



Number 45 of 2021

Finance Act 2021



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Number 45 of 2021

FINANCE ACT 2021

An Act to provide for the imposition, repeal, remission, alteration and regulation of taxation, of stamp duties and of duties relating to excise and otherwise to make further provision in connection with finance including the regulation of customs; to amend Part 7 of the Emergency Measures in the Public Interest (Covid-19) Act 2020 and otherwise make provision for supports to certain sectors of the economy; and to provide for related matters. [21st December, 2021]

Be it enacted by the Oireachtas as follows:

PART 1

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

CHAPTER 1

Interpretation

Interpretation (*Part 1*)

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

CHAPTER 2

Universal Social Charge

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

2. (1) Section 531AN of the Principal Act is amended—
- (a) in subsection (3), by the substitution of “€21,295” for “€20,687”,
 - (b) in subsection (4), by the substitution of “2023” for “2022”, and
 - (c) by the substitution of the following for Part 1 of the Table to that section:

“Part 1

Part of aggregate income (1)	Rate of universal social charge (2)
The first €12,012	0.5 per cent
The next €9,283	2 per cent
The next €48,749	4.5 per cent
The remainder	8 per cent

”.

- (2) *Subsection (1)* applies for the year of assessment 2022 and each subsequent year of assessment.

CHAPTER 3

*Income Tax***Deduction in respect of certain expenses of remote working**

3. (1) Chapter 2 of Part 5 of the Principal Act is amended by the insertion of the following section after section 114:

“114A. (1) In this section—

‘qualifying residence’ means a residential premises that is also used by a remote worker to perform the duties of his or her office or employment;

‘relevant expenses’, in relation to a remote worker, means expenses incurred and defrayed by the remote worker in respect of the provision of electricity, heating or an internet service in his or her qualifying residence;

‘remote worker’ means a person who is the holder of an office or employment of profit and who performs the duties of his or her office or employment—

- (a) by working from his or her residential premises on a full-time or part-time basis, or
- (b) by working some of his or her normal working time from his or her residential premises, with the remainder of that normal working time being spent in his or her normal place of employment or in some other place;

‘residential premises’ means, a dwelling or part of a dwelling which is occupied by an individual as his or her residence;

‘specified amount’, in relation to a year of assessment, means the amount of expenditure which qualifies for income tax relief in accordance with this section.

- (2) Where in any year of assessment a remote worker, having made a claim in that behalf, proves that he or she has incurred and defrayed relevant expenses out of the emoluments of the office or employment of profit, he or she shall be entitled to claim a deduction (in this section referred to as ‘remote working relief’) from the emoluments to be assessed in respect of the specified amount determined in accordance with subsection (4).
- (3) Subject to this section, where, for a year of assessment, an individual (in this section referred to as the ‘claimant’), on making a claim in that behalf, proves that relevant expenses were incurred by—
- (a) in a case in which the claimant is a married person assessed to tax for the year of assessment in accordance with section 1017 or a civil partner assessed to tax for the year of assessment in accordance with section 1031C, the claimant or his or her spouse or civil partner, or
- (b) in any other case, the claimant,
- then the claimant shall be entitled to remote working relief.
- (4) The specified amount, in relation to relevant expenses incurred by a remote worker in any year of assessment, shall be 30 per cent of an amount determined by the following formula:

$$\frac{(A \times B)}{C} - D$$

where—

- A is the amount of the relevant expenses incurred and defrayed by the remote worker in the year of assessment,
- B is the number of days in the year of assessment the remote worker performed the duties of his or her office or employment of profit from his or her qualifying residence,
- C is the number of days in the year of assessment, and
- D is any amount reimbursed or to be reimbursed, directly or indirectly to the remote worker in relation to those expenses by his or her employer.
- (5) Where the cost of incurring and defraying relevant expenses is shared by 2 or more persons (other than a person referred to in subsection (3)(a)) residing in a qualifying residence in a year of assessment, then, for the purposes of any claim for relief under this section, the total cost of incurring and defraying those expenses in the year of assessment shall be apportioned between each of the persons concerned by reference to the amount of those expenses that were defrayed by each such person.
- (6) On making a claim under this section, a claimant shall provide to the

Revenue Commissioners, through such electronic means as the Revenue Commissioners make available, full particulars of the relevant expenses, including—

- (a) a copy of the statement issued by the service provider in respect of the service provided to the qualifying residence that constitutes the relevant expenses, and
 - (b) any other relevant information that may reasonably be required by the Revenue Commissioners to determine whether the requirements of this section are met.
- (7) Where relief is given under this section to any individual in respect of relevant expenses, no relief or deduction under any other provision of the Income Tax Acts shall be given or allowed in respect of those relevant expenses.”.
- (2) This section shall have effect for the year of assessment 2022 and each subsequent year of assessment.

Exemption in respect of Pandemic Placement Grant

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

“**192I.** (1) In this section—

‘Minister’ means the Minister for Health;

‘qualifying grant’ means a grant, generally referred to and commonly known as the Pandemic Placement Grant, which is made periodically by or on behalf of the Minister to a qualifying student;

‘qualifying student’ means an undergraduate student who is registered on the candidate register maintained by the Nursing and Midwifery Board of Ireland and who is undertaking what is generally referred to and commonly known as a Supernumerary Clinical Placement or an Internship Clinical Placement as part of a qualifying course;

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

- (2) Subject to subsection (3), a qualifying grant made to a qualifying student on or after 1 January 2021 and on or before 31 December 2022 shall be exempt from income tax and shall not be reckoned in computing the total income of the qualifying student for the purposes of the Income Tax Acts.
- (3) This exemption shall apply to a maximum amount of €2,100 for each qualifying student in the year of assessment to which it relates.”.

Amendment of section 477C of Principal Act (Help to Buy)**5.** Section 477C of the Principal Act is amended—

- (a) in subsection (1), by the substitution in the definition of “qualifying period” of “2022” for “2021”,
- (b) in subsection (5A), by the substitution of “2022” for “2021”,
- (c) in subsection (8)(b), by the substitution of “2022” for “2021”,
- (d) in subsection (16)(a)—
 - (i) by the substitution in subparagraph (ii) of “2022” for “2021”, and
 - (ii) by the substitution in subparagraph (iii) of “2022” for “2021”,
 and
- (e) in subsection (25), by the substitution of “2022” for “2021”.

Rate of charge and personal tax credits**6.** As respects the year of assessment 2022 and subsequent years of assessment, the Principal Act is amended—

- (a) in section 15—
 - (i) in subsection (3)(i), by the substitution of “€27,800” for “€26,300”, and
 - (ii) by the substitution of the following Table for the Table to that section:

“TABLE

PART 1

Part of taxable income (1)	Rate of tax (2)	Description of rate (3)
The first €36,800	20 per cent	the standard rate
The remainder	40 per cent	the higher rate

PART 2

Part of taxable income (1)	Rate of tax (2)	Description of rate (3)
The first €40,800	20 per cent	the standard rate
The remainder	40 per cent	the higher rate

PART 3

Part of taxable income (1)	Rate of tax (2)	Description of rate (3)
The first €45,800	20 per cent	the standard rate

The remainder	40 per cent	the higher rate
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”,

- (b) in section 461—
 - (i) in paragraph (a), by the substitution of “€3,400” for “€3,300”,
 - (ii) in paragraph (b), by the substitution of “€3,400” for “€3,300”, and
 - (iii) in paragraph (c), by the substitution of “€1,700” for “€1,650”,
- (c) in section 472, in subsection (4), by the substitution of “€1,700” for “€1,650” in each place where it occurs, and
- (d) in section 472AB—
 - (i) in subsection (2), by the substitution of “€1,700” for “€1,650” in each place where it occurs, and
 - (ii) in subsection (3), by the substitution of “€1,700” for “€1,650” in each place where it occurs.

