposit our notification and reservations with the OECD on 19 January, a report delivered in the timeframe suggested in the amendment would not illustrate any sufficient developments in this space.

However, I will have officials include further analysis on this as the position on article 12 develops as part of the tax strategy group papers for next year. On that basis I do not accept the amendment.

Deputy Michael McGrath: I am satisfied with that.

Deputy Joan Burton: I ask the Minister about his approach to BEPS and the current situation with the Commission's investigations and inquiries into Irish compliance. Would the Minister share with us any additional inquiries by the Commission that may be under way concerning companies operating in or out of Ireland that are similar to the Apple case? My understanding is that the Commission might pursue a number of inquiries relating to Ireland. I have been a very strong supporter of the BEPS process for many years. It seems to have partly reached the end of the road. The BEPS process would suit Ireland very well. That is not the approach many member states are taking, as the Minister is aware. Where does the Minister stand with regard to Commission inquiries into Irish activities that are tax related? Could the Minister enlighten us as to whether one or more fairly significant investigations are under way? My understanding is that some may be as significant as the Apple inquiry. Again, all of this is complicated by Brexit. Could the Minister enlighten the committee as to where Ireland is at the moment.

Chairman: We are due to suspend at 12.30 p.m. It is now 12.30 p.m so could we conclude this section?

Deputy Michael McGrath: Should we consider driving on and getting it done as we are making good progress?

Chairman: If members agree, we will continue.

Deputy Michael McGrath: Perhaps we could take a very short break.

Chairman: We will continue if that is the wish of the committee. Is that agreed? Agreed.

Deputy Richard Boyd Barrett: I do not really get the Minister's reasons for not adopting Article 12. I know Christian Aid, among others, is very unhappy that the Minister is not doing so. I cannot remember all of the detail but broadly speaking, its concerns are that, if adopted, this measure would tackle some of the disadvantages that developing countries face relating to profit shifting and base erosion; that our failure to do so hurts developing countries because profits that should be booked in these countries are not booked because of profit shifting manoeuvres by multinationals; that this measure is an effort to address that; and the fact that Ireland and others are not willing to adopt Article 12 is because we do not want to do anything about this unfairness. Could the Minister explain his reasons?

Deputy Paschal Donohoe: My view is that the BEPS process has a long way to go and we are some way of running out of road. Interestingly, the most recent set of US corporate tax changes contained a number of features that were strongly related to BEPS. In the recent paper

I published on corporate tax reform, I outlined work that needs to be done across the next two to three Finance Bills to implement a BEPS process in our tax code. We have an amount of work to do with regard to this. The next area to which we must move for next year concerns our transfer pricing rules.

With regard to our engagement with the Commission, I and my Department receive ongoing inquiries from the Commission regarding an array of different matters. This is a constant area of engagement with the Commission so, yes, we are in ongoing contact with it but any inquiries it has declared or anything that is ongoing are in the public domain and Deputy Burton will be aware of them. The most significant one is the Apple investigation.

With regard to Deputy Boyd Barrett's question, Article 12 deals with the artificial avoidance of permanent established status. This means that a proposed new test in Article 12 looks at how much presence a company must have in a country before it has to pay corporation tax. It provides that an enterprise of one country is deemed to have a permanent establishment in another country if it operates through a dependent agent in that other country. I am not saying that we will not sign up to it. I have met Christian Aid on this and I can see the role it could play in the future either on a bilateral level or through the OECD. However, there is a lot of uncertainty regarding how it would be implemented and a lot of jurisdictions with which we have significant trade have not yet implemented it. I will keep it under review. I am not ruling out the possibility of it forming a part of our tax code in the future but until I see how it is implemented and until I see a number of other countries participate in it, I think it would be too early for Ireland to move to implement it.

Deputy Joan Burton: On amendment No.157, I acknowledge that this time last year, I raised the issue of the Minister and his officials meeting Christian Aid. I acknowledge that those meetings did take place and that Christian Aid was happy to be involved in such discussions. In this very complex area, it is worthwhile talking to organisations like Christian Aid that are trying to pursue an approach to global tax justice. Obviously, that means global tax justice for the developing world as well for a country like Ireland. I acknowledge that the Minister met Christian Aid and thank him for doing so.

Amendment agreed to.

Section 59 agreed to.

NEW SECTIONS

Chairman: Amendments Nos. 158 and 178 are related and may be discussed together.

Deputy Joan Burton: I move amendment No. 158:

In page 142, between lines 19 and 20, to insert the following:

"Report on proposals for digital tax

60. The Minister shall within one month from the passing of this Act prepare and lay before Dáil Éireann a report on the merits of a digital tax regime as proposed by a number of European Union Member States, indicating how such a tax might operate, the likely tax rate and whether the tax paid would be set off against other tax liabilities.".

As the Minister referenced in his most recent ECOFIN meeting press release, the issue of a digital tax has been adopted in principle by a significant number of EU member states. A

number of countries are moving to adopt this tax. Most surprisingly, in his most recent budget, the British Chancellor of the Exchequer moved to a digital tax proposal of around 2% to 3% - presumably with rebates relating to tax paid in the UK. I am sure the Minister and possibly his officials were a bit surprised by this proposal by the UK Chancellor. I think this move by the UK is indicative of where the digital tax proposals stand.

It is genuinely difficult for many countries, and it will be even more difficult in the future, to be able to secure additional tax flows and revenues from the very big IT and social media multinationals that are immensely rich and generate vast revenues, that all of us use in our daily lives, and about which there is no global agreed approach as to how they should contribute their fair share of taxation in the different countries in which they sell their products. It is a real problem for national exchequers to have vast economic activity that contributes no taxation. In many ways, Ireland was an early starter in the development of employment and industry in this sector. As a consequence, we have significant numbers of people employed in the sector and very valuable economic activity on which tax is paid in this country. As we move increasingly to automation and robots in the sector, however, we all have to look at how we generate tax flows for national revenues from this vast area of economic activity.

This proposal is very simple. It is to ask the Minister to report to us within a short period after the introduction of the Act to indicate how a digital tax might operate, the likely tax rate and whether the tax paid can be offset against tax liabilities. I have chosen these three points because of the French proposals. By the way, the French made the Minister a very good offer not too long ago and asked for his co-operation on it.

A similar situation is occurring in Italy and it is also happening in Austria. The Germans are actively examining this, and the Spanish, and possibly the Portuguese, have indicated that they are following in the same vein. In terms of our future in the European Union, particularly post Brexit, it behoves us to be as informed as possible about this form of taxation that is coming down the line. While we can decide to stick our heads in the sand and pretend it will not happen, it is already under way. This simply asks the Minister to publish a report that would be made available to the committee and the public in general on how this tax might operate. It may end up being in effect a form of sales tax with abatement for taxes paid in the country. I am sure the Minister's officials have attended discussions on this. I do not know whether it will be abated by other taxes paid by the entities in particular countries, for instance, employment taxes, possibly other contributions such as PRSI and employment and social insurance levies and corporation tax that may or may not have been paid.

I noticed that the British Chancellor, in his statement about this commencing, I understand in 2020 as a fact, pencilled in a couple of billion pounds on an annual basis to the British Exchequer. It is time we had a serious examination of this. The amendment is very simple. It just asks for the Minister's co-operation in having a review of where these proposals are at so that we can all examine them and see how the Dáil might like to proceed in this respect.

Deputy Jonathan O'Brien: Sinn Féin's amendment is similar to that of Deputy Burton. We are also looking for a report on how proposals could be brought forward on this tax. Our amendment is very similar to Deputy Burton's amendment, which we will support.

Deputy Richard Boyd Barrett: As an absolute minimum we need this report. The profits and revenues being generated by these IT companies are absolutely staggering and they are not properly taxed. These companies are leading the charge on aggressive tax avoidance and we must find a way for them to pay their fair share.

In the Minister's comments on this yesterday, he stated he is concerned that if fewer profits were made because of the imposition of a digital tax on sales that may happen elsewhere in Europe it would mean fewer profits declared here and less tax revenue. There may be some discussion about what type of digital tax would be applied and how it would be fair and would not overly disadvantage a country such as Ireland, but the general principle that these people should be taxed to a far greater degree than they are is, to me, a no-brainer. It has to happen, it will happen and it is right that it should happen. We need at the very least to start to have a detailed debate about it. The proposal for a report in these amendments is entirely appropriate.

Deputy Paschal Donohoe: The reason I will not accept the amendment, but I am open to looking at how I can provide further information if Deputies so require, is because of how much work we have already done with the Oireachtas on this issue. When the issue first developed the Department, as it is required to do, sent a comprehensive set of scrutiny notes to the Oireachtas. Subsequent to this, officials from the Department and the Revenue Commissioners appeared before the committee to outline how the digital sales tax would operate. We have already submitted a report to the committee on this issue. We have already done what the amendment is asking me to do.

Committee members may be aware the Houses of the Oireachtas, following us submitting the information the amendment is looking for, issued reasoned opinions on the draft directives that they breach the principle of subsidiarity. In terms of providing information and reports, officials from the Department and the Revenue Commissioners have come before the committee. We supplied all of the information asked for and subsequently we supplied that information in written format. We have done what the amendment asks us to do. If there is further information that committee members want me to supply I am very happy to do so because this is a very important area.

Before we get into a debate on the substantive issue itself, I want to correct the record in several important areas. The only French offer I received is that issued in public to me on Tuesday morning when the Minister, Mr. Le Maire, invited me to go for a beer with him. That is the only offer I have received. I want to be very clear about this because there has been a lot of speculation about it and I want the committee to be assured of this. Deputy Burton said this measure would raise many billions of euro. She used the word "billions" in respect of the UK. The amount of revenue the UK Government has put against this for 2020 is £400 million. That is not billions. To put this in context, for us £400 million is roughly equivalent, for the sake of argument, to the value in euro of between £30 million and £40 million. It is very important that we are clear on the scale of revenue the UK Government is looking to raise through this measure.

I also acknowledge that the taxing landscape for digital companies is going to change. I expect that will happen. The question is the safest way in which that will happen. From my point of view and from our point of view as an open, small economy, when we have seen major change like this happen in the past, it has been through the OECD. This has happened in terms of the base erosion and profit shifting, BEPS, process for other major corporate tax changes that have taken place.

It is my strong view that if a digital tax were to happen, with Europe making changes in isolation without a global consensus on the issue, there would be the potential for trade consequences from this, and there would be the potential for international tax co-operation in this area to be affected. If either of those two scenarios were to happen, this would pose very significant challenges for Ireland.

I believe change will happen and, as part of that, there could be various consequences for Ireland. The safest way in which this can happen is the way it has happened in the past, which is through the OECD. The committee may be aware that the OECD has indicated that it will be publishing a report on this area sooner than it had originally indicated. Intense work is already going on in this area as we speak. Deputy Burton will be aware, if she looks at all of the issues that were navigated via the OECD in the past, that this offers the best vehicle within which we look to see change happen in this area. I believe change will happen, and the safest way through which that change can happen is through the OECD.

I note that in the debate on the matter last Tuesday, and I have been involved in this for more a year, we saw a number of other countries express opposition to the current Commission proposal for the reasons I outlined. Significantly, we saw countries that were in favour of this proposal being implemented begin to outline a whole array of technical issues that they wanted to be resolved. For those of us who have been involved in this before, those technical issues are considerable and would have significant consequences for us.

To reiterate, this is going to be a new area of change. As Deputy Burton was talking about the area of artificial intelligence, I was reminded of what the founder of Microsoft said recently that robots should be taxed. These are the kinds of debates that are going to happen.

Deputy Jonathan O'Brien: I am trying to remember the report to which the Minister referred. I think that was the one that we discussed in May. In that report, we looked at what the European Commission was proposing, which was 3% on amounts over a certain value, which I think was €750 million and €50 million within the EU. If the Minister were to implement something along those lines, given that there could be a case where tax is deductible, he could actually see a net loss from the introduction of a digital tax in Ireland. I am trying to remember if that is the same report to which the Minister is referring.

Deputy Paschal Donohoe: Yes, the Deputy is correct.

Deputy Jonathan O'Brien: That is the same report. Okay. A lot of discussion has taken place at this committee and in the Dáil Chamber on digital taxation. That does not go then, however, to say that we should not have a further detailed report on the subject, because there are a number of proposals on how it could be implemented. Would it be levied on the service users in a particular country or on the intellectual property that is onshored? I believe some countries at this stage are taking different approaches to how they could possibly introduce a digital tax. We do not seem to have any indication of how we would proceed with one.