Amendment of section 118 of Principal Act (benefits in kind: general charging provision)

7. (1) Section 118 of the Principal Act is amended by the insertion of the following subsections after subsection (5H):

“(5I) (a) Subject to paragraph (b), subsection (1) shall not apply to expense incurred by the body corporate in or in connection with the provision for a director or employee of a qualifying medical check-up, where—

- (i) qualifying medical check-ups are made available generally by the body corporate to all directors and employees of that body corporate, or
 - (ii) the director or employee is required by the terms of his or her office or employment to undergo the qualifying medical check-up.
- (b) A director or employee shall not, by virtue of this subsection, be relieved from a charge to income tax under subsection (1) more than once in any year of assessment, unless subparagraph (ii) of paragraph (a) applies.

- (c) In this subsection—

‘medical practitioner’ means a person who is registered in the register established under section 43 of the Medical Practitioners Act 2007;

‘qualifying medical check-up’ means a medical examination carried out by a medical practitioner to test a person’s state of health.

- (5J) (a) Subsection (1) shall not apply to health expenses incurred by the

body corporate in or in connection with the provision for a director or employee of health care, where health care is made available generally by the body corporate to all directors and employees of that body corporate.

(b) In this subsection, ‘health care’ and ‘health expenses’ have the same meanings respectively as they have in section 469.

(5K) (a) Subsection (1) shall not apply to expense incurred by the body corporate in or in connection with the provision for a director or employee of a Covid-19 test where—

- (i) the test is necessary for the performance of the duties of the office or employment of the director or employee, and
- (ii) Covid-19 tests are made available by the body corporate to all directors and employees of that body corporate where necessary for the performance of the duties of the office or employment of those directors and employees.

(b) In this subsection—

‘Covid-19’ means a disease caused by infection with the virus SARS-CoV-2 and specified as an infectious disease in accordance with Regulation 6 of, and the Schedule to, the Infectious Diseases Regulations 1981 (S.I. No. 390 of 1981) or any variant of the disease so specified as an infectious disease in those Regulations;

‘Covid-19 test’ means a relevant test, administered in accordance with the instructions of the manufacturer of the test, the purpose of which is to detect the presence of Covid-19 in the person to whom the test is administered;

‘rapid antigen test’ means a test that relies on detection of viral proteins (antigens) using a lateral flow immunoassay that gives results in less than 30 minutes;

‘relevant test’ means—

- (a) an RT-PCR test,
- (b) a rapid antigen test of a kind—
 - (i) included, for the time being, in the common list of Covid-19 rapid antigen tests agreed in accordance with the Council Recommendation of 21 January 2021¹, and
 - (ii) that complies with the requirements of Directive 98/79/EC of the European Parliament and of the Council of 27 October 1998² or, as appropriate, Regulation (EU) 2017/746 of the European Parliament and of the Council of 5 April 2017³,

¹ OJ No. C24, 22.1.2021, p. 1

² OJ No. L331, 7.12.1998, p. 1

³ OJ No. L117, 5.5.2017, p. 176

or

- (c) a rapid antigen test of a kind that complies with regulatory requirements under the laws of a state other than a Member State that are equivalent to the requirements referred to in paragraph (b)(ii);

‘RT-PCR test’ means a reverse transcription polymerase chain reaction test.

- (5L) (a) Subsection (1) shall not apply to expense incurred by the body corporate, or incurred by a director or employee and reimbursed by the body corporate, in or in connection with the provision for a director or employee of an influenza vaccine, where influenza vaccines are made available generally by the body corporate to all directors and employees of that body corporate.
- (b) In this subsection, ‘influenza vaccine’ means an influenza vaccine specified in column 1 of the Eighth Schedule to the Medicinal Products (Prescription and Control of Supply) Regulations 2003 (S.I. No. 540 of 2003) and administered in accordance with the requirements specified in columns 2 to 6 of that Schedule opposite the mention of the product concerned.
- (c) Relief shall not be given under section 469 in respect of the expense referred to in paragraph (a) incurred by a director or employee and reimbursed by the body corporate.”.

(2) *Subsection (1)* shall be deemed to have come into operation on 1 January 2021.

Amendment of section 127B of Principal Act (tax treatment of flight crew in international traffic)

8. Section 127B of the Principal Act is amended by the insertion of the following subsection after subsection (1):

“(1A) Subsection (1) shall not apply for the year of assessment 2022 or any subsequent year of assessment where, for that year of assessment an individual—

- (a) is not resident in the State,
- (b) is resident for the purposes of tax, by virtue of the law of the territory next-mentioned in this paragraph, in a territory with the government of which arrangements are for the time being in force by virtue of section 826(1), and
- (c) is subject to tax on the income referred to in subsection (1) in a territory with the government of which arrangements are for the time being in force by virtue of section 826(1).”.

Benefit-in-kind: emissions-based calculations

9. (1) Section 121 of the Principal Act is amended, in subsection (4A), by the insertion of the following paragraph after paragraph (a):

“(aa) Notwithstanding paragraph (a), where a car in respect of which this subsection applies is an electric vehicle, the cash equivalent of the benefit of the car ascertained under paragraph (a) shall be computed on the original market value of the car reduced by:

- (i) €35,000 in respect of a car made available in the period 1 January 2023 to 31 December 2023;
- (ii) €20,000 in respect of a car made available in the period 1 January 2024 to 31 December 2024;
- (iii) €10,000 in respect of a car made available in the period 1 January 2025 to 31 December 2025.”.

(2) Section 121A of the Principal Act is amended in subsection (2)(b)—

- (a) in subparagraph (v)(III), by the substitution of “employment,” for “employment, and”,
- (b) in subparagraph (vi), by the substitution of “€50,000, and” for “€50,000.”, and
- (c) by the insertion of the following subparagraph after subparagraph (vi):

“(vii) where a van is an electric vehicle, the cash equivalent of the benefit of the van ascertained under subsection (3) shall be computed on the original market value of the van reduced by:

- (I) €35,000 in respect of a van made available in the period 1 January 2023 to 31 December 2023;
- (II) €20,000 in respect of a van made available in the period 1 January 2024 to 31 December 2024;
- (III) €10,000 in respect of a van made available in the period 1 January 2025 to 31 December 2025.”.

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

10. Section 472BB of the Principal Act is amended in subsection (3)—

- (a) by the substitution of “2021 or 2022” for “2021”, and
- (b) by the substitution, in paragraph (a), of “credit of €1,500 in relation to that year of assessment” for “credit of €1,500”.

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

11. Schedule 13 to the Principal Act is amended—

- (a) by the deletion of paragraphs 56 and 122,

(b) by the insertion of the following paragraph after paragraph 204:

“205. Data Protection Commission.”,

and

(c) by the substitution—

(i) in paragraph 39, of “Rásaíocht Con Éireann” for “Bord na gCon”, and

(ii) in paragraph 179, of “Office of the Financial Services and Pensions Ombudsman” for “Financial Services Ombudsman’s Bureau”.

Retirement benefits: amendment of death-in-service provision

12. Section 772 of the Principal Act is amended—

(a) in subsection (3), by the substitution of the following paragraph for paragraph (b):

“(b) that any pension or benefit for any widow, widower, surviving civil partner, children or dependants, or children of the surviving civil partner, of an employee who dies before retirement shall be provided for as either—

(i) a pension or pensions payable on the employee’s death of an amount that does not or, as the case may be, do not in aggregate exceed any pension or pensions which, consonant with the condition in paragraph (a), could have been provided for the employee on retirement on attaining the specified age, if the employee had continued to serve until the employee attained that age at an annual rate of remuneration equal to the employee’s final remuneration, or

(ii) benefits transferred to an approved retirement fund on the employee’s death of an amount that does not or, as the case may be, do not in aggregate exceed any benefit which, consonant with the condition in paragraph (a), could have been provided for the employee on retirement on attaining the specified age, if the employee had continued to serve until the employee attained that age at an annual rate of remuneration equal to the employee’s final remuneration;”,

and

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

“(3J) Where benefits are provided in accordance with subsection (3)(b)(ii), sections 784A and 784B shall apply—

(a) as if the transfer of the benefits were the exercise of an option in accordance with section 784(2A), and

(b) with any necessary modifications, as if—

- (i) any reference in those sections to the person lawfully carrying on in the State the business of granting annuities on human life were a reference to the trustees of the retirement benefit scheme, and
- (ii) any reference in those sections to the annuity contract were references to the retirement benefit scheme.”.

Retirement benefits: removal of 15 year rule

- 13.** Section 772 of the Principal Act is amended in subsection (3D) by the substitution of the following paragraph for paragraph (a):

“(a) a member’s entitlements under the scheme, other than an amount referred to in paragraph (b), may, either on the member’s changing employment or on the scheme being wound up, be transferred to one or more than one PRSA to which that member is the contributor if benefits have not become payable to the member under the scheme,”.

Retirement benefits: removal of Approved Minimum Retirement Fund (AMRF)

- 14.** (1) Chapter 1 of Part 30 of the Principal Act is amended in section 772—

- (a) by the substitution, in subsection (3A)(a), of the following for the construction of “B”:

“B is the amount or value of assets which the trustees, administrators or other person charged with the management of the scheme (in this section referred to as ‘the trustees’) would, if the assumptions in paragraph (b) were made, apply in purchasing an annuity payable to the relevant individual with effect from the date of the exercise of the option.”,

and

- (b) in subsection (3B)(a)—

- (i) by the deletion of “, 784C, 784D”,
- (ii) by the substitution, in subparagraph (i), of “scheme, and” for “scheme,”,
- (iii) by the substitution, in subparagraph (ii), of “scheme.” for “scheme,” and
- (iv) by the deletion of subparagraph (ia).

- (2) Chapter 2 of Part 30 of the Principal Act is amended—

- (a) by the substitution, in section 784(2A), of the following for the construction of “B”:

“B is the amount or value of assets which the person with whom the contract is made is to apply in purchasing an annuity payable to the individual with effect from the date of the exercise of the said

option.”,

(b) in section 784C—

(i) by the deletion of subsections (2) to (7), and

(ii) by the insertion of the following subsection after subsection (7):

“(7A) On 1 January 2022 an approved minimum retirement fund shall, thereupon, become an approved retirement fund and section 784A and subsections (1) and (5) of section 784B shall apply accordingly.”,

and

(c) in section 784D—

(i) by the deletion of subsections (1) to (3), and

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

“(6) On or after 1 January 2022, a qualifying fund manager shall not accept any assets into an approved minimum retirement fund.”.

(3) Chapter 2A of Part 30 of the Principal Act is amended—

(a) in section 787H—

(i) by the substitution of the following subsection for subsection (2):

“(2) The assets that a PRSA administrator shall transfer to an approved retirement fund in accordance with subsection (1) shall be the assets available in the PRSA at the time the election under that subsection is made less any lump sum the PRSA administrator is permitted to pay without deduction of tax in accordance with section 787G(3)(a).”.

and

(ii) by the substitution, in subsection (3), of “sections 784A and 784B” for “sections 784A to 784D”,

and

(b) in section 787K(1)(c)(i)—

(i) by the substitution, in clause (II), of “section 787G(3)(a), or” for “section 787G(3)(a).”.

(ii) by the substitution of the following clause for clause (III):

“(III) assets transferred to an approved retirement fund in accordance with section 787H(1).”.

and

(iii) by the deletion of clause (IV).

(4) (a) Subject to *paragraph (b)*, this section shall come into operation on and from the date of the passing of this Act.

- (b) *Paragraphs (b)(i) and (c)(i) of subsection (2) shall come into operation on 1 January 2022.*

Retirement benefits: amendment of section 774 of Principal Act (certain approved schemes: exemptions and reliefs)

15. Section 774 of the Principal Act is amended, in subsection (6)(aa)(iii), by the insertion of “or of a company for the benefit of whose employees the contributions are paid under the terms of that agreement” after “parties to that agreement”.

CHAPTER 4

Income Tax, Corporation Tax and Capital Gains Tax

Amendment of section 97A of Principal Act (pre-letting expenditure in respect of vacant premises)

16. Section 97A of the Principal Act is amended, in subsection (2), by the substitution of “31 December 2024” for “31 December 2021”.

Amendment of section 261 of Principal Act (taxation of relevant interest, etc.)

17. Section 261 of the Principal Act is amended—

- (a) by the substitution, in paragraph (c)(i), of “person (other than a company)” for “person (being an individual)”,
- (b) by the substitution, in paragraph (c)(ii)(I), of “paragraph (d)” for “section 59”, and
- (c) by the substitution of the following paragraph for paragraph (d):
 - “(d) where relevant interest is to be taken into account in computing the total income of a person (other than a company) for any year of assessment, then, for the purpose of charging that total income to tax at the rate or rates of tax charged for that year of assessment, the following provisions shall apply—
 - (i) the relevant interest shall be regarded as income chargeable to tax under Case IV of Schedule D and shall be charged accordingly, and
 - (ii) in determining the amount of tax payable on that relevant interest, credit shall be given for the appropriate tax deducted from the relevant interest and the amount of the credit shall be the amount of such appropriate tax.”.

Non-resident landlords

18. The Principal Act is amended—
- (a) in section 25—

- (i) in subsection (1), by the substitution of “Subject to subsection (2A), a company not resident” for “A company not resident”, and
- (ii) by the insertion of the following subsection after subsection (2):
 - “(2A) (a) Where a company not resident in the State is chargeable to tax under Case V of Schedule D in respect of any profits or gains, that company shall be chargeable to corporation tax on those profits or gains.
 - (b) Where a company not resident in the State disposes of an asset in respect of which the company was chargeable to tax under Case V of Schedule D on any profits or gains therefrom, or would have been but for an insufficiency of such profits or gains, the company shall, subject to section 649, not be chargeable to capital gains tax in respect of gains accruing to it on the disposal so that it is chargeable in respect of them to corporation tax.
 - (c) This subsection shall apply to profits and gains accruing on or after 1 January 2022.”,
- (b) in section 308, by the insertion of the following subsections after subsection (2):
 - “(2A) Where a company not resident in the State—
 - (a) pursuant to section 25(2A), comes within the charge to corporation tax under Case V of Schedule D on 1 January 2022, and
 - (b) was entitled, immediately prior to that date, under section 305(1)(a), to carry forward an amount of an allowance to a year of assessment subsequent to the year of assessment for which the allowance was made,then—
 - (i) subsection (3) shall apply to the amount of the allowance referred to in paragraph (b) as if it were an amount of allowance unallowed from an accounting period ending on 31 December 2021, and
 - (ii) section 305(1)(a) shall not apply to the amount of allowance to which subsection (3) shall apply in accordance with paragraph (i).
 - (2B) Where—
 - (a) a company not resident in the State comes within the charge to corporation tax under Case V of Schedule D pursuant to section 25(2A) on 1 January 2022, and
 - (b) a balancing allowance or balancing charge is made to or on, as the case may be, the company in respect of an allowance made to the company in a chargeable period ending on or before 31 December 2021,the amount of the balancing allowance or balancing charge, as the case

may be, shall be adjusted as follows:

$$B_{\text{adj}} = (B \times 0.2) / R$$

where—

B_{adj} is the adjusted amount of the balancing allowance or balancing charge, as the case may be,

B is the balancing allowance or balancing charge, as the case may be, and

R is the rate specified in section 21A(3)(a).”,

(c) in section 399, by the insertion of the following subsection after subsection (2):