Deputy Joan Burton: That was a fairly extensive commentary and one of the first that the Minister has made on this issue. It is useful that he has opened a conversation about digital tax. There is a need for a fresh report because since the previous report was issued there has been an enormous change in the landscape and in attitudes. The Minister is correct that certain countries have identified difficulties. Sweden, for example, has expressed concern about its gaming industry. That is true and I completely accept that point. However, it would be really helpful to this committee to get an updated report. As the Minister has said, departmental officials have all of the data and have been involved in all of the discussions and the conferences. I see no reason the information they have collected and of which they are aware, which has not been the subject of much commentary in the Irish media, would not be shared with us by way of a report, given the significant implications for this country. The approach proposed here is completely reasonable. Shying away from dealing with this will not do Ireland's case any favours. Obviously all of us here would seek to maximise the possibility of a fair and just taxation position for

Ireland. Other European countries have historic advantages that we do not enjoy in the context of taxation issues. What we are seeking is tax fairness and justice in this area.

Why is the Minister refusing what is a completely reasonable and standard request for a report on an area of taxation that is changing? I am glad that the Minister gave the example of the UK because in his report, the Chancellor of the Exchequer, Mr. Hammond, indicated that within a number of years he would be expecting a net digital tax take of between £1.5 billion and £2 billion. As the Minister said, this is not an enormous sum, given the size of the British economy and I agree that in the context of the Irish economy, the sum involved could be a lot less. On the other hand, however, countries like Italy have been telling IT companies that unless they have a presence in Italy, then Italy will pursue Ireland with regard to earlier cases. Officials here today know the cases what I am referring to. I have asked many questions of the Minister and of Revenue with regard to back cases that are being pursued and the back payments that Ireland has made. Giving bland, brush-off answers does not serve Ireland or the Irish economy well.

Is it the Chairman's intention to take amendment No. 160 with the amendment relating to domicile? I just want to say something about-----

Chairman: The Deputy asked me a question and she should allow me to answer it. We are dealing with amendment No. 158. I have already said that amendments Nos. 158 and 178 are related and can be discussed together. That is what we are dealing with right now.

Deputy Joan Burton: We are not dealing with amendment No. 159. Is that correct?

Chairman: I have told the Deputy what we are dealing with now. I invite the Minister to respond.

Deputy Paschal Donohoe: I will address the Deputies' points. As Deputy O'Brien said, this has already been the subject of debate in the Oireachtas. My officials were in front of the committee and this is the report that we produced before the summer.

Deputy Burton said at the start of her statement that I gave an extensive answer to the questions she raised and at the end she said that I had given a bland response, looking to brush away issues. I hope the first part of her statement is correct and not the second part. I am not shying away from anything. I have been involved in this issue for over a year, trying to deal with the different issues that are at stake. These are not discussions but negotiations on two different things. The first is a matter that Deputy Burton called out well, which is the design and implementation of a tax like this. As the Deputy acknowledged, the yield involved in such a tax is in many cases much lower than people might expect for a number of reasons. In the UK example that the Deputy used, where billions of pounds were talked about being raised, it was across a five-year period. Per year, it is a measure worth £400 million sterling. It is entirely possible that if this tax was implemented in the way currently proposed, it could represent a loss in some jurisdictions such as ours. For other jurisdictions, the compliance involved in implementing it and some of the things that would need to be done would mean that the revenue brought in would be lower than expected. Once the compliance costs were baked into it, the return that the exchequer in other countries would get would be much lower than people expected. The journey that the previous Chancellor of the Exchequer in the UK, George Osborne, went on with what he referred to as the "Google tax" was an example of this. The yield was much lower than had been anticipated.

I have been substantively involved in this matter over the last year. In one area, the figures

and yields involved in it from our point of view and that of other countries would be much lower than people might expect. The area of greatest concern for me is the many principles involved in this. If the principles are reapplied for open service exporting economies, they could be very significant. The principle of a group of countries or the European Union as a whole going down this path while we do not have agreement with other trading partners regarding how it should be implemented is a concern. If that happens, those other trading partners could make decisions on trade and tax co-operation that would have very serious consequences for the European Union and could be difficult for Ireland. For those reasons, I acknowledge that I expect to see change in this area but think Ireland needs to be clear regarding the best route in which we believe that should happen. It is notable that across the last number of weeks, we have seen a number of other economies which are small, open and service-oriented say the same thing as Ireland has said. I will not agree to a report because I would ask Deputies to be aware that I am involved in negotiations on this, not discussions, and if this committee wants information or clarification on any negotiations under way, I will supply it promptly.

Chairman: Is Deputy Burton pressing the amendment?

Deputy Joan Burton: Yes. The last statement made by the Minister is deeply regrettable. This is the national Parliament. Notwithstanding the fact that the Minister is involved in negotiations, that he is unwilling to place an informed, updated report before the Parliament of the people is deeply regrettable. It is the wrong position for a Minister to adopt.

Sitting suspended at 1.05 p.m. and resumed at 1.50 p.m.

Amendment put.

The Committee divided: Tá;, 2; Níl, 3.	
Tá;	Níl;
Doherty, Pearse.	Burke, Peter.
Murphy, Paul.	Deasy, John.
	Donohoe, Paschal.

Amendment declared lost.

Staon: Deputies Michael McGrath and John McGuinness.

Amendment declared lost.

Amendment No. 159 not moved.

Chairman: Amendment No. 160 has been ruled out of order.

Amendment No. 160 not moved.

Deputy Richard Boyd Barrett: I move amendment No. 161:

In page 142, between lines 19 and 20, to insert the following:

"Report on tax revenue forgone

60. Within 6 months of the passing of this Act, the Minister shall produce a report on

the actual or estimated tax revenue forgone, specifically in the area of property investment, as a result of section 110 tax relief on such investments, dating back to investments made since 2012 up to the present and in any future year where the benefit of this tax relief might still accrue.".

I brought up this issue on Second Stage and have spoken about it quite a few times, as have others. I am sure the Minister is familiar with the concern raised in the amendment about section 110 tax relief which I see as a national scandal in that foreign companies essentially came here to speculate on Irish property having been invited by the Minister's predecessor in 2013.

A total of 65 meetings were held by the Minister and officials with Cerberus, Apollo Global Management, Lone Star, Kennedy Wilson, all those guys who came as bottom feeders to cash in in a distressed property market and who were actively courted by the previous Government to do so. They availed of a tax break, which means that if they maintain their investment for a few years, they will not pay tax on rental income or capital gains, which is quite extraordinary. If people really understood what was going on, they would be shocked. What happens is that, apparently, small items in Finance Bills pass a lot of people by because they do not understand what is going on. For that reason, it is important to shine a light on the issue. When one considers by how much rents have increased since those guys bought into the Irish property market and by how much property prices have increased, the value of their investments has gone through the roof. That is the other side of the coin in dealing with the housing and homelessness crisis that such entities are making obscene profits and will walk away without paying almost any tax. That is something about which they boast when they produce their annual accounts. Every year they record bigger profits than in the previous year and pay negligible amounts of tax which, to my mind, is shameful.

It is equally shameful that when the Minister is asked parliamentary questions by me and others about how much tax is forgone through this tax relief, we cannot get answers, which is beyond extraordinary. We need a detailed report. We need to know how much tax revenue is being forgone to the benefit of the property speculators who have come into the country to profiteer on the back of the housing crisis. Over and above what is in the amendment, even at this stage, given what has happened in the property market and the extraordinary profits being made by the people concerned, any Government interested in fair taxation and generating revenues to perhaps be put into areas such as public housing would be looking at how we could increase the tax paid by such entities and put the revenue into public housing and other areas to address the housing crisis.

Deputy Paschal Donohoe: Section 110 of the Taxes Consolidation Act 1997 sets out a regime for the taxation of special purpose vehicles set up to securitise assets. Securitisation is useful, both for banks in freeing up capital to allow them to continue to lend to all taxpayers and for the productive economy, as it can underpin the supply of capital marketing finance to industry and companies in Ireland, Europe and further afield. We are not unique in having a specific regime for securitisations. The importance of securitisation has been recognised, for example, by the European Commission through its work on capital markets union, a main objective of which is to build a sustainable securitisation regime across the European Union.

Section 110 companies can only hold certain qualifying assets. Real property is not an asset a qualifying company can hold. However, it can hold loans and other financial assets that derive their value therefrom. Following concerns raised by the Revenue Commissioners and subsequently Deputies at this committee about the use of section 110 companies to hold debt secured on Irish property, the Finance Act 2016 made changes to the taxation of section 110

companies to ensure the profits which derived from Irish land and buildings were subject to tax in Ireland. These changes took effect from 6 September 2016. With regard to the specifics of the report proposed by the Deputies, I am advised that Revenue does not and could not collect the type of information that would be required to calculate the tax that would have been paid had section 110 not existed. That is for two reasons. In the first instance some of the business carried on through section 110 companies simply would not be carried on here or would have been carried on differently. There is no method to take account of how behaviour would have changed had the regime not been existed. Second, in the case of activity that would have taken place in Ireland, absent section 110, the hypothetical alternative tax would depend on exactly what the underlying business was and how it might otherwise have been funded - as a company, a partnership or investment fund, for example. Any of those estimates would be highly subjective and could not be presented as an accurate assessment of the tax impact of section 110. I therefore cannot accept the Deputy's amendment but I can accept that Revenue continues to keep the activities of the section 110 companies under review. Where Revenue identifies misuse of the regime it will continue to bring them to the attention of my Department and I will act to close any gaps identified.

Deputy Pearse Doherty: I tabled an amendment to the Finance Bill last year which is similar to that of Deputy Boyd Barrett's seeking a report on the operation of section 110 companies. We both acknowledge the complexity of how that would operate and wanting to ensure that it was robust and doing what it was intended to do. At the conclusion of the discussion on Report Stage the Minister acknowledged that Revenue would continue to assess the situation, as he just reiterated, but he said that he wanted further analysis and that when he received it he would answer questions on it. Did the Minister receive further analysis in writing from the Department and could he share that analysis with the committee? He could do so even at a later stage or before Report Stage, as it may not be appropriate to the Finance Bill, to assure us that there is no issue in terms of how some of the companies might be operating?

Deputy Paschal Donohoe: Sure.

Deputy Richard Boyd Barrett: A little bit like the debate that we had on intangible assets, the changes that were introduced do not deal with the window that was opened through which those speculative entities jumped. They were effectively invited in by the previous Minister for Finance, Deputy Noonan, and the Department in the meetings which were held. I think there was an understanding that if they came here and bought into Irish property that they would pay very little tax. The logic at the time, which was fairly explicitly expressed by the then Minister, was that we needed to reflate the Irish property market. I think he argued at the time that it would professionalise the rental sector because we would have corporate entities as opposed to the small-scale landlord. We were going to bring in the big guys. It has self-evidently been a disaster. It has not done anything to make the rental sector better. It has done a hell of a lot to make it worse. The Minister said in his response that if we did not have this relief certain activities might not have happened. Yes, exactly. I am sorry those activities did happen. It is a matter of extreme regret that we brought such entities in here to gain such an important foothold in the Irish property sector. It is obscene that those who benefited from the window that was opened in terms of section 110, even if it was closed subsequently, will continue to benefit from it and will walk away paying little or no tax on their investments. I do not understand why Revenue cannot estimate how much tax is foregone. When one looks at what has happened to the property market, the value of the investments that these persons made has gone through the roof. The Irish property market, including the rental market, is generating staggering profits. We know from the announcements of annual profits that they are going up and the companies

in question are paying pitiful amounts of tax. It is a scandal. I do not see how it could be justified at any level.

There was something the Minister did not answer in his response. If we were to debate what was done in the past, why it was done and whether it was good or bad, it would be self-evident given where all of this has led that the Government made a bad and disastrous mistake. One does not have to be a tax expert or a financial whizz-kid to conclude that those who invested in property are making a fortune because it is obvious. When one considers the 60% or 70% increase in the value of those investments and similar increases in rents, one would expect the Government to think of some way, perhaps through a levy or tax, of clawing back some of the money these companies have made on the back of a dysfunctional property sector. This could be used to deal with the costs of the housing crisis that their activities helped to generate. Given the housing crisis and the direction in which the property sector has gone in recent years, would that not be a fair and reasonable course of action?