“(2A) Where a company not resident in the State—

- (a) pursuant to section 25(2A), comes within the charge to corporation tax under Case V of Schedule D on 1 January 2022,
- (b) was entitled, prior to that date, under section 384(2), to carry forward an excess to a year of assessment subsequent to the year of assessment in which the excess arose, and
- (c) an amount of that excess has not, on 1 January 2022, been deducted or set off under section 384(2),

then—

- (i) subsection (2) shall apply to the amount of excess referred to in paragraph (c) as if it were a portion of excess for which relief had not been given under that subsection for a previous accounting period ending on 31 December 2021, and
- (ii) section 384(2) shall not apply to the amount of excess to which subsection (2) shall apply in accordance with paragraph (i).”,

and

(d) in section 959AS—

- (i) in subsection (1), by the substitution of “Subject to subsection (1A), preliminary tax appropriate to an accounting period” for “Preliminary tax appropriate to an accounting period”, and
- (ii) by the insertion of the following subsection after subsection (1):

“(1A) Where a company, that comes within the charge to corporation tax under Case V of Schedule D pursuant to section 25(2A) on or after 1 January 2022, has an accounting period ending on or before 30 June 2022, preliminary tax appropriate to that accounting period is due and payable—

- (a) not later than 21 June 2022, or

- (b) where payment of preliminary tax is made by such electronic means as are required by the Revenue Commissioners, not later than 23 June 2022.”.

Amendment of certain tax exemption provisions of Principal Act

19. (1) The Principal Act is amended—

- (a) in Schedule 4, by the insertion of the following paragraph after paragraph 1:

“1A. The Approved Housing Bodies Regulatory Authority.”,

and

- (b) in Part 1 of Schedule 15, by the insertion of the following paragraph after paragraph 46:

“47. Western Development Commission.”.

- (2) *Subsection (1)(a)* shall be deemed to have come into operation on 1 February 2021.

- (3) *Subsection (1)(b)* shall be deemed to have come into operation on 1 February 1999.

Certain profits of micro-generation of electricity

20. Chapter 1 of Part 7 of the Principal Act is amended by the insertion of the following section after section 216C:

“216D. (1) In this section—

‘Act of 1999’ means the Electricity Regulation Act 1999;

‘generate’ has the same meaning as in the Act of 1999;

‘micro-generation of electricity’ means the use of renewable, sustainable or alternative forms of energy to generate electricity at a qualifying residence;

‘qualifying person’ means an individual who purchases electricity for own use;

‘qualifying residence’, in relation to a qualifying person for a year of assessment, means a residential premises situated in the State which is occupied by the qualifying person as his or her sole or main residence during the year of assessment and land which the qualifying person has for his or her own occupation and enjoyment with that residence as its garden or grounds;

‘residential premises’ means a building or part of a building used as a dwelling;

‘renewable, sustainable or alternative forms of energy’ has the same meaning as in the Act of 1999;

‘relevant period’ means the period commencing on 1 January 2022 and

ending on 31 December 2024.

- (2) This subsection applies to profits or gains, chargeable to income tax under Case IV of Schedule D, arising to a qualifying person, in the relevant period, from the micro-generation of electricity.
- (3) So much of the profits or gains to which subsection (2) applies, arising to a qualifying person in a year of assessment, as do not exceed €200 shall be exempt from income tax and shall not be reckoned in computing total income for the purposes of the Income Tax Acts.”.

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

21. (1) Section 285A of the Principal Act is amended—

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

“ ‘fossil fuel’ means coal, oil, natural gas, peat or any derivative thereof intended for use in the production of energy by combustion;”,

and

- (b) in subsection (3)—

- (i) in paragraph (a), by the deletion of “and”,
- (ii) in paragraph (b), by the substitution of “the Table, and” for “the Table.”, and
- (iii) by the insertion of the following paragraph after paragraph (b):

“(c) does not operate on fossil fuel, other than equipment that operates on electricity generated from using such fuel.”.

- (2) *Subsection (1)* shall apply to capital expenditure incurred on or after 1 January 2022.

Amendment of section 285C of Principal Act (acceleration of wear and tear allowances for gas vehicles and refuelling equipment)

22. (1) Section 285C of the Principal Act is amended in subsection (1)—

- (a) in the definition of “gas refuelling station”, by the substitution of “gaseous fuel or hydrogen fuel is supplied to a gas-powered vehicle” for “gaseous fuel is supplied to a gas vehicle”,
- (b) by the substitution of the following definition for the definition of “gas vehicle”:

“ ‘gas-powered vehicle’ means a mechanically propelled road vehicle which is fuelled by gaseous fuel or hydrogen fuel;”,
- (c) by the insertion of the following definitions after the definition of “gaseous fuel”:

“ ‘hydrogen’ means the chemical element falling within CN code 2804 10 00;

‘hydrogen fuel’ means gaseous or cryogenic liquid hydrogen of a fuel

quality that complies with ISO 14687:2019 or SAE J2719;”,

- (d) by the insertion of the following definition after the definition of “liquefied natural gas”:

“ ‘pre-cooling device’ means equipment, which complies with ISO 19880-1:2020, used for the process of cooling hydrogen fuel prior to dispensing of the fuel;”,

- (e) in the definition of “qualifying vehicle”, by the substitution of “gas-powered vehicle” for “gas vehicle”,

- (f) by the substitution of the following definition for the definition of “refuelling equipment”:

“ ‘refuelling equipment’ means—

- (a) a storage tank for gaseous fuel or hydrogen fuel,
- (b) a compressor, pump, control or meter used for the purposes of refuelling gas-powered vehicles,
- (c) a pre-cooling device, or
- (d) equipment for supplying gaseous fuel or hydrogen fuel to the fuel tank of a gas-powered vehicle;”,

and

- (g) in the definition of “relevant period”, by the substitution of “31 December 2024” for “31 December 2021”.

- (2) *Subsection (1)* shall apply to qualifying expenditure incurred on or after 1 January 2022.

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

23. Section 285D of the Principal Act is amended—

- (a) in subsection (1) by the insertion of the following definition after the definition of “SME”:

“ ‘tax reference number’ has the same meaning as it has in section 891B(1);”,

- (b) in subsection (3)—

- (i) in paragraph (b), by the substitution of “applicant;” for “applicant; and”, and
- (ii) by the insertion of the following paragraph after paragraph (b):

“(ba) the tax reference number of the applicant;”,

- (c) in subsection (6)—

- (i) in paragraph (c), by the substitution of “issued;” for “issued; and”, and

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

“(ca) the tax reference number of the applicant;”,

(d) in subsection (7), by the substitution of “qualifying certificates issued under subsection (4) and all qualifying certificates deemed to be cancelled under subsection (13A)” for “qualifying certificates issued”,

(e) by the insertion of the following subsection after subsection (13):

“(13A) Where two or more certificates stand issued under subsection (4) to a person in respect of an item of qualifying equipment then—

(a) only the certificate issued in respect of the first application made by the person under subsection (2) in respect of the item of qualifying equipment shall be treated as a qualifying certificate for the purposes of subsection (14), and

(b) any other certificate standing issued under subsection (4) to that person in respect of that item of qualifying equipment is deemed to be cancelled in so far as it relates to that item of qualifying equipment and shall not be treated as a qualifying certificate for the purposes of subsection (14).”,

(f) in subsection (14), by the substitution of “Subject to subsections (13A), (15) and (16)” for “Subject to subsections (15) and (16)”, and

(g) in subsection (17), by the substitution of “relief granted under this section” for “relief granted”.