Deputy Paschal Donohoe: I am alive to the fact that the price changes we have seen in the property market could have a number of different causes. To deal with a commitment that I made last year, in the tax strategy group, TSG, papers of this year we dealt with some of the issues that were raised. To respond to Deputy Pearse Doherty's question, what I did in the aftermath of last year's Finance Act was ask for an appraisal to be done on the effects of the operation of these companies in the economy. That work is being done. By the end of quarter 1 of next year, the tax returns for these companies will have been filed. My Department will then be in a position to make an appraisal of the operation of the IREFs and some of the section 110 organisations to which Deputies referred. My plan is to integrate the analysis that we make of that taxation data with 18 months worth of information we will have on the property market at that stage and address this matter more substantively in the papers we will publish next summer. This year, we began work on examining trends in the property market. We need more data on that. More fundamentally, the filing of tax returns by these companies will give us the opportunity, on an aggregate level, to better examine some of the issues raised.

Amendment put and declared lost.

Deputy Pearse Doherty: I move amendment No. 162:

In page 142, between lines 19 and 20, to insert the following:

"Report on income tax relief

60. The Minister shall, within 6 months of the passing of this Act, prepare and lay before Dáil Éireann a report on an income tax relief equivalent in value to one month's rent of an individual available to all renters not already in receipt of any State subsidy examining the social and economic impact of this measure in the context of historically high levels of rent for Irish citizens.".

This amendment deals with the need to introduce rent relief equivalent in value to one month's rent of an individual to all renters not already in receipt of any State subsidy and also looks for a report to examine the social and economic impact of this measure in the context of historically high levels of rent of Irish citizens. The issues are well ventilated. Rents have increased by 22% since 2016. Rents have increased by 7.8% in the past 12 months in Dublin, despite the rent pressure zones of 4%. The average rents in the State are €1,060 and in Dublin, they are €1,527. Student rents are out of control and there is major pressure on these

individuals in terms of having money at the end of the week to meet their needs.

The Minister will be aware rent relief was introduced in the State a number of decades ago by a previous Minister for Finance. The interesting proposal at the time - neither of us were around - focused on pressures on the elderly in meeting rent payments. It was designed with different tiers, but particularly with higher thresholds for the elderly. I merely make the point that rent relief was a factor of the taxation code up until the crisis in 2011 when the late Deputy Brian Lenihan, as Minister, removed it through the Finance Act.

This would have an immediate impact. For example, for somebody who is paying the average rent across the State of €1,060, the benefit would be €1,060. Those living in areas with lower rent pressures would receive relief of one month's rent. My party argues that this should be brought in over a three-year period.

Obviously, a rent relief such as this without a rent freeze would be foolish because all that would happen is the rent relief would be sucked up in an increase in rent. This would have to go hand in glove with a rent freeze which, I believe, is required. Yesterday, the Minister answered a question from one of our colleagues on whether rents are too high. They are too high but the law allows them to continue to go higher. What we need is for them to go in the other direction. The least we should do is ensure that they are frozen. Alongside those two measures, we would need to see an increase in planned capacity from State investment.

I believe this measure is warranted. It would cost €250 million over a three-year period.

Let me mention the discussion on intangible assets that we had last night. We dealt with that and it is disposed of. The Minister is not amenable to accepting that amendment and implementing the policy of Mr. Seamus Coffey but if he was, even the revenue that would be generated in one year from that proposal could fund this for the next three years at which point it should be phased out.

I have made my point. I would imagine that the Minister is not amenable to it but it is worthy of consideration.

Deputy Paschal Donohoe: The previous tax relief in respect of rent paid was abolished in budget 2011 and it is no longer available to those who commenced renting for the first time from 8 December 2010. This followed a recommendation in the 2009 report by the Commission on Taxation that rent relief should be discontinued. The view of this independent commission was that, in the same manner in which mortgage interest relief had an effect on the cost of housing, rent relief increases the cost of private rented accommodation. Accordingly, the result of reintroducing this relief would be a transfer of Exchequer funding directly to landlords, which would not have the intended effect of reducing the pressure on tenants. In addition, a tax credit of this kind would be of little benefit to lower-income workers, the unemployed and students, who may not receive the benefit of the relief as they may not be paying sufficient levels of income tax. Finally, at the time of its abolition, the rental tax relief cost the Exchequer up to €97 million per annum. On certain assumptions, it is likely that the annual cost of the Deputy's proposal, if introduced, would be even higher. In the circumstances, I do not propose to accept the Deputy's amendment.

Deputy Pearse Doherty: I have already dealt with the two arguments I took from the Minister's statement. This relates to a report. I am sure the Minister is aware of our full proposal, which is that rent relief would be introduced and there would be a rent freeze or cap at the same time. The argument that this would go directly into the pocket of landlords would not hold as

rents could not increase over those three years. The Minister is correct about what would happen if this was non-refundable, which is not the case. The proposal we have is that this would be a refundable tax credit, meaning those on low incomes that do not have a tax liability would still be able to avail of it. This is particularly pertinent to students, as the Minister mentioned.

The cost would be significantly increased from the previous scheme based on the Residential Tenancies Board number of tenancies and average rent, leaving the figure just short of €250 million. This is an emergency and this is a time for emergency action. This rent relief could not sit on its own without a rent freeze. Even with those two elements, it would make no sense unless we ramped up serious capacity within the sector. That is why we in Sinn Féin argue that an additional €1 billion should be invested in social and affordable housing. If that does not happen, after the three years the assistance would be turned off but we would still have the same problem if supply did not increase in the sector. This is a response to the Minister's comments, while acknowledging that the form in which we must submit amendments cannot deal with a rent freeze or the tax-refundable nature of the proposal. The report would establish that. We are not really seeking a report but rather for the Government to take serious action to help the 240,000 renters out there who are finding it difficult to make ends meet.

Amendment, by leave, withdrawn.

Chairman: The Minister must leave now so we will suspend our work.

Deputy Paschal Donohoe: May I make a brief statement? With the Chairman's agreement, I advise the committee that with respect to the special assignee relief programme, I propose to bring forward an amendment to section 825C of the Taxes Consolidation Act 1997 on Report Stage relating to the operation of this programme. I will provide further information to Opposition spokespersons today by correspondence, and this is a fortnight before Report Stage.

Chairman: The joint committee meeting with Mr. Mario Draghi will commence at 3.15 p.m.

Sitting suspended at 2.20 p.m. and resumed at 5.30 p.m.

Deputy Pearse Doherty: I move amendment No. 163:

In page 142, between lines 19 and 20, to insert the following:

"Report on new threshold for High Wealth Individuals

60. The Minister shall, within 6 months of the passing of this Act, prepare and lay before Dáil Éireann a report on the introduction of a new threshold for High Wealth Individuals defined as persons in possession of net assets of the value of €10 million and above.".

This is a simple amendment dealing with criteria to assess high net wealth individuals. It does not call for additional taxation or anything like that, although we have dealt with matters like that in previous amendments. Emerging from the report of the Comptroller and Auditor General was a reflection on the Irish threshold for high-worth individuals with assets of over €50 million, indicating "a high threshold compared to other jurisdictions". We can look at international experience and the thresholds applied and see that is very clearly the case. The threshold of €50 million is high. In Spain the threshold is €10 million and in Britain it is €11.4 million approximately, or £10 million. In Portugal it is €25 million and in Australia it is the equivalent of €18.5 million. This amendment seeks to deal with a matter in which we

seem to be out of kilter. It is the definition of high net worth individuals as people with assets in excess of €50 million.

I appreciate there has been restructuring with the Revenue Commissioners in dealing with large case divisions and high net worth individuals. Perhaps it is something we will deal with on another day, particularly allocated resources to each division. There may be a bit of an issue with regard to alignment. If we brought down thresholds to be more in line with other jurisdictions, it would capture more individuals. There is no common definition across different jurisdictions on assessment - it is up to each jurisdiction to determine a threshold - but our threshold, in the words of the Comptroller and Auditor General, is high compared with others. That is not warranted.

Deputy Paschal Donohoe: The context to the Deputy's amendment, as he mentioned, is chapter 18 of the report of the Comptroller and Auditor General report on the accounts of the public service for 2017. As the Deputy mentioned, Revenue indicates that it currently has three units in its large cases division with responsibility for both the tax affairs of high-wealth individuals and for challenging tax avoidance schemes. I am also advised that the Revenue's criterion for identifying high-wealth individuals is individuals with net assets of over €50 million. There is no statutory obligation on individuals to return details of net worth on their returns of income. Accordingly, Revenue does not have the data required to estimate the number of individuals with assets of more than €10 million. On foot of the recent report from the Comptroller and Auditor General, I understand the topic may now be discussed at the meeting of the Committee of Public Accounts with the Accounting Officer and Chairman of the Office of the Revenue Commissioners as part of that committee's work programme. For those reasons, I do not plan to accept the amendment. The committee will be aware of how important it is to acknowledge the independence of Revenue in its dealing with the tax affairs of individuals and that this is critical for maintaining the integrity of our tax system.

Chairman: Is Deputy Doherty pressing his amendment?

Deputy Pearse Doherty: I do not understand why that is the case. We have a high threshold. I think we can all accept that. What is the rationale for not reducing the threshold to perhaps €25 million?

Deputy Paschal Donohoe: As part of the work I have to do in preparing for budgets and the next Finance Bill, I am always open to considering things like this. I do not, however, want to have a commitment to a report on it within our Finance Bill.

Deputy Pearse Doherty: I am not looking for a report because this does not warrant a report. It would just be an examination and acknowledgement of what the Comptroller and Auditor General has pointed out. This issue would be reviewed within Revenue. What I said earlier about recent changes in the high case division and how that is aligned must be borne in mind as well. I understand that may throw up some difficulties within Revenue. This issue should be addressed and I would like to hear a commitment that the Minister's Department and Revenue would examine it.

Deputy Paschal Donohoe: The Deputy's amendment states he does want a report.

Deputy Pearse Doherty: We all know what we have to put down. I cannot table an amendment that does not call for a report and I could not table this issue unless it was written in that format. We know that and the Minister would have known that if he was the Opposition finance spokesperson. Those are the rules and these amendments would be ruled out of order

otherwise. The spirit of this is to raise the issue flagged by the Comptroller and Auditor General, acknowledging that we have a high threshold. It is not really a contentious issue. It does not tax those people any more, it just allows for greater gathering of data in a way that we can compare. We will never be able to compare exactly because each jurisdiction is different but at least it would be more in line with where some of the other jurisdictions are.

Deputy Paschal Donohoe: As I said, I am happy to engage with the Revenue Commissioners on this to see if there is work that could be done in respect of data. These are all matters I consider in the light of Finance Bills. Given that this issue has been raised, and has been raised before in a chapter of the report of the Comptroller and Auditor General, I am happy to engage with the Revenue Commissioners and see if we can generate data that may help us understand the value of implementing this as a policy.

Chairman: Is the amendment being pressed?

Deputy Pearse Doherty: Not on the basis of what is being suggested.

Amendment, by leave, withdrawn.

Amendment No. 164 not moved.

Chairman: Amendments Nos. 165 and 180 are related and may be discussed together.

Deputy Pearse Doherty: I move amendment No. 165:

In page 142, between lines 19 and 20, to insert the following:

"Report on denial of tax relief for landlords

60. The Minister shall, within 6 months of the passing of this Act, prepare and lay before Dáil Éireann a report on the denial of tax relief for landlords in respect of management fees that have not actually been paid or where tenancies have not been registered with the PRTB.".

This amendment deals with the denial of tax relief for landlords for management fees that have not been paid or where the tenancies have not been registered with the Private Residential Tenancies Board, PRTB. As the Minister will know, landlords receive tax relief for management fees and service charges paid to the owner company, which is usually the residents' group or apartment blocks. This relief, however, is paid whether or not the fees are paid. That issue has been emerging recently. Many managing companies that are residence owners are facing financial difficulty partly as a result of landlords not paying these fees. Landlords are collecting rent and not paying the management fees. Those not paying the management fees should not be able to claim the relief. In my view, they should also have to register with the PRTB. That is also how we could deal with the issue of compliance. These conditions should be added to the relief.

Deputy Michael McGrath: My amendment is No. 180. To clarify, this is in the context of the local property tax, LPT. It is not clear from the amendment but it is in the context that I am raising this issue. Does the Minister believe there is any overlap between the management fees paid by apartment owners in respect of the complex in which they live on the one hand and on the other hand the local property tax that they pay to Revenue? That is going towards the local authority for services to be provided in the local authority area. The Minister is doing a review of the LPT and there will be an announcement in due course because of the impend-

ing re-evaluation in November 2019. There has been a period of consultation, etc. Does the Minister believe any recognition should be given, in the context of LPT, to those also paying significant management fees for the operation of their complex, including the maintenance of common areas and green areas within their developments?

Deputy Paschal Donohoe: On the question of management fees, I assume Deputy McGrath's amendment has in mind landlords rather than owner-occupiers. From what he said, I think that it does.

Deputy Michael McGrath: No. I am referring to the occupier, somebody in an apartment complex paying management fees and also paying LPT. As part of the review of the LPT, does the Minister recognise any overlap or some overlap between those two issues? Should there be some recognition of that in the LPT bill for people who also pay management fees? That is what I am getting at.

Deputy Paschal Donohoe: I am afraid I am going to disappoint Deputy McGrath. I am going to give a straight answer. I have not considered it yet. My Department has been doing much work in respect of to LPT and the different options available. My understanding at the moment is that there is not a recognition of management fees when a person pays his or her LPT.

Deputy Michael McGrath: Yes, that correct.

Deputy Paschal Donohoe: I will be open with the Deputy. I have not got to the point where I have to consider that again.

Deputy Michael McGrath: While the Minister is on this point, will he clarify when he expects to make an announcement on the outcome of the review of the LPT?

Deputy Paschal Donohoe: It will not be for a little while yet.

Deputy Michael McGrath: Not for a while yet.

Deputy Paschal Donohoe: The focus of the last number of months has been the budget and Finance Bill. Now that is done, one of the many matters I will be moving on to is LPT.

Deputy Michael McGrath: That is fine.

Deputy Paschal Donohoe: On amendment No. 60 then-----

Chairman: We are discussing amendment No. 165.

Deputy Paschal Donohoe: Section 97(2)(e) of the Taxes Consolidation Act 1997 commits the deduction for tax purposes of interest on borrowed money employed in the purchase, improvement or repair of premises against rental income. Under section 97(2), however, this interest relief is not authorised unless the person claiming it can show that he or she has complied with part 7 of the Residential Tenancies Act 2004 to register residential tenancies with the now PRTB. The purpose of this section is to encourage compliance with the PRTB rather than to deny the tax relief.

To that end, the return of income forms for individuals and companies, form 11 and form CT1, both include a tick box to confirm that the tenancy is registered with the PRTB. If the box is ticked and in an examination of the return Revenue finds the tenancy has not been registered with the PRTB at the time of filling out the return then the interest deductibility is denied. Land-

lords are required to register details of all their tenancies within one month of the commencement of those tenancies. While new tenancies should be registered within one month of their commencement, provision is also made in the Residential Tenancies Act for late registration at double the normal registration fee. An acknowledgement from the RTB confirming registration in the case of a late registration will be accepted by Revenue as evidence of compliance with Part 7 of the Residential Tenancies Act. However, a person claiming an interest deduction on an annual tax return must be able to indicate compliance with the Part 7 requirements at the time of making the return.

If a tenancy is registered late, Revenue adopts the following administrative practice: "Interest relief that has been denied for a particular chargeable period because a tenancy was not registered by the return filing date for that period can subsequently be restored if the landlord avails of the late registration facility, subject to the usual four year time limit on claims for repayment of tax."

Having regard to these points, I do not propose to accept the amendments.

Deputy Pearse Doherty: The point on registration with the RTB seems clear enough but in regard to the current practice where landlords are not paying management fees but are able to claim the tax deduction under Schedule D, case V, of the 1997 Act, they are able to claim deductibility. What protections do we have? The protections are really in regard to the management company. These payments are not being made by some landlords whereas others are paying them. This means there is an accrual of charges yet they are getting the benefit of interest deduction.

Deputy Paschal Donohoe: The Revenue Commissioners have informed me that whereas the vast majority of taxpayers submit accurate and timely returns and declarations, Revenue minimises the opportunities for those who might seek advantage through non-compliance, specifically including the claiming for expenses that have not been borne, by conducting an extensive programme of risk-based compliance checks each year. In 2017, Revenue compliance activity included a focus on the rental sector. As set out in its annual report, there were 5,332 interventions in that sector in 2017, with a total yield of €44.8 million. I am advised by Revenue that compliance interventions and yield per intervention are accurately recorded electronically in each case. However, it is impossible to extract the compliance yield arising from the restriction or the disallowance of specific expenses.

It appears from the information Revenue has shared with me that this is an issue it is aware of and it was prioritised for intervention last year, with the result that it raised just under €45 million from compliance activity in the sector. I take the Deputy's point. Relief is claimed for an expense and the point he is making is that if the expense is not claimed, the relief should not be claimed either.

Deputy Pearse Doherty: Exactly.

Deputy Paschal Donohoe: I take the point. I will engage with the Revenue Commissioners to see if they would recommend any further changes in this regard. On the basis of the information they have about the compliance activity carried out in the sector, the quantity of checks appears high, at over 5,000, and the total yield that has come out of that is just under €45 million. Therefore, it would appear their activity has been relatively successful. Given the logic of the point the Deputy raises, I will engage with the Revenue Commissioners to see if there is anything they would want me to do in advance of Report Stage. If there is, I signal to the com-

mittee now that it is something I can look at making a change to in the Finance Bill, if needed.

Amendment, by leave, withdrawn.

Deputy Pearse Doherty: I move amendment No. 166:

In page 142, between lines 19 and 20, to insert the following:

"**Report on the use of contracting companies in entertainment industry**

60. The Minister shall, within 6 months of the passing of this Act, prepare and lay before Dáil Éireann a report on the actions to be taken to prevent the use of contracting companies to avoid tax in the entertainment industry including at State broadcasters.".

The Minister may be aware the Committee of Public Accounts is currently looking at documents in regard to how the entertainment industry and some of our State broadcaster's top earners and others use company structures. To quote from one of the documents, it is "primarily for the purpose of reducing their exposure to income tax". This allegation - I stress that it is an allegation - is included in the discussion document being considered by the PAC. We had the chiefs of RTÉ before the PAC earlier this year. It has been claimed as late as last night that the use of personal service companies by top earners is entirely legitimate. It is also common practice across the industry, which I do not dispute one bit. I am not suggesting there is anything untoward here. What we are talking about is whether the law should be changed in the future.

I have raised this on a number of occasions with the Minister, in particular as to whether his attention had been drawn to the work of the British tax authorities, who found against persons who worked for the BBC organisation and used contracting companies to avoid tax, and whether the Revenue Commissioners were investigating how this operates here. It is provided for in Irish law. The question is whether it is appropriate or fair, as I believe it is not. A commitment was given to me at time, as follows:

> I am advised by Revenue that we have no comparable legislation in Ireland governing the taxation of individuals engaged through intermediary companies. As a consequence, there is no basis for Revenue to seek to ignore contractual arrangements entered into by such a company and to apply the tax treatment that gave rise to the appeal.
>
> In relation to the question of an investigation or audit, I am further advised by Revenue that it cannot comment on matters relating to any specific identified taxpayer or narrowly defined group of taxpayers. However, in the absence of legislation similar to that referred to above, there is no statutory basis for Revenue to take the approach that gave rise to the recent UK appeal.

The question is whether there should be a statutory approach and whether we should put something into the law that allows for this. These types of contracting companies are similar or identical to the types operating in Britain, which has closed them down. I argue through this amendment that we should look at this in a detailed way, given there could be unintended consequences. I believe this should be examined by the Department and Revenue officials prior to the Finance Bill next year.

Deputy Paschal Donohoe: The Deputy will be aware that, earlier this year, my Department, along with the Department of Employment Affairs and Social Protection, published a report entitled, "The use of intermediary-type structures and self-employment arrangements: implications for social insurance and tax revenues". He will also be aware that this report was

informed by a public consultation.

The report noted that the development of personal service companies and managed service companies created a triangular employment relationship where the services of a worker are secured through a third entity, thereby distancing the employer from direct engagement with the worker under either a contract of service or a contract for services. This created complexities in establishing the rights and responsibilities of each of the parties with regard to tax, social insurance and employment rights. I might add that such arrangements are not peculiar to the entertainment sector.

Some have argued that the avoidance of tax and social insurance obligations is the primary motivation for the use of personal service companies and managed service companies, and that workers are increasingly being directed by employers to supply their labour through these types of intermediaries. Disguising employment in this manner also enables employers to avoid some employment law obligations and can undermine the employment rights of the workers concerned.

The report found that the majority of the loss to the Exchequer in these circumstances was in the form of PRSI revenue rather than tax and, as Minister for Finance, I share the Deputy's concern that such structures could be put in place for these purposes. However, I am satisfied that the Revenue Commissioners are working closely with their colleagues, including the Department of Employment Affairs and Social Protection and other agencies, to deal with this issue. I do not believe the production of a report so soon after the publication of the one I have described would be of benefit. If the Revenue Commissioners or the Department of Employment Affairs and Social Protection recommend the introduction of legislation to deal with a potential risk in regard to the laws on social insurance revenue, I will be happy to act on that recommendation. To date, no such recommendation has been made.

The point made by the Deputy in regard to RTÉ is a matter for that organisation. I am aware that RTÉ has carried out a review of this matter and it has acknowledged that as many as 157 media professionals may have been misclassified. It has indicated it has new policy and guidelines in place and that it will commence a review of individual contracts, with a view to having this work completed by the end of this year.

Deputy Pearse Doherty: I have been raising this issue for a number of years now. Britain had an appeal mechanism to deal with this practice. Individuals who were working for a broadcaster and claiming this company structure were not deemed to be employed directly by the company. If memory serves me correctly, they successfully appealed it in 2007 and therefore the issue has been dealt with, by and large. The problem here is that there is no such mechanism to appeal it. As there is no statutory provision to prevent this practice, the Revenue Commissioners have no mechanism to appeal it. The only way this can be ended is if we allow for what is a legitimate practice like this to become an illegitimate practice in the future.

The *Irish Independent* reported on the discussion document of the Committee of Public Accounts, which includes a chapter on RTÉ and draft conclusions and recommendations. In regard to that document the PAC report states: "On the basis of evidence presented to the committee, the creation of limited companies by RTÉ's' top earners is used primarily for the purpose of reducing their exposure to income tax, which comes at a cost to the Exchequer." One of the draft recommendations is that the Department of Public Expenditure and Reform "bring forward proposals to address this practice", with which I concur. I am not sure those draft recommendations or that section of the PAC report will find its way into the final report. One source

is reported as saying that that wording will not appear in the final report. However, it gives us a flavour of where the PAC is at on this issue. This is an issue of tax fairness. The practice is legitimate and people will obviously use legitimate means to reduce their tax liability if they have the wherewithal to do so. This scheme is known to the Minister because I previously brought it to his attention. It is also known to the Revenue Commissioners. I understand that Revenue cannot address the matter and can only advise the Minister on what needs to be done. I am disappointed that no action is being taken in yet another Finance Bill to address this practice.

Deputy Paschal Donohoe: I have not seen the report of the Committee of Public Accounts to which the Deputy referred. I understand the Deputy's quotation is from a draft report. I am required to respond to all of the reports of the Committee of Public Accounts by minute and if the language referenced emerges in the report of the committee when published, I will respond to it. The Revenue Commissioners have informed me that they can examine and act on any relationship brought to their attention to establish whether there is a contract for service in place and if it is being used appropriately.

As I said, if the Revenue Commissioners advise me of a requirement for a change in law to deal with the evasion of PRSI obligations, I will act on that advice. To date, Revenue has not called on me to do so.

Amendment put and declared lost.

Deputy Pearse Doherty: I move amendment No. 167:

In page 142, between lines 19 and 20, to insert the following:

"Report on maintaining Mortgage Interest Rate Relief

60. The Minister shall, within 6 months of the passing of this Act, prepare and lay before Dáil Éireann a report on maintaining the current Mortgage Interest Rate Relief until such time as mortgage interest rates are equivalent to the European average.".

This amendment relates to mortgage interest relief. We have already dealt with mortgage interest relief for landlords. Fine Gael, its Independent colleagues in government and Fianna Fáil are supportive of an increase in mortgage interest relief. It will not be lost on mortgage holders that this comes as a reduction in mortgage interest relief is being introduced next year for those who are in a position to avail of it. The amendment asks that this relief be maintained at the current level, at a cost of €46.5 million per annum. While that is a sizeable amount, it also points to the benefit that a large number of people have been able to avail of. It is not a perfect policy but it provides some relief and helps to reduce the high cost of living for many people.