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

24. Part 23 of the Principal Act is amended—

(a) in section 657(7), by the deletion of all of the words from and including “; but where in the case of an individual” to the end of that subsection,

(b) in section 666(4), by the substitution of “2024” for “2021” in each place where it occurs,

(c) in section 667B(5)(b), by the substitution of “31 December 2022” for “31 December 2021”, and

(d) in section 667C—

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

“(b) the following was substituted for subsection (4)—

‘(4) (a) A deduction shall not be allowed under this section in computing a company’s trading income for any accounting period which ends after 31 December 2022.

(b) Any deduction allowed by virtue of this section in

computing the profits or gains of a trade of farming for an accounting period of a person other than a company shall not apply for any purpose of the Income Tax Acts for any year of assessment later than the year 2022.’,”

and

- (ii) in subsection (4), by the substitution of “31 December 2022” for “31 December 2021”.

Amendment of section 886 of Principal Act (obligation to keep certain records)

- 25.** Section 886 of the Principal Act is amended, in subsection (2), by the insertion of the following paragraph after paragraph (a):

“(aa) Without prejudice to the generality of paragraph (a) and subsection (4)—

- (i) the records shall include records and linking documents relating to any allowance, deduction, relief or credit (referred to in this paragraph as a ‘relevant amount’) taken into account in computing the amount of tax payable (within the meaning of section 959A), for the year of assessment or accounting period concerned,
- (ii) the transactions, acts or operations giving rise to a relevant amount shall, for the purposes of subsection (4)(a)(i), be treated as transactions, acts or operations that were completed at the end of the year of assessment or accounting period for which a relevant amount is taken into account in computing the amount of tax payable (within the meaning aforesaid) for the year of assessment or accounting period concerned, and
- (iii) the transactions, acts or operations giving rise to a relevant amount shall, for the purposes of subsection (4)(a)(ii), be treated as transactions, acts or operations that were completed at the end of the year of assessment or accounting period in which the return, in which the relevant amount is taken into account in computing the amount of tax payable (within the meaning aforesaid), has been delivered.”.

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

- 26.** (1) Part 16 of the Principal Act is amended—

- (a) in section 489, in paragraph (a) of the definition of “RICT group”, by the deletion of “but has since been disposed of”,
- (b) in section 502, by the insertion of the following subsection after subsection (4):

“(5) In respect of shares issued on or after 1 January 2022, an amount equal to ten fortieths of the relief granted under subsection (2A) shall be

withdrawn, unless in relation to a qualifying company and its qualifying subsidiaries—

- (a) (i) the employment relevant number exceeds the employment threshold number by at least one qualifying employee, and
- (ii) the relevant amount exceeds the threshold amount by at least the total emoluments of one qualifying employee in the year of assessment in which the subsequent period ends,

or

- (b) the amount of expenditure on R&D+I incurred in the year of assessment in which the subsequent period ends exceeds the amount of expenditure on R&D+I incurred in the year of assessment prior to the year of assessment in which the subscription for eligible shares was made.”,

- (c) in section 505, by the substitution of the following subsection for subsection (2):

“(2) The individual, in each of the 3 years of assessment preceding the year of assessment that precedes the year of assessment in which that individual makes a relevant investment (being that individual’s first such investment), may have been in receipt of income other than income chargeable to tax under—

- (a) Schedule E, or
- (b) Case III of Schedule D in respect of profits or gains from an office or employment held or exercised outside the State,

not in excess of the lesser of—

- (i) the aggregate of the amounts, if any, of that individual’s income chargeable to tax under Schedule E and Case III of Schedule D in respect of the profits or gains referred to in paragraphs (a) and (b), and
- (ii) €50,000.”,

- (d) in section 508(1), by the substitution of the following paragraph for paragraph (a):

“(a) makes a qualifying investment or has an amount of relief carried forward under this section in excess of—

- (i) €100,000 in respect of which relief is available under section 507, or
- (ii) the limits set out in section 502(3) in any other case,

or”,

- (e) in section 508A—

- (i) in subsection (1), by the insertion of “or qualifying investment fund,” after

“designated fund”,

(ii) in subsection (3)(a)—

(I) by the substitution of the following for subparagraph (iv):

“(iv) where the investment is made through a designated fund or qualifying investment fund, the name, address and tax reference number of the designated fund or the qualifying investment fund, as the case may be,”,

and

(II) by the deletion of subparagraph (v),

and

(iii) by the substitution of the following subsection for subsection (4):

“(4) A qualifying company may not issue a statement of qualification in respect of a qualifying investment more than 4 months after the end of the year of assessment in which the shares were issued.”,

(f) in section 508C—

(i) in subsection (3)(a), by the deletion of subparagraph (iv), and

(ii) by the substitution of the following subsection for subsection (4):

“(4) A qualifying company may not issue a statement of qualification (SURE) in respect of a relevant investment more than 4 months after the end of the year of assessment in which the shares were issued.”,

(g) in section 508E(2), by the substitution of “not more than 4 months after the end of the year of assessment in which the shares were issued” for “within 60 days of the date referred to in section 508A(3)(a)(v)”,

(h) in section 508F(2), by the substitution of the following paragraph for paragraph (d):

“(d) where section 502(2)(b) applies, the date the conditions set out in section 508B(4)(a) are satisfied.”,

(i) in section 508G(2)—

(i) in paragraph (c), by the substitution of “investment.” for “investment;”, and

(ii) by the deletion of paragraph (d),

(j) by the substitution of the following title for the title to Chapter 7:

“Investment Funds”,

(k) by the insertion of the following section after section 508I:

“Qualifying investment funds**508IA. (1) In this Part—**

‘alternative investment fund manager’ has the meaning assigned to it by the European Union (Alternative Investment Fund Managers) Regulations 2013 (S.I. No. 257 of 2013);

‘investment limited partnership’ means a partnership authorised in accordance with the Investment Limited Partnerships Act 1994;

‘limited partnership’ means a limited partnership registered in accordance with the Limited Partnerships Act 1907 and managed by an alternative investment fund manager in accordance with the European Union (Alternative Investment Fund Managers) Regulations 2013;

‘partnership agreement’ means any valid written agreement of the partners governed by the law of the State and subject to the exclusive jurisdiction of the courts of the State as to the affairs of a limited partnership or an investment limited partnership that is a qualifying investment fund for the purposes of this Part and the conduct of its business as may be amended, supplemented or restated from time to time;

‘qualifying investment fund’ means an investment limited partnership or a limited partnership that meets the requirements of subsection (2).

- (2) A limited partnership or an investment limited partnership, as the case may be, shall be a qualifying investment fund for the purposes of this Part if—
- (a) it is established under a partnership agreement and has as its principal business, to be expressed in the partnership agreement establishing the qualifying investment fund, the investment of its funds in accordance with a defined investment policy for the benefit of its investors, and
 - (b) under the terms of the partnership agreement it is provided that—
 - (i) the funds to be invested in eligible shares are to be invested without undue delay,
 - (ii) pending investment in eligible shares, any moneys subscribed for the purchase of shares are to be placed on deposit in a separate account with a bank licensed to transact business in the State,
 - (iii) any amounts received by means of dividends or interest are, subject to a commission in respect of management expenses at a rate not exceeding a rate which shall be specified in the partnership agreement under which the qualifying investment fund has been established, to be paid without undue delay to the

partners,

- (iv) any charges to be made by means of management or other expenses in connection with the establishment, running, winding down or termination of the qualifying investment fund shall be at a rate not exceeding a rate which shall be specified in the partnership agreement under which the qualifying investment fund is established,
- (v) audited accounts of the qualifying investment fund are prepared annually and submitted to the Revenue Commissioners when requested,
- (vi) the alternative investment fund manager, and any associate of that manager is not for the time being connected either directly or indirectly with any company whose shares comprise part of the qualifying investment fund,
- (vii) any discounts on eligible shares received by the alternative investment fund manager of the qualifying investment fund are accepted solely for the benefit of the partners,
- (viii) if a limit is placed on the size of the qualifying investment fund or a minimum amount for investment is stipulated, any subscriptions not accepted are to be returned without undue delay, and
- (ix) no partner is allowed to have any eligible shares in any company in which the qualifying investment fund has invested transferred into his or her name until 4 years have elapsed from the date of the issue of the shares to the fund.”,

(l) in section 508J—

- (i) in subsection (1)(a), by the substitution of “or by a person or persons having the management of a qualifying investment fund for the purposes of this Chapter (in this section referred to as the ‘fund managers’)” for “for the purposes of this Chapter (in this Part referred to as the ‘managers of a designated fund’)”,
- (ii) in subsections (2), (3) and (4)(a), by the substitution of “fund managers” for “managers of a designated fund” in each place where it occurs, and
- (iii) in subsection (4), by the insertion of “or the qualifying investment fund” after “designated fund” in each place where it occurs,

(m) in section 508P, by the insertion of the following subsection after subsection (8):

- “(9) Where during a compliance period in respect of a qualifying investor’s investment in a qualifying company, that company redeems shares of that individual, where the compliance period for that share issue has ended, or purchases shares from that individual, where the compliance period for that share issue has ended (either of which is referred to in

this subsection as ‘the redemption’), then, notwithstanding subsection (7), the relief that individual is entitled to, other than pursuant to section 503 or 507, shall not be reduced where—

- (a) the most recent qualifying investment, in respect of which a claim for relief under this Part is made, in a company in the RICT group was more than 18 months prior to the date of the redemption,
- (b) there is no qualifying investment, in respect of which a claim for relief under this Part is made, in a company in the RICT group within the period of 12 months after the date of the redemption, and
- (c) there is no qualifying investment by that individual, in respect of which a claim for relief under this Part is made, in a company in the RICT group within the period of 5 years after the date of the redemption.”,

(n) in section 508U—

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

“(3A) Where any relief is to be withdrawn under section 502(5) that relief shall be withdrawn by the making of an assessment on the qualifying company to corporation tax under Case IV of Schedule D for the year of assessment following the year of assessment in which the subsequent period ends, in an amount equal to 0.4 times the amount referred to in section 502(5).”,

and

(ii) in subsection (4)—

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

(II) in paragraph (c) by the substitution of “ends, or” for “ends.”, and

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

“(d) in the case of relief withdrawn in accordance with subsection (3A), the year of assessment following the year of assessment in which the subsequent period ends.”,

(o) in section 508Y(2)(c), by the substitution of “designated fund or qualifying investment fund, the managers of the designated fund or qualifying investment fund” for “designated fund, the managers of the designated fund”, and

(p) in section 508Z, by the substitution of “2024” for “2021” in each place where it occurs.

(2) *Paragraphs (e)(ii)(II), (e)(iii), (f), (g), (h) and (i)(ii) of subsection (1) shall have effect as respects shares issued on or after 1 January 2022.*

Amendment of Part 35A of Principal Act (transfer pricing)

27. (1) Part 35A of the Principal Act is amended in section 835A—

- (a) by the substitution, in subsection (1), of the following definition for the definition of “relevant person”:

“ ‘relevant person’ in relation to an arrangement, means a person who is within the charge to tax in respect of profits or gains or losses, the computation of which profits or gains or losses takes account of the results of the arrangement, or would take account of the results of such an arrangement;”,

and

- (b) by the substitution of the following subsection for subsection (3):

“(3) For the purposes of this Part, references to losses that are chargeable to tax are references to losses arising from an arrangement or relevant activities, a profit or gain arising from which would be chargeable to tax.”.

- (2) Part 35A of the Principal Act is amended by the substitution of the following section for section 835E:

“Modification of basic rules on transfer pricing for arrangements between qualifying persons

835E. (1) For the purposes of this Part, a ‘qualifying person’, in relation to a chargeable period, means a person who—

- (a) subject to paragraph (b)—

(i) is a supplier in relation to an arrangement and who for that chargeable period is chargeable to income tax or corporation tax under Schedule D, other than under Case I or II of Schedule D, in respect of the profits or gains or losses arising from that arrangement, or

(ii) is an acquirer in relation to an arrangement and who for that chargeable period is chargeable to income tax or corporation tax under Schedule D in respect of the profits or gains or losses arising from that arrangement,

(b) is resident in the State for the purposes of income tax for that chargeable period where the supplier or the acquirer is chargeable to income tax in respect of the profits or gains or losses arising from that arrangement, and

(c) is not a qualifying company within the meaning of section 110.

- (2) (a) For the purposes of subsection (1)(a)(i), a supplier shall, for the chargeable period, be regarded as chargeable to income tax or corporation tax under Schedule D, other than under Case I or II of Schedule D, in respect of the profits or gains or losses arising from the arrangement concerned only where the consideration receivable by the supplier under that arrangement—

- (i) is directly taken into account in computing the amount of profits or gains or losses of the supplier that are chargeable to income tax or corporation tax under Schedule D, other than under Case I or II of Schedule D, for the chargeable period, or
 - (ii) would be so taken into account if any consideration were receivable by the supplier under the arrangement.
 - (b) (i) For the purposes of subsection (1)(a)(ii), an acquirer shall, subject to subparagraph (ii), for the chargeable period, be regarded as chargeable to income tax or corporation tax under Schedule D, in respect of the profits or gains or losses arising from the arrangement concerned only where the consideration payable by the acquirer under that arrangement—
 - (I) is directly taken into account in computing the amount of profits or gains or losses of the acquirer that are chargeable to income tax or corporation tax under Schedule D for the chargeable period, or
 - (II) would be so taken into account if any consideration were payable by the acquirer under the arrangement.
 - (ii) For the purposes of subsection (1)(a)(ii), in the case of an acquirer to whom subparagraph (i) does not apply, the acquirer shall, for the chargeable period, be regarded as chargeable to—
 - (I) income tax under Schedule D in respect of the profits or gains or losses arising from the arrangement concerned where any profits or gains or losses of the acquirer arising directly or indirectly from the relevant activities of the acquirer are or, if there were any such profits or gains or losses, would be, chargeable to income tax under Schedule D for the chargeable period, or
 - (II) corporation tax under Schedule D, in respect of the profits or gains or losses arising from the arrangement concerned, where any profits or gains or losses of the acquirer arising directly or indirectly from the relevant activities of the acquirer are or, if there were any such profits or gains or losses, would be, chargeable to corporation tax under Schedule D for the chargeable period, or would be chargeable to corporation tax but for section 129, and the acquirer is resident in the State for the chargeable period.
- (3) Subject to subsections (6) to (8), where—
- (a) a supplier or an acquirer, in relation to an arrangement, is chargeable to tax for a chargeable period, under Schedule D, other than under Case I or II of Schedule D, in respect of the profits or gains or losses arising from that arrangement (in this section

referred to as the ‘eligible person’), and

- (b) the supplier and the acquirer are both qualifying persons, in relation to that arrangement, for the chargeable period of the eligible person,

then, section 835C shall not apply in computing the amount of profits or gains or losses arising to the eligible person from the arrangement for the chargeable period.

- (4) For the purposes of subsection (3)(a)—

- (a) a supplier shall, for the chargeable period, be regarded as chargeable to income tax or corporation tax under Schedule D, other than under Case I or II of Schedule D, in respect of profits or gains or losses arising from the arrangement concerned only where the consideration receivable by the supplier under that arrangement—

- (i) is directly taken into account in computing the amount of profits or gains or losses of the supplier that are chargeable to income tax or corporation tax under Schedule D, other than under Case I or II of Schedule D, for the chargeable period, or

- (ii) would be so taken into account if any consideration were receivable by the supplier under the arrangement,

and

- (b) an acquirer shall, for the chargeable period, be regarded as chargeable to income tax or corporation tax under Schedule D, other than under Case I or II of Schedule D, in respect of profits or gains or losses arising from the arrangement concerned only where the consideration payable under that arrangement—

- (i) is directly taken into account in computing the amount of profits or gains or losses of the acquirer that are chargeable to income tax or corporation tax under Schedule D, other than under Case I or II of Schedule D, for the chargeable period, or

- (ii) would be so taken into account if any consideration were payable by the acquirer under the arrangement.