During our earlier meeting with the President of the European Central Bank, Mr. Mario Draghi, we discussed the high cost of interest rates in this State. The current plan is to phase out mortgage interest relief over the next three years, which I do not support given the current environment. The amendment asks that the Minister keep mortgage interest at the current rate until such time as mortgage interest rates are equivalent to the European average.

Deputy Paschal Donohoe: A limited form of income tax relief is available to certain taxpayers for interest payments on a qualifying mortgage loan, as set out in section 244 of the Taxes Consolidation Act 1997. The relief has expired for mortgages taken out prior to 2004 and ceased for new borrowings from January 2013. This mortgage interest relief is, therefore, only available on qualifying mortgage loans taken out between 2004 and 2012 and is being phased

out for the remaining recipients on a tapered basis to alleviate the potential financial difficulties of the cliff that may arise if the relief was removed in a single year.

The rate in 2018 is 75% of the rates that applied in 2017, namely, 15%, 20%, 22.5%, 25% and 30%, with the application of these rates depending on an individual's circumstances. The rate of relief will be reduced to 50% of the 2017 relief in 2019, and 25% of the 2017 relief in 2020, as legislated for in last year's Finance Act. In 2018, the estimated cost of mortgage interest relief is €124 million, reducing to €78 million in 2019. If the 2018 rates and qualifying interest levels continued to apply from 2019, as the Deputy has suggested, the cost would be an additional €46 million per annum.

There were 292,448 mortgage holders in receipt of this relief in 2015, including those who purchased at the peak of the property market and also those who bought during the subsequent trough. There is, therefore, an equity issue around any further retention of the relief in the current form beyond 2021 as not all mortgage holders can avail of the relief. The decision to abolish mortgage interest relief was prompted by the view that relief effectively becomes priced in to the purchase price of the property. Research by the ESRI contends that demand side oriented tax incentives that target home buyers are likely to result in increased house prices, with a limited increase in supply and, thus, the home purchaser is unlikely to be a net beneficiary. For these reasons, I am not in a position to commit further resources to continuing the relief beyond the current end date, let alone extend it in the way the Deputy has suggested. Therefore, I cannot accept the amendment.

Deputy Pearse Doherty: I withdraw my amendment and look at it again before Report Stage.

Amendment, by leave, withdrawn.

Deputy Pearse Doherty: I move amendment No. 168:

In page 142, between lines 19 and 20, to insert the following:

"Report on re-introduction of Trade Union Tax Relief

60. The Minister shall, within 6 months of the passing of this Act, prepare and lay before Dáil Éireann a report on the re-introduction of Trade Union Tax Relief.".

I withdraw the amendment and retable it on Report Stage.

Amendment, by leave, withdrawn.

Deputy Pearse Doherty: I move amendment No. 169:

In page 142, between lines 19 and 20, to insert the following:

"Report on reform of Research and Development tax credit

60. The Minister shall, within 6 months of the passing of this Act, prepare and lay before Dáil Éireann a report on specific actions which may be taken to reform the Research and Development tax credit, which would control the cost of the credit to the exchequer whilst making it more accessible for SMEs.".

I have raised this matter consistently in the past few years. We have seen a slight drop in the number of claims for this credit in the past year. We can see from the latest data available that

€523 million of the amount of €670 million claimed went to very large companies in 2016. We have evidence from the reply given under a freedom of information request that there is concern that the scheme is being used to reduce tax liabilities through the inflation of expenditure on research and development. The figures tell us that 78% of the cost of the credit was accounted for by large companies or companies in the large cases division. Huge companies are soaking up the the cost of the credit and, potentially, there is concern that some of them are inflating their expenditure on research and development. On the other hand, we have SMEs that do not bother availing of the credit, do not know about it or think it is not worth the hassle because of their experience or the risk in applying for same. Therefore, we need to seriously consider providing this tax credit. A substantial report on research and development was carried out two years. Unfortunately, quite a number of its recommendations were never implemented. They considered how we could make sure the spend on research and development was curtailed. The report made some interesting proposals in that regard.

Research and development are vital and play an important part in business and the economy. They allow companies to be at the cutting edge. Therefore, we need to promote research and development and encourage far more companies to become involved. The problem is that only 22% of the cost of the tax relief is accounted for by small and medium-sized enterprises. As many as 300 companies - the larger companies - account for 78% of the cost, while fewer than 1,200 account for the the remaining 22%. I genuinely believe we must consider how SMEs are treated north of the Border. I am not saying the situation there is perfect or that we should mirror the scheme in place, but there are people who work on both sides of the Border and make applications on behalf of businesses. They can verify the differences for SMEs in the North and the South in terms of the challenges faced in the South. As recommended by the Irish Business and Employers Confederation, IBEC; the Irish SME Association, ISME, and others, there would be merit in considering the SME light research and development tax credit available in the North in terms of the protection provided and all of the anti-avoidance issues that arise. We must consider introducing a separate rate in the South. We have argued, for example, that the 25% rate should be reduced to 20% for non-SMEs but increased to 30% for small and medium-sized enterprises to encourage research and development.

Let us consider where we are in the economy and business and strip out multinationals which I acknowledge create employment and provide a tax base. I will not go into all of the issues concerning some of them but will park them to one side, although I know that the Minister does not have the luxury of doing so. The SME sector is not as profitable or productive as it should be. There is a serious issue because the level of foreign direct investment mirrors something. If it was stripped away and we just compared the SME sector with others, we could see we have an issue. One of the ways by which we could invigorate the sector is by providing support for research and development. That is why I think there would be merit in considering ways to encourage more businesses to avail of the research and development tax credit and thus participate in research and development.

There are two deterrents, the first of which is the bureaucracy involved. The application process for the tax relief has been christened by the likes of IBEC as "SME R&D light", which is what the tax relief has been called in other jurisdictions. The second deterrent is the current rate. Obviously, in increasing it to 30% a cost would be incurred by the Exchequer, which is why I suggest the rate for larger multinationals be reduced to 20%, which would still be generous. Let us recall that €523 million of the total cost of €670 million was claimed by about 300 companies. Unfortunately, I do not have figures in front of me. The rest - about €150 million - was claimed by 1,200 SMEs. I suggest we use tax policy to encourage placing the focus on SMEs. Perhaps there are better ways and solutions, but I offer my suggestion as a way to im-

prove things as we cannot just kick on. The cost of this tax credit is huge; €500 million goes to multinationals. I am not saying they do not engage in research and development because obviously they are, as the report has shown. However, there are concerns within the Department of Finance and the Revenue Commissioners, or at least among certain people in the two organisations, that the spend on research and development has been inflated. We need to encourage the sector - SMEs- that needs the biggest helping hand at this time.

Deputy Paschal Donohoe: I agree with the point made by the Deputy about productivity levels in the SME sector. Earlier in the year my Department published a paper, in conjunction with the OECD, in which we analysed productivity levels in the economy once we had stripped out the very large companies integrated into global supply chains. The analysis showed that we had productivity levels that were lower than they should be for smaller companies. The initiative announced by the Minister for Business, Enterprise and Innovation on the future work programme which will gradually replace the Action Plan for Jobs looks at the quality of work and productivity levels within all areas of the economy. It is fair to acknowledge productivity levels as an issue. In addition, when we talk about multinationals broadly and the changes that have happened within the country, one issue on which I think we do not place enough emphasis is the number of Irish companies that, with great success, diversified into overseas markets and managed to scale up very quickly when the domestic economy was going through a great difficulty. I point to companies as Glanbia and Cement Roadstone Holdings as excellent examples.

On the specific amendment the Deputy has put to me, I will cut to the chase. Like my Department, I am conscious of the need to evaluate regularly the research and development tax credit. In line with my Department's tax expenditure guidelines, a full *ex post* cost benefit analysis and evaluation of the credit will take place next year. While I cannot accept the amendment, we will substantively review the operation of the credit next year. It will be fully in place in advance of the budget next year.

Deputy Pearse Doherty: I welcome the Minister's assurance. Will he, as part of the review, examine how SMEs across the Border are treated when it comes to research and development? Will he consider whether the approach adopted in the North or an Irish version of same should be applicable to encourage and incentivise research and development in the SME sector?

Deputy Paschal Donohoe: Yes.

Amendment, by leave, withdrawn.

Deputy Pearse Doherty: I move amendment No. 170:

In page 142, between lines 19 and 20, to insert the following:

"Report on abolition of Local Property Tax

60. The Minister shall, within one month of the passing of this Act, prepare and lay before Dáil Éireann a report on options for the abolition of the Local Property Tax.".

I withdraw the amendment and retable it on Report Stage.

Amendment, by leave, withdrawn.

Deputy Pearse Doherty: I move amendment No. 171:

In page 142, between lines 19 and 20, to insert the following:

"Report on introduction of measures to combat hoarding of land

60. The Minister shall, within 6 months of the passing of this Act, prepare and lay before Dáil Éireann a report on the introduction of measures to combat the hoarding of land needed for development. The report will examine the desirability of a vacant property tax and a land value tax among other proposals.".

My amendment relates to a vacant property tax.

This amendment calls for the preparation of a report on the introduction of measures to combat the hoarding of land needed for development and to examine the desirability of a vacant property tax and a land value tax, among other proposals.

The Government could move beyond incentives and bring in a tax on units that are unoccupied. A tax on vacant property based on the value would encourage owners to put it to good productive use. We can see that in the midst of a housing crisis in Vancouver, properties deemed empty are now subject to a tax of 1% of the value of the property of the 2018 assessed taxable value. Most homes are not subject to the tax as it does not apply to principal residences or homes for at least six months of the year. All home owners, however, are required to submit a declaration.

On the vacant residential land tax, almost 200 sites and properties, worth millions of euros, were identified as lying empty in Dublin city and county as per data from the authorities. These vacant sites are worth more than €400 million and have been identified in 114 locations across Dublin city and county, the vast majority of which, almost 90, are in the Dublin city area alone. This has been recorded by the vacant sites register.

From 1 January a residential land tax was applied to homes in inner city Melbourne that were vacant for more than six months in the preceding calendar year. A vacant residential land tax can be assessed by calendar year, from the start of January to the end of December. The six months do not need to be continuous.

There is a need for such a measure in the light of where we are at this time with a significant housing crisis and all of the factors that lead to that. Within the cost of construction, land value is one of the major issues which we need to deal with in a very robust way. The measures which are outlined in my amendment No. 171 are to combat the issue of land hoarding. There is an incentive for individuals to hoard land because the increase in the value of land makes it profitable for them to sit on land that should be released for development. There is a genuine need for some type of taxation proposals that would encourage if not force these land hoarders to release this property onto the market, whereby there would be a negative economic impact on them if they were to continue to carry on the practice of hoarding.

Deputy Paschal Donohoe: As regards a vacant property tax, an independent report on this topic commissioned by my Department was laid before Dáil Éireann on 18 September 2018, in accordance with the provisions of section 86 of the Finance Act of last year. The independent Indecon consultants report on the taxation of vacant residential property presents a detailed evidence-based assessment of vacancy rates in areas in which the demand for housing is most acute. This assessment suggested that the vacancy rates in these areas is significantly lower than the national average and indeed has fallen in recent years. The report also suggests that the vacancy rate is likely to continue to fall. The report did not recommend the introduction of a residential vacant property tax at this time as it did not indicate that it would be an effective response to deal with housing shortages. The report's view is that low vacancy rates in the areas

of greatest demand for housing, particularly in terms of medium-term vacancy, indicate that the potential for a vacant property tax to increase housing supply is limited and could indeed represent a distraction from the need to accelerate significantly the building of new social and affordable housing, and the facilitation of other housing supply.

Deputy Pearse Doherty: I disagree with the Minister that the report as proposed in this amendment does not need to take place and that more ambitious measures do not need to be taken. This ties in with the response of the Government to dealing with a major housing crisis. That being said, I withdraw this amendment and will seek to table it, or a version thereof, again on Report Stage.

Amendment, by leave, withdrawn.

Chairman: Amendment No. 172 has been ruled out of order.

Amendment No. 172 not moved.

Chairman: Amendment No. 173 may be discussed with amendments Nos. 174 and 191.

Deputy Pearse Doherty: I move amendment No. 173:

In page 142, between lines 19 and 20, to insert the following:

"**Report on impact of Irish Real Estate Investment Funds on residential property prices**

60. The Minister shall, within 6 months of the passing of this Act, prepare and lay before Dáil Éireann a report on the impact of Irish Real Estate Investment Funds on residential property prices, and the supply of residential properties, in the State.".

This amendment calls for a report on Irish real estate funds, IREFs, on residential property prices and the supply of residential properties in the State. The other report that is being called for in amendment No. 174 is a report on the ability of investors in real estate investment trusts, REITs, including pension and investment funds, to neutralise their tax liability in both income and gains from Irish property held by REITs.

The Irish tax code has created a very unlevel playing field for ordinary families and individuals who are trying to get onto the property ladder. There is an incentive here where we allow for fund structures, in a very tax-efficient way, to buy up property. We can see from all of the data published by the CSO that cash buyers, of which these fund structures make up the significant part, are competing in a very aggressive way with families, newly-weds and individuals who are trying to acquire their first house, especially here in Dublin city. Figures show that close to 50% of sales are cash purchases at certain times. There is almost €17 billion of IREF assets in the State. That is the quantum that we are told in the tax strategy papers. We know that the average yield in rent in the State is 7.5%. How did they pay only €9 million in tax on more than €1 billion of income? I have discussed this with the Minister before. The accounts of these funds are available. One can see the actual tax that is being paid because of the tax efficient ways in which they do not have to pay it. It is appalling. The tax rate of some of these funds is 1.8%. This is the kind of structure that we have put in place.

I can remember when some of these structures came in. It was a time when there was a very dampened property market. That is not where we are at this time. I recall the former Minister, Deputy Noonan, saying that we needed to get a floor and to get people in etc. Things have

moved on. There needs to be an assessment done on the impact that these structures are having on property prices because they are able to push up prices because they have the availability of funds to set market prices.

There is an issue as to the supply of residential properties because these funds are able to compete with individuals. It is ridiculous. Some of these funds are landlords. Some of these tax-efficient funds are charging outrageous rents which are among the highest in our capital and they then pay 1.8% in tax on their income. There has been some work done in this area but it is time to go back and look at it all again because they are clearly not paying a reasonable amount of tax. These amendments are sensible. They are asking the Minister to look at these structures and to look at how they are impacting on property prices, at the supply of residential properties in the State, at the structures themselves, and at how they are allowing for a very small effective rate of tax to be paid on income.

Deputy Paschal Donohoe: The Deputy may be aware that during my response to amendment No. 161, tabled by Deputy Boyd Barrett, I advised that my officials would undertake to report next year on the activities of such structures in the Irish property market. I agreed on Committee Stage of the Finance Bill last year to conduct a report on the impact that REITs and IREFs are having on the residential property market. The limited availability of data from the Revenue Commissioners on IREF returns inhibited the ability to undertake the report this year. I am advised by the Revenue that as all Irish real estate funds, IREFs, must file accounts with Revenue by 30 January 2019 we will have enough data available at the end of the first quarter of that year to provide a complete picture of the activities of these funds in the Irish market. I want to inform the committee, as I indicated earlier, that work has already started on this report. In particular we are looking at the activities of these funds within our larger cities regarding different forms of property. I want to gather more data on that, then integrate that data into the tax information that would be available at an aggregate level to me at the end of the first quarter of next year. I will present this paper as part of the tax strategy group work, which will be done before next summer. As part of that work, it will be my intention to make available that report.

Deputy Pearse Doherty: The Minister, in response to different parliamentary questions I have raised on this issue, has previously told me that the collection of data on some of the funds is waiting until 31 January 2019. At that point we will have a clear picture of where we are. Can the Minister confirm that the paper he has spoken about, which will be published, will include the impact on property prices, the supply of residential property and the effective tax that these instruments are paying? We do not really need a paper for that but the Minister will have access to the accounts.

Deputy Paschal Donohoe: It is my intention to find out if conclusions can be drawn, based on fact, about whether the activity of these funds is having an effect on different forms of property, particularly properties within our cities. This work is on-going and is a matter I want to look at personally and to understand any effect it may be having. One of the issues I have been looking at is that a large number of these funds act as both buyers and sellers of property. I need to better understand the net effect of their activity on different forms of property. It is my intention that, if I allow for this to be done as part of the tax strategy group, at that point I will have a number of years worth of robust information on the impact they are having on the property market.

The point raised by the Deputy on tax brings me back to the point I made earlier to Deputy Boyd Barrett. It is difficult for me to have a counter-factual against which I can evaluate the operation of these funds from a taxation point of view. At an aggregate level I want to see if

any conclusions can be drawn from the level of tax and from the impact of tax policy on the operation of these funds. We will do that work and it will be published next year.

Deputy Pearse Doherty: The Minister will look at this on an aggregate level. Is his intention to define or tell us the effective tax rates of the real estate investment trust, REIT, structure, for example, as opposed to identifying specific companies?

Deputy Paschal Donohoe: There is a debate under way as to whether I can do that or not.

Deputy Pearse Doherty: Let me encourage the Minister-----

Deputy Paschal Donohoe: There is an active debate as to whether that is actually doable.

Deputy Pearse Doherty: The Minister should listen to the person beside him who said that it can be done. I encourage him to do that.

Deputy Paschal Donohoe: I did not hear that. I heard different views as to what can be done. It is wisest for me to say at this point that I am acutely aware of differing issues that can contribute to trends in our property market that might be different to the last property cycle we went through. I am aware of the scale of operation that is under way from some of these funds. I believe the scale of operation is lower than has been attributed to date, and that is why I want to ascertain the facts. We will be looking at the role the funds play in the property market. I am not in a position to tell the committee whether it will deal with effective tax rates for those funds. That can be worked out by looking at their accounts. On the other hand, the funds create returns and tax can and is paid on them, depending on who is receiving that return and where they are located. I want to try to get the most comprehensive analysis of this issue possible in order to see if further policy action is required. It is helpful that I can indicate that publicly this evening.

Deputy Pearse Doherty: I welcome the report and I understand the collation of data. I brought this point up in the Chamber last year. I have the accounts here for the different REITs; they are all published. We went through this with accountants. The funds are paying an effective tax rate of 1.8% because of the structure they are operating under. It is not acceptable, and it is not good that we have created a tax efficient structure that is allowed to compete with Tom and Mary, who are trying to set out on their own life, trying to buy a house in Dublin, queueing up to view houses, but a structure can swoop in and outbid them because it can rent it out and will only be paying an effective tax rate of 1.8% because of the structure of the company. That is not right. Others have called for a complete ban on these structures in the market at this point in time.

I am glad that the Minister is going to be looking at the property prices and the supply of residential properties in the State, but a lot of damage has been done and a lot more can be done between now and the end of the year in terms of these funds in competing with a very scarce amount of properties out there. One of these funds is the biggest landlord in the State and also charges the highest rents in the State.

Chairman: How stands the amendment?

Deputy Pearse Doherty: In light of the Minister's agreement to carry out a report I withdraw amendments Nos. 173 and 174.

Amendment, by leave, withdrawn.

Deputy Pearse Doherty: I move amendment No. 174:

In page 142, between lines 19 and 20, to insert the following:

"Report on Irish Real Estate Investment Funds' tax liability

60. The Minister shall, within 6 months of the passing of this Act, prepare and lay before Dáil Éireann a report on the ability of investors in Irish Real Estate Investment Funds (REITs), including pension funds and other investment funds, to neutralise their tax liability in relation to both income and gains from Irish property held by REITs.".

Amendment, by leave, withdrawn.

Deputy Pearse Doherty: I move amendment No. 175:

In page 142, between lines 1`9 and 20, to insert the following:

"Report on options available for introduction of a wealth tax

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

I will withdraw this amendment. I may table it at Report Stage.

Amendment, by leave, withdrawn.

Deputy Michael McGrath: This is probably a matter for the Ceann Comhairle, but if we withdraw amendments without discussing them are we able to resubmit them at Report Stage? What is the position?

Chairman: The amendments are being moved and then withdrawn, so we are taking it that Deputy Pearse Doherty has withdrawn the amendment but that-----

Deputy Michael McGrath: The amendments arise from Committee Stage.

Chairman: All of the withdrawn amendments have been moved.

Amendment No. 176 not moved.

Deputy Pearse Doherty: I move amendment No. 177:

In page 142, between lines 19 and 20, to insert the following:

"Report on the possibilities of a tax or taxes on the use of plastic

60. The Minister shall, within 6 months of the passing of this Act, prepare and lay before Dáil Éireann a report setting out the possibilities for an ambitious tax or set of taxes on the use of plastic, to:

(a) reduce the overall level of plastic use in the economy; and

(b) incentivise widespread re-use and recycling of the plastic that is used.".

I do not want to discuss this proposal in detail because it is something I want to look at again and deal with on Report Stage. However, I would like to hear the view of the Minister on amendment No. 177 which seeks a report setting out the possibilities of an ambitious tax or set of taxes on the use of plastics to reduce the overall level of plastics used in our economy and to incentivise widespread re-use and recycling of plastics. We know that taxing plastics can have a big effect in reducing the overall level of plastic use in the economy, incentivising widespread use of recycling and re-use. Such taxes can be designed in a way that can specifically aim to curb the production of virgin plastics and incentivise recycling plastics and renewables. This is something that should be considered. The amendment here is asking for consideration of this suggestion and a report.

I am not asking for a commitment to any such tax, but I think there is merit in considering this in advance of next year's Finance Bill.

Deputy Paschal Donohoe: Plastic waste and recycling is a waste management issue and is overseen by the Department of Communications, Climate Action and Environment. Ireland has supported the ambition of the recent EU proposal on the reduction of the impact of plastic on the environment. The Council of the European Union recently agreed a text to bring to negotiations with the European Commission and the European Parliament. It is only by acting collectively and collaboratively with all member states that we will achieve the best outcome in this area. The Commission has cautioned that acting individually may compromise the effect of the proposal currently being negotiated by member states.

Notwithstanding this, actions taken by the Government to date to address the issue of plastic waste include the use of an extended producer responsibility model to deal with waste packaging, the funding of education and awareness campaigns and the provision of €2 million of annual funding to the Environmental Protection Agency's national waste prevention programme. Ireland is committed to the reduction of the impact of plastic waste on the environment and to encouraging increased reuse and recycling of materials to limit such waste. We will continue to actively engage with the EU Commission on this matter. Tax can be a blunt instrument in bringing about changes in behaviour and it is not always possible to target tax measures accurately, leading to dead weight in certain circumstances. While it has been possible to successfully implement very targeted measures such as the plastic bag levy, wider-reaching initiatives can give rise to significant collection and enforcement concerns. Sometimes regulation can provide a more direct approach but as I have said, my preference is to continue to engage collaboratively at EU level.

Deputy Pearse Doherty: I may table the amendment again on Report Stage.

Amendment, by leave, withdrawn.

Deputy Pearse Doherty: I move amendment No. 178:

In page 142, between lines 19 and 20, to insert the following:

"**Report on digital services tax**

60. The Minister shall, within 6 months of the passing of this Act, prepare and lay before Dáil Éireann a report on a digital services tax to be applied to companies operating over a certain threshold.".

Amendment put and declared lost.

Deputy Michael McGrath: I move amendment No. 179:

In page 142, between lines 19 and 20, to insert the following:

"**The linking of DIRT rate and Exit Tax rate on Life Assurance Policies**

60. The Minister shall, within three months of the passing of this Act, prepare and lay before the Oireachtas a report on the breaking of the link between the rate of DIRT and the rate of exit tax from Life Assurance Policies, including the impact of this on life assurance savers.".

We have discussed this measure before. I raised it last year so I do not intend to labour the point. For a period of almost 20 years up to 2016, exit tax and deposit interest retention tax, DIRT, rates were aligned. They were identical throughout that period. Since 2016 there has been a divergence, as the Minister will know. He has programmed in a 33% reduction in DIRT by 2020, but the exit tax remains at 41%. Within a couple of years the difference in rates will be 8%. As the Minister knows, the exit tax applies to certain investment and savings products, generally long-term investment products. His answer last year was along the lines that it came down to the fiscal implications of moving the exit tax rate in line with DIRT. There is a significant difference already and it is going to grow to 8% by 2020. I am seeking to establish what the policy is at this point. Is it now policy that there will continue to be a difference of that order between the exit tax and DIRT rates?