- (5) For the purposes of subsection (3)(b)—

- (a) where the supplier is the eligible person, the acquirer shall be a qualifying person only where the acquirer is a qualifying person for the duration of the chargeable period of the supplier, and

- (b) where the acquirer is the eligible person, the supplier shall be a qualifying person only where the supplier is a qualifying person for the duration of the chargeable period of the acquirer.

- (6) (a) Subsection (3) shall only apply to an arrangement where the

arrangement is entered into for *bona fide* commercial reasons.

- (b) Subsection (3) shall not apply to an arrangement where the main purpose, or one of the main purposes, of the arrangement is the avoidance of tax.
- (7) (a) Subsection (3) shall not apply in the case of an arrangement, where, due to the existence of the arrangement, an amount, which is greater than the actual consideration payable by the acquirer under the arrangement, may—
 - (i) be taken into account as an expenditure or expense,
 - (ii) be taken into account in determining allowances for capital expenditure which may be made, or
 - (iii) otherwise be deducted, allowed or relieved,

in computing the profits or gains, of the acquirer, on which tax falls finally to be borne for the purposes of domestic tax or foreign tax.
- (b) For the purpose of this subsection, ‘domestic tax’ and ‘foreign tax’ have the same meaning as in section 835Z(1).
- (8) (a) Subsection (3) shall not apply in the case of an arrangement involving a supplier and an acquirer who are qualifying persons (in this subsection referred to as the ‘first-mentioned arrangement’) which is made as part of, or in connection with, any scheme involving the acquirer in relation to the first-mentioned arrangement, or a person associated with the acquirer, entering into an arrangement with a person or persons who are not qualifying persons (in this subsection referred to as the ‘second-mentioned arrangement’) and the sole or main purpose of the first-mentioned arrangement is to directly or indirectly obtain a tax advantage in connection with the second-mentioned arrangement.
- (b) For the purpose of this subsection, ‘tax advantage’ has the same meaning as in section 811C(1).
- (9) A qualifying person shall maintain and have available such records as may reasonably be required for the purposes of determining whether the requirements of this section are met.”.
- (3) Part 35A of the Principal Act is amended—
 - (a) by the substitution, in section 835F(5)(a)(i), of “qualifying person” for “qualifying relevant person”, and
 - (b) by the substitution, in section 835G(4), of “qualifying person” for “qualifying relevant person”.
- (4) *Subsections (1) to (3)* shall apply for chargeable periods (within the meaning of section 321(2) of the Principal Act) commencing on or after 1 January 2022.

(5) Section 15 of the Finance Act 2020 is repealed.

CHAPTER 5

Corporation Tax

Attribution of profits to a branch

28. (1) The Principal Act is amended in Chapter 2 of Part 2 by the insertion of the following section after section 25:

“25A. (1) In this section—

‘Article 7 of the OECD Model Tax Convention’ means the provisions contained in Article 7 of the Model Tax Convention on Income and on Capital published by the OECD on 21 November 2017;

‘authorised OECD approach guidance’ means the guidance on the attribution of profits to permanent establishments set out in the 2010 Report on the Attribution of Profits to Permanent Establishments approved for publication by the Council of the OECD on 22 July 2010, supplemented by the whole or part of such additional guidance on the attribution of profits to permanent establishments, published by the OECD on or after the date of the passing of the *Finance Act 2021*, as may be designated by the Minister for Finance for the purposes of this section by order made under subsection (5);

‘branch’, in relation to a company which is not resident in the State, means a branch or agency through which the company carries on a trade in the State;

‘double taxation relief arrangements’ means arrangements having effect by virtue of section 826;

‘OECD’ means the Organisation for Economic Co-operation and Development;

‘Minister’ means the Minister for Finance;

‘relevant branch income’ has the meaning given to it in subsection (2);

‘relevant branch records’ has the meaning given to it in subsection (7);

‘return’ and ‘specified return date for the accounting period’ have the meanings given to them by section 959A;

‘Revenue officer’ means an officer of the Revenue Commissioners;

‘small enterprise’ and ‘medium enterprise’ have the meanings assigned, respectively, to those expressions by section 835F and ‘small or medium-sized enterprise’ shall be construed accordingly.

(2) For the purposes of section 25(2), the amount of any trading income arising directly or indirectly through or from a branch and any income

from property or rights used by, or held by or for, the branch (in this section referred to as ‘relevant branch income’) shall be an amount that is attributable to the branch in accordance with subsections (3) and (4).

- (3) For the purposes of subsection (2), the relevant branch income that is attributable to a branch is the amount of such income which it would have earned, in particular in its dealings with other parts of the company (in this subsection referred to as ‘the first-mentioned company’), if it were a separate and independent company engaged in the same or similar activities as the branch is engaged in under the same or similar conditions as obtained in respect of the branch, taking into account the functions performed, assets used and risks assumed by the first-mentioned company through the branch and through the other parts of that company.
- (4) (a) For the purpose of attributing relevant branch income to a branch, subsection (3) shall be construed to ensure, as far as is practicable, consistency between—
 - (i) the effect which is to be given to subsection (3), and
 - (ii) regardless of whether such double taxation relief arrangements actually apply, the effect which would be given if double taxation relief arrangements incorporating paragraph 2 of Article 7 of the OECD Model Tax Convention were to be applied, in accordance with the authorised OECD approach guidance, to the computation of so much of the profits as are attributable to the branch that comprise relevant branch income.
- (b) For the purpose of determining the effect which would be given if double taxation relief arrangements referred to in paragraph (a)(ii) were to be applied, in accordance with the authorised OECD approach guidance, as required by paragraph (a)(ii), references to ‘Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations’ and ‘the Guidelines’ in the authorised OECD approach guidance shall be construed, as far as is practicable, as references to the transfer pricing guidelines (within the meaning of section 835D).
- (5) The Minister may, for the purposes of this section, by order designate the whole or part of any additional guidance on the attribution of profits to permanent establishments, published by the OECD on or after the date of the passing of the *Finance Act 2021*, as being comprised in the authorised OECD approach guidance.
- (6) Every order made by the Minister under subsection (5) shall be laid before Dáil Éireann as soon as may be after it is made and, if a resolution annulling the order is passed by Dáil Éireann within the next 21 days on which Dáil Éireann has sat after the order is laid

before it, the order shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

- (7) (a) Subject to paragraph (d), a company carrying on a trade in the State through a branch for an accounting period shall have available and, upon request made in writing by a Revenue officer, shall provide to the Revenue Commissioners, such records (in this section referred to as ‘relevant branch records’) as may reasonably be required for the purposes of determining whether the relevant branch income of the company for that accounting period has been computed in accordance with this section.
- (b) The relevant branch records shall include—
- (i) a description of the business of the company, including its organisational structure, business strategy and key competitors,
 - (ii) a description of the business of the branch, including its organisational structure, business strategy and key competitors,
 - (iii) a functional and factual analysis which contains such information as may reasonably be required for the purposes of determining—
 - (I) the existence, characterisation and terms of any dealings between the branch and other parts of the company, and
 - (II) the appropriate attribution of assets, risks and free capital to the branch,
 - (iv) calculations supporting the attribution of free capital to the branch based on the functional and factual analysis referred to in subparagraph (iii),
 - (v) in relation to each of the dealings between the branch and other parts of the company, accounting records and contemporaneous documents which support the existence of such dealings,
 - (vi) a description of the transfer pricing method used in respect of each of the dealings between the branch and other parts of the company and the reasons for selecting the transfer pricing method,
 - (vii) details of the tested party used, if applicable, and an explanation of the reasons for selection,
 - (viii) in respect of each of the dealings between the branch and other parts of the company, a list and a description of selected comparable uncontrolled transactions (internal or external), if any, and information on relevant financial indicators for independent enterprises relied on in attributing the relevant branch income to the branch, including a description of the comparable search methodology and the source of such