Deputy Paschal Donohoe: For now, the short answer to that question is "Yes." The reason is exactly the same as the one I gave Deputy Michael McGrath last year. Every 1% reduction to the rate of life assurance exit tax will cost approximately €4.7 million. Therefore, reducing the latter to align it with DIRT rates from 2019 would result in a cost to the Exchequer of €28 million in the coming year when it would be reduced to 35%, and €38 million in 2020 to further reduce it to 33%. While I am aware of the policy value in doing this, in the context of other choices I had to make I was not in a position to do it this year. I also considered removing the 1% life assurance premium. However, the cost of removing it entirely was €18 million, while reducing it to 0.5% would cost €9 million. For those reasons, it was not a decision that I was in a position to make in this year's budget.

Deputy Michael McGrath: I wish to make one further point. Does the Minister have any thoughts on the fact that the scale of the difference will encourage savers to put their money in a certain direction, that is, into products that are subject to the DIRT rate as opposed to the exit tax rate? Very often the products subject to the exit rate of tax offer higher returns. They are generally longer-term products. As we know, deposit rates in retail banks are close to zero at the moment. I know it is because of money that the Minister cannot align them, but it has a consequence in that it gives people a financial incentive to put their money into one form of savings product rather than another.

Deputy Paschal Donohoe: I am pleased to tell the Deputy that my Department is in the final phases of preparing a report on this very issue for me. This is in response to the number of times this issue has been raised, particularly by Deputy Michael McGrath. We hope to be in a position to publish the report in a few weeks. It does not take away from the cost issues I have raised, but section 3 of the report in particular looks at comparisons between products that are subject to DIRT and life assurance exit tax. We then draw some conclusions in that regard. It is currently in draft form and I hope to be in a position to sign it off. I am sure I will be able

to do it quickly and the Department will publish it in a few weeks, or even sooner, and share it with the committee.

Deputy Michael McGrath: I thank the Minister.

Amendment, by leave, withdrawn.

Amendment No. 180 not moved.

Deputy Michael McGrath: I move amendment No. 181:

In page 142, between lines 19 and 20, to insert the following:

"**Withholding tax on peer to peer lending**

60. The Minister shall within three months of the passing of this Act, prepare and lay before the Oireachtas a report on the requirement for companies availing of peer to peer loan finance to withhold tax at 20 per cent of interest paid as required under section 246(2) of the Tax Consolidation Act 1997 and on the appropriateness of section 246(2) of the Tax Consolidation Act 1997 to the peer to peer lending and other crowdfunding mechanisms.".

I know the issue of withholding tax on peer-to-peer lending has been brought to the Minister's attention. I understand that Revenue issued an e-brief in May declaring that the requirement to withhold tax of 20% of interest applied to all peer-to-peer loans. As the Minister will appreciate, peer-to-peer lending provides vital access to capital for small and medium-sized enterprises, SMEs, and the implementation of this brief could have a very significant impact. My understanding is that a loan provided through peer-to-peer lending has an average of 245 lenders. Each SME under the Revenue's brief would have to manually fill in 245 R185 forms each year of the loan. We are not talking about rates, but about the method of tax collection. Given that this is an important source of funding for SMEs and that it is a form of non-bank funding, which is to be encouraged, I would be interested to hear the Minister's views on it.

Deputy Paschal Donohoe: I thank the Deputy. I understand that this is an important source of investment and credit for SMEs and I think it is likely to grow in the near future. In my budget day speech I said that I am willing to look at how we can tax this sector and how this could be done in a way that is effective and deals with issues that Michael Deputy McGrath and representatives of the sector have raised. I want to do this in parallel with the regulation of crowdfunding within Ireland, in particular peer-to-peer lending. As we stand, peer-to-peer lending is unregulated in Ireland. I will look at this in a phased way. I will look at how we can regulate the sector and consider any changes that need to be made. As we look at how the sector can be regulated as opposed to being better regulated, I am open to looking at whether an appropriate tax policy needs to be put in place.

Deputy Michael McGrath: When will all of that happen?

Deputy Paschal Donohoe: The Central Bank has already undertaken the work of looking at how the sector can be regulated and it will report back to me with its recommendations. I have an ambition to do this in advance of next year's finance Bill. It is a sector that is not regulated at the moment so we need to look at how it can be regulated in the first place but I am interested in this because I can see the role it will play in our economy in the future.

Deputy Michael McGrath: In reality, if the withholding tax continues to apply in the in-

terim will that not effectively stop the development of this sector in its tracks? If the Minister is talking about that number of forms having to be filled up, it is unworkable given the nature of these loans under peer to peer lending. The present position is that withholding tax must be applied and these forms must be completed so-----

Deputy Paschal Donohoe: That is correct but the purpose of this is to facilitate tax compliance. The sector is eager to see this withholding tax regime change and therefore I hope that as the sector begins to get a sense of how we believe it can be better regulated that the sector's views on withholding tax will colour its enthusiasm for participating in how the sector can be regulated.

Amendment, by leave, withdrawn.

Amendment No. 182 not moved.

Deputy Michael McGrath: I move amendment No. 183:

In page 142, between lines 19 and 20, to insert the following:

"**Standard Fund Threshold in the case of a separation or a divorce**

60. The Minister shall within three months of the passing of this Act, prepare and lay before the Oireachtas a report on how the Standard Fund Threshold on Tax Relieved Pension Funds is calculated in the case of a divorce or separation whereby a Pension Adjustment Order is made to divide the pension fund between the two ex-spouses.".

The standard fund threshold stands at €2 million. I refer to its relationship with a pension adjustment order which is common in legal separations and divorces.

As the Minister is aware, as part of many divorce settlements which become court orders, a pension adjustment order is made which transfers the pension benefits from one of the ex-spouses to the other. However, the party who originally earned the pension is obliged to include that pension amount for the purposes of calculating their standard fund threshold even though they would no longer be the beneficiary of that pension and the person who is benefiting from the pension adjustment order does not have the value of that pension count towards their standard fund threshold. It only counts once but it is fully counted in respect of the person who, for example, paid into that pension and accumulated that pension pot and as a result of the breakdown of the relationship, the settlement that has been agreed and this pension adjustment order being made, their standard fund threshold is effectively reduced.

It is a quirky one but it can have serious implications for those caught up in it. I went through one particular example in detail and I could see that the consequences of it were pretty significant.

Deputy Paschal Donohoe: They are. I advise the Deputy that Revenue has published a considerable amount of information and detailed guidance about the standard fund threshold regime. Therefore, there is no requirement for an additional report as has been suggested and the policy position on the matter is well settled.

The State offers extremely broad pension relief to encourage individuals to save to ensure they will have sufficient income for use in their retirement. The standard fund threshold operates to cap the amount of tax relief for pension savings that are utilised by high earners. In this way it targets excessive pension accrual and the overfunding of supplementary pension provi-

sions on values over €2 million.

For example, in the event that a married couple gets divorced, there may be a court ordered legal division of their assets. In the case of a pension, there could be a pension adjustment order that sets out the terms of how the pension benefits are to be apportioned between the now divorced individuals. When applying the standard fund threshold to determine whether a chargeable excess exists on the pension fund, in accordance with section 7870 of the Taxes Consolidation Act 1997, the pension fund is treated as a single asset and the pension adjustment order is to be ignored for the purposes of determining whether the standard fund threshold has been exceeded. The order is, however, taken into account when determining the portion of any chargeable excess that is payable by each spouse.

To give the full picture of the types of relief beyond the standard fund threshold, I also note that where married couples divorce or separate and civil partners separate, each former spouse or civil partner may be entitled to a separate and distinct tax free lump sum of up to €200,000 in respect of a lump sum which is the subject of a pension adjustment order, something that may not necessarily be available to a married couple or civil partners. The specific disregard of the pension adjustment order is a justified anti avoidance measure that is designed to prevent an individual whose pension is subject to such an order from availing of further tax relief at significant additional cost to the Exchequer. It has never been the case that a divorce or separation would lead to each former spouse or civil partner getting a standard fund threshold in cases where there was previously only one.

This would lead to a significant cost that would benefit a very small number of individuals who, in the eyes of many, would be seen as being wealthy. The funding for and accrual of pension benefits for the vast majority of individuals in pension saving arrangements are unaffected by the standard fund threshold scheme. Given that we need to concentrate our resources to deal with many of the issues that will arise from the road map of pension reform, that is where we should put the resources of the State as opposed to dealing with this matter.

For that reason I do not accept the proposed amendment.

Deputy Michael McGrath: The Minister is effectively saying that the standard fund threshold is not divisible and so it cannot be separated - to use that unfortunate word.

Let us take the example where a pension adjustment order dictates that a pension of €20,000 per year has to go to an ex-spouse. Is the Minister saying that we cannot then calculate what the related standard fund threshold amount is and allocate that to one ex-spouse while the other ex-spouse keeps the balance? Is the Minister saying that cannot be done and setting out the policy grounds from his perspective as to why that would not be desirable?

Deputy Paschal Donohoe: That is correct. We are saying that the standard fund threshold is applied to the fund itself rather than the income so that is why there is only one of them. That is the reason we cannot divide it but I have been informed that it could lead to a situation where if we did divide them, people would be better off after the separation or divorce than when they were married.

Deputy Michael McGrath: That does not happen to too many people.

Deputy Paschal Donohoe: No it does not but the standard fund threshold and the way it is implemented has been carefully put in place to deal with the very large benefits that accrue to a number of people as a result of the interaction between our tax system and the amount of

money that people put away for the future. There is only one of them and it is applied to the fund rather than the income. If we came to a point where there were two different standard fund thresholds it could create perverse incentives, although I take the Deputy's point that it is unlikely to change people's behaviour and create a reason why a marriage or relationship would break down.

On the grounds of equity and given the other issues that we will have to deal with in our pension code, it is only fair that we leave this policy unchanged.

Amendment, by leave, withdrawn.

Deputy Michael McGrath: I move amendment No. 184:

In page 142, between lines 19 and 20, to insert the following:

"Income volatility for the farming sector

60. The Minister shall within 3 months of the passing of this Act, prepare and lay before the Oireachtas a report on the feasibility of introducing further tax provisions and stabilisation tools to deal with income volatility for farm enterprises both in terms of income tax and corporation tax.".

Moves have been made in recent years to deal with income volatility in the agricultural sector. These have been welcomed, especially income averaging and step-out measures and so on. Further proposals have been made, as the Minister is aware, by farm organisations. These include different strands of suggestions around a farm management deposit scheme to address volatility. We have seen in recent years how incomes can be directly affected by weather events, commodity prices and so on. Did the Minister give serious consideration to those proposals? Why has he decided not to make further moves in this area?

Deputy Paschal Donohoe: I wish to comment on a related policy area and signal my intention to bring forward a minor technical amendment on Report Stage to correct a ministerial reference in the Forestry Act 1988. The proposed amendment is technical in nature and is intended to clarify that pension payments to be made to former civil servants under that Act are to be made by the Minister for Finance rather than the Minister for Public Expenditure and Reform.

I fully recognise that farm income volatility is a prevalent feature of the agricultural sector. In response, targeted relief to assist with income volatility is available to farmers under the income averaging scheme. The scheme provides a useful mechanism for smoothing out income volatility associated with the farming sector by allowing farmers to pay tax based on the average of the aggregate profits and losses of the farming trade over a five-year period. Initially, farm averaging was only available over three years. Then, in the Finance Act 2014, the time was extended to five years to assist in ameliorating volatility. In acknowledgement of the prevalence of income volatility my Department has sought to enhance and introduce further additional flexibility to the income averaging regime in recent budgets to recognise the reality of income volatility in the farming sector and to maximise the number of farmers who wish to level out volatile income through the averaging system. Different measures have been put in place. In the Finance Act 2014, the Finance Act 2016 and in this Bill I have made further changes relating to income averaging.

The Deputy will be aware that my Department conducted an agri-taxation review update. The review analysed the progress made in implementing the 25 recommendations in the 2014 agri-taxation review.

As there is already a targeted tool available to farmers in the form of income averaging, I decided not to go down the farm deposit route. As already mentioned, I have sought to further enhance the existing targeted income volatility support this year by opening up income averaging to all farmers. On the basis that a targeted scheme is in place, I consider that I have already conducted a review of agricultural taxes. Therefore, I do not propose to accept the amendment. However, I will keep this matter under review.

Amendment, by leave, withdrawn.

Deputy Michael McGrath: I move amendment No. 185:

In page 142, between lines 19 and 20, to insert the following:

"Tax and fiscal treatment of landlords

60. The Minister shall within 3 months of the passing of this Act, prepare and lay before the Oireachtas a report on the implementation or non-implementation of the proposals outlined in the Report of the Working Group on the Tax and Fiscal Treatment of Rental Accommodation Providers and reasons for the non-implementation of any proposals outlined in that report.".

This relates to the report of the working group on the tax and fiscal treatment of rental accommodation providers, which was published on budget day last year. The Minister has made some moves on the options set out. I realise these were not recommendations but they were options and they were costed. It is important and timely, given the housing crisis, for the Minister to clarify the intention with regard to the remaining options that have not been implemented.

The Fianna Fáil Party welcomes the acceleration of mortgage interest deductibility for landlords. During our discussions with the Fine Gael Party in advance of the budget, we discussed other options, in particular, encouraging longer-term tenancies. This is a real structural issue in the Irish rental market. Tenancies are too short-term in nature. We need to get to a point where people have far longer security of tenure. This could include rental agreements for ten, 15 or 20 year periods. We need to recognise and accommodate this in our taxation system.

The other issue we discussed was the possibility of incentivising the purchase of a property with a tenant *in situ*. In the current market, where an owner is selling a property with a tenant, the tenant is often served with notice because the prospective purchaser wants vacant possession, even if the prospective purchaser intends to let out the property again. There is also an issue with regard to incentivising the purchase of properties where transactions are going to happen anyway. In certain cases it may be beneficial to incentivise a purchase where a tenant remains *in situ* so that the tenant avoids the disruption of having to leave a property because the home is being sold, perhaps even to another investor. Not all these options were in the initial report but I believe they should be considered. The Minister indicated to us that he would consider further options in the context of the Finance Bill.

Deputy Paschal Donohoe: I acknowledge that many options were set out in the report of the working group on the tax and fiscal treatment of rental accommodation providers. Deputy McGrath and his party called for these options to be implemented as part of the budget. As the Deputy is aware, for reasons primarily relating to cost I was not in a position to put in place the two additional measures outlined. I continue to have concerns regarding some perverse incentives that might have been created, in particular in respect of long-term leases and possible

unintended consequences.

As Deputy McGrath will know from some of the engagement we have had, the issue that has emerged is that the purchase of a rental unit with a tenant would likely cover the majority of purchases of rental accommodation. The costs of some of these proposals would be significant. For this reason, I was not in a position to proceed with the options. What I will do in the context of next year's budget and our continued efforts to look at how we can improve our rental market is continue to keep this matter under review. For reasons of cost, I was not in a position to undertake the two additional measures specified by Deputy McGrath. I will examine the matter during the coming year.

Deputy Michael McGrath: Does the Minister take the view that the tax system has a role to play in recognising the value and importance of long-term tenancies? Does he believe it is good for our rental market to provide longer-term certainty to tenants? Would this help to get away from the current cycle whereby people are being served with a termination notice and have to try to find alternative accommodation in the market at a time of terrible crisis? Does the Minister believe we need a structural shift and that the taxation system has a role to play in that regard?

Deputy Paschal Donohoe: By virtue of some of the changes I have made in the past two budgets, it is evident that I acknowledge how tax policy has a role to play in the rental sector. However, I need to be careful not to put in place measures that absorb large amounts of resources. For example, the proposal to grant tax relief to any long-term leases within the State has the potential, in the most extreme scenario, to provide that tax relief would be available to a large number of rental agreements throughout the rental market. I have to avoid that.

Deputy McGrath asked specifically whether I believe tax policy has a role to play. The short answer is "Yes". As Minister for Finance, I have made several decisions reflecting that.

Amendment, by leave, withdrawn.

Chairman: Amendment No. 186 has already been discussed with amendment No. 157.

Deputy Michael McGrath: I move amendment No. 186:

In page 142, between lines 19 and 20, to insert the following:

"Article 12 of the Multilateral Convention

60. The Minister shall within three months of the passing of this Act, prepare and lay before the Oireachtas a report on Article 12 of the Multilateral Convention and the reasons Article 12 has not been adopted.".

Amendment, by leave, withdrawn.

Deputy Paul Murphy: I move amendment No. 187:

In page 142, between lines 19 and 20, to insert the following:

"Report on taxation system

60. The Minister shall, within six months of the passing of this Act, prepare and lay before Dáil Éireann a report on the impact of the taxation system on inequality and propose measures to make the taxation system fair and progressive.".

The Minister and I engaged on this during a parliamentary question debate on the matter of inequality and the budget.

Chairman: Deputy Murphy is moving it.

Deputy Paul Murphy: I am moving it but not speaking extensively on it. I will speak on the next amendment slightly more.

Deputy Paschal Donohoe: I will respond in the same spirit. We had a debate about this. In that debate, I outlined to the Deputy how progressive I believe our income transfers already are. The committee will be aware that in the coming period, the Department of Employment Affairs and Social Protection will publish a social impact assessment of budget 2019. I believe that and other measures which were announced on budget day contribute to the progressivity and fairness of our tax system.

Amendment put and declared lost.

Deputy Paul Murphy: I move amendment No. 188:

In page 142, between lines 19 and 20, to insert the following:

"Report on bogus self-employment

60. The Minister shall, within one month of the passing of this Act, prepare and lay before Dáil Éireann a report on the scale of bogus self-employment and measures that can be taken to prevent bogus self-employment.".

I will speak more extensively on this amendment which relates to a report on the scale of bogus self-employment and measures that can be taken to prevent it. I attended the Joint Committee on Employment Affairs and Social Protection today and someone was there from the Department, speaking about this issue. What she said indicated that the Government has its head in the sand on the issue of bogus self-employment. The main line the Department had was that there was an issue but it was not as much of an issue as was anecdotally indicated, and that the Department does not keep records of bogus self-employment. It does thousands of inspections a year but does not keep records at the end of the process. It is not a serious approach to this issue.

Approximately 12% of workers in this State are self-employed without employees. It does not mean they are all bogus self-employed but it certainly opens up the possibility that some of them, potentially quite a number, are. The evidence from trade unions and other sources indicates that there are areas of the labour market where there is extensive bogus self-employment, in construction, delivery, courier companies etc.

Some of that is not really the business of the Minister's Department but it relates to his Department and Revenue with regard to the question of the loss of income to the State. There is a substantial saving for employers who use bogus self-employment, in the region of 30%, as a result of not paying PRSI etc. That saving for them is a loss to the State. Different figures have been produced about how much there is. The Irish Congress of Trade Unions, ICTU, has a figure based on the construction industry of €80 million a year or €600 million since this became very widespread in the construction industry. I have heard bigger figures than that but in any case there seems to be a significant issue here. The State is losing out on at least some money, arguably quite a substantial amount, and it also has a negative impact on the quality and decency of employment because people who are working in these conditions end up having worse terms and conditions and fewer rights. That is the idea behind a report on the scale of it.

Deputy Paschal Donohoe: I thank the Deputy. I spoke on this in a related section earlier today. I do not propose to accept the amendment mainly because my Department and the Department of Employment Affairs and Social Protection published a report on this a number of months ago. We have already done it. I know there are differing views on the conclusions that we reached and the data in them but such a report was done. As the Deputy has said, this becomes an issue for my Department if any revenue is forgone, particularly PRSI revenue.

As I said in response to Deputy Pearse Doherty this afternoon, if the Revenue Commissioners informed me that they believed that any legal changes were needed to strengthen their compliance activity, I would certainly do it. As I indicated to the Deputy in debates in the Dáil Chamber, the Revenue Commissioners and Department of Employment Affairs and Social Protection take part in compliance activity relating to this. In 2016 alone, they conducted nearly 11,699 interviews on this area which resulted in the reclassification of a number of subcontractors as employees and in 848 individuals registering as PAYE employees. We published a report on the area. I believe a large amount of compliance activity is already taking place. If the Revenue Commissioners or Department of Employment Affairs and Social Protection were to advise me that further legal change is needed, I will make it.

Deputy Paul Murphy: The Minister has a report and that is great. How much does Revenue lose yearly as a result of bogus self-employment? If the Government claims it is serious about this issue, that it accepts the report, why is the Department of Employment Affairs and Social Protection not keeping records of cases of bogus self-employment that it finds?

Deputy Paschal Donohoe: The report which was published attempts on page 18 to provide an analysis with regard to the potential loss to the Exchequer. It looks at it for different income levels per worker and seeks to work out the potential loss in revenue to the State. Its conclusion states these data indicate that the potential loss to the Exchequer for a person engaged in work at a rate equivalent to the average industrial wage of €37,500 amounts to €5,000 per annum under self-employment, rising to €8,000 per annum at a payment level of €60,000, and that these losses are in the range of 30% to 45% of social insurance contributions. The report provides that information on an individual level. Aggregating that information to a total level is where the difficulty is.

If the Department was aware of this as an issue through its compliance efforts, it would intervene, thereby reducing the loss to the Exchequer. The view of the Department of Employment Affairs and Social Protection is that this issue is not occurring on the scale that I think the Deputy believes it is. The report goes on to try to estimate the number of people who may be involved in intermediary arrangements.

The report reads:

> Estimates by Revenue suggest that the number of people employed under PSC and MSC arrangements is of the order of 15,000, with average annual receipts per contractor of €60,000. If the relationship between the end user and say 50% of the individuals involved is effectively in the nature of a contract of service, and if the PAYE system was applied by the end user, the estimated gain to the Exchequer would be of the order of €60 million per annum. If the figure was 25%, the estimated gain to the Exchequer would be of the order of €30 million per annum.

These are a range of outcomes that depend on a level of activity. It is the Department's view that the level of non-compliance is significantly lower than the Deputy believes it to be.

Deputy Paul Murphy: Is it not problematic that the Minister's answer is so algebraic, namely, "If it is this of this, then it is this"? That is just maths, not a report. We are supposed to have a report to find out what the problems are. The Minister does not have an estimate of how much money is lost by the State. He is only able to tell me that if it is this, then it is this. That is fine, but it is not much of an answer. It is illustrative of the fact that the Department of Employment Affairs and Social Protection is not keeping records of bogus self-employment.

The committee might address this issue in future. If the gain was €60 million per annum, which is close to ICTU's figure, then it would be a substantial amount in terms of what could be done with that money.

Deputy Paschal Donohoe: If I could anchor the algebra in more prosaic words, it is the view of the Department that, at an aggregate level, the data are not indicative of a significant increase in the prevalence of self-employment in the economy over the past 16 years. That said, the Joint Committee on Employment Affairs and Social Protection is examining this matter. It held its first hearing on the issue today. If it is aware of different data that the Department has not been able to establish, then I hope that it will provide for a way in which that can be done.

Amendment put and declared lost.

Chairman: Amendments Nos. 189 and 190 have been ruled out of order.

Amendments Nos. 189 and 190 not moved.

Deputy Paul Murphy: I move amendment No. 191:

In page 142, between lines 19 and 20, to insert the following:

"Report on impact of Real Estate Investment Trusts

60. The Minister shall, within one month of the passing of this Act, prepare and lay before Dáil Éireann a report on the impact of REITs in increasing the cost of housing.".

Amendment put and declared lost.

Section 60 agreed to.

Section 61 agreed to.

Schedules 1 and 2 agreed to.

Title agreed to.

Bill reported with amendments.

Message to Dáil

Chairman: I wish to record my thanks to the Oireachtas staff, including the clerk, Deputies, the Minister and his staff for the co-operation on and presentation of the Bill.

Deputy Pearse Doherty: I wish to add my thanks to everyone. We had a late night last night, so I thank all of the staff. In particular, I thank the officials from the Department and Rev-

enue for answering our questions over a long time so that we could have an informed discussion on Committee Stage of the Finance Bill.

Chairman: I thank my apprentice, Deputy Burke, who stepped in and chaired the meeting. I give him ten out of ten, so the Minister should keep an eye on him.

Minister for Public Expenditure and Reform. (Deputy Paschal Donohoe): Indeed. I will add to what has been said by the Chairman, Deputy Doherty and others. I thank everyone for the way in which this business was conducted. There are differing views. We have been here since 9.30 a.m. yesterday and have worked our way through a long Bill. I have done my best to respond to the issues that have been raised.

I thank all of the staff from Revenue and the Department of Finance and everyone else who has been involved.

Chairman: In accordance with Standing Order 90, the following message will be sent to the Dáil:

> The Select Committee on Finance, Public Expenditure and Reform, and Taoiseach has completed its consideration of the Finance Bill 2018 and has made amendments thereto.

The select committee adjourned at 7.30 p.m. *sine die*.