information, and

- (ix) in respect of each of the dealings between the branch and other parts of the company, information and allocation schedules showing how the transfer pricing method has been used to determine the relevant branch income attributable to the branch.
- (c) References in this subsection to—
- (i) ‘functional and factual analysis’ and ‘free capital’ shall be construed in accordance with the authorised OECD approach guidance, and
 - (ii) ‘transfer pricing method’, ‘tested party’, ‘selected comparable uncontrolled transactions (internal or external)’, ‘relevant financial indicators for independent enterprises’ and ‘comparable search methodology’ shall be construed in accordance with the transfer pricing guidelines (within the meaning of section 835D).
- (d) Paragraph (a) shall not apply to a company for an accounting period where—
- (i) the company is a small enterprise for that accounting period, or
 - (ii) the company is a medium enterprise for that accounting period and the relevant branch income attributable to the branch of the company, as determined in accordance with subsections (3) and (4), for that accounting period is less than €250,000.
- (8) (a) The relevant branch records shall be prepared no later than the specified return date for the accounting period concerned.
- (b) Where a Revenue officer makes a request in writing to a company under subsection (7)(a), the company shall provide the relevant branch records to the Revenue Commissioners within 30 days from the date of the request.
- (9) (a) Where a company fails to comply with a request to provide relevant branch records to the Revenue Commissioners in accordance with subsections (7)(a) and (8)(b), the company shall, subject to paragraph (b), be liable to a penalty of €4,000.
- (b) Where the company referred to in paragraph (a) is not a small or medium-sized enterprise, the penalty specified in that paragraph shall be €25,000 and, if the failure referred to in that paragraph, on the part of that company, continues, that company shall be liable to a further penalty of €100 for each day on which the failure continues.
- (10) (a) In this subsection ‘relevant branch adjustment’ means the amount of any difference between—

- (i) the amount of chargeable profits included in a return delivered by or on behalf of a company on or before the specified return date for an accounting period, and
 - (ii) the amount of chargeable profits that should have been included in the return delivered by or on behalf of the company on or before the specified return date for the accounting period,

which arose by virtue of the chargeable profits, included in the return delivered by or on behalf of the company, not being computed in accordance with this section.
- (b) Where the conditions set out in paragraph (c) are met, a relevant branch adjustment shall not be taken into account in determining whether a penalty referred to in section 1077F(2) for a careless default applies to the company for an accounting period or in computing the amount of any such penalty.
- (c) The conditions referred to in paragraph (b) are—
 - (i) the company has, for the accounting period, prepared the relevant branch records, by the date specified in subsection (8)(a),
 - (ii) the company provides the relevant branch records referred to in subparagraph (i) to a Revenue officer within the period specified in subsection (8)(b), and
 - (iii) the relevant branch records referred to in subparagraph (i) are complete and accurate and demonstrate that, notwithstanding the relevant branch adjustment, the company has made reasonable efforts to comply with this section in determining the relevant branch income that is attributable to the branch.
- (11) Subsections (3) and (4) of section 886 shall apply with any necessary modifications to the relevant branch records as those provisions apply to the records required by that section.
- (12) This section shall not apply to so much of the trade of an overseas life assurance company (within the meaning of section 706) as is life business (within the meaning aforesaid) that is not new basis business (within the meaning of section 730A).”.
- (2) Subject to *subsection (3)*, *subsection (1)* shall apply for accounting periods commencing on or after 1 January 2022.
- (3) As respects a small or medium-sized enterprise (within the meaning of section 25A (inserted by *subsection (1)*) of the Principal Act), *subsection (1)* shall apply for accounting periods commencing on or after such day as the Minister for Finance may appoint by order.

Amendment of section 129A of Principal Act (dividends paid out of foreign profits)

- 29.** (1) Section 129A of the Principal Act is amended in subsection (3)(a) by the substitution

of the following subparagraph for subparagraph (ii):

“(ii) ending on the last day of—

- (I) the accounting period of the company immediately preceding the accounting period in which the distribution is made, or
- (II) the accounting period in which the distribution is made, where the distribution is an interim dividend paid, in that accounting period, out of profits arising in that accounting period.”.

(2) *Subsection (1)* shall apply to distributions made on or after the date of the passing of this Act.

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

30. (1) Part 35C of the Principal Act is amended—

(a) in section 835Z—

(i) in subsection (1), by the substitution of the following definition for the definition of ‘entity’:

“ ‘entity’ means—

- (a) a person (other than an individual) that has legal personality under the laws of the territory in which it is established,
- (b) an undertaking (other than an individual) that has legal personality under the laws of the territory in which it is established,
- (c) an agreement, trust or other arrangement that has legal personality under the laws of the territory in which it is established,
- (d) an association of persons recognised under the laws of the territory in which it is established as having the capacity to perform legal acts, or
- (e) any other legal arrangement of whatever nature or form, that owns or manages assets, that is subject to any of the taxes covered by this Part;”,

and

(ii) in subsection (4), by the substitution of “Subject to section 835AVA(3), a reference in this Part” for “A reference in this Part”,

(b) in section 835AA—

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

“ ‘consolidated group for financial accounting purposes’ means a group consisting of—

- (i) a parent entity, and
 - (ii) all other entities, other than non-consolidating entities, which are included in the same consolidated financial statements;

‘parent entity’ means an entity that prepares, or would prepare, consolidated financial statements under generally accepted accounting practice;”,

and
- (ii) in subsection (2)—
 - (I) by the substitution of the following paragraph for paragraph (e):
 - “(e) where both enterprises—
 - (i) are entities, and
 - (ii) are part of the same consolidated group for financial accounting purposes,”

and
 - (II) by the substitution of the following paragraph for paragraph (f):
 - “(f) where both enterprises—
 - (i) are entities, and
 - (ii) would, if consolidated financial statements were prepared under international accounting standards, be part of the same consolidated group for financial accounting purposes,”
- (c) in section 835AB—
 - (i) by the substitution of the following subsection for subsection (1):
 - “(1) Subject to subsection (3), this section applies where an enterprise is taxable in an investor or payee territory (in this section referred to as the ‘first-mentioned territory’) such that payments (in this section referred to as ‘disregarded payments’) between—
 - (a) the head office of an entity and a permanent establishment of that entity,
 - (b) two or more permanent establishments of an entity,
 - (c) an individual and a permanent establishment of that individual,
 - (d) two or more permanent establishments of an individual,
 - (e) where an enterprise is a participator in a hybrid entity, the enterprise and the hybrid entity,
 - (f) where an enterprise is a participator in two or more such hybrid entities, two or more such hybrid entities, or

- (g) where an entity is an entity on which a controlled foreign company charge or foreign company charge is made in respect of two or more hybrid entities, two or more such hybrid entities,

are disregarded when computing the taxable profits of the enterprise in the first-mentioned territory under a provision of the law of that territory similar in effect to section 26(1), or subparagraph (i) or (ii) of paragraph (a) of subsection (1) of Schedule D in section 18.”,

and

- (ii) in subsection (3), by the substitution of the following paragraph for paragraph (a):

“(a) the disregarded payments are between—

- (i) where the enterprise referred to in subsection (1) is an individual, an individual and a permanent establishment of the individual,
- (ii) where the enterprise referred to in subsection (1) is an individual, two or more permanent establishments of the individual,
- (iii) where the enterprise referred to in subsection (1) is a participator in a hybrid entity, the enterprise and the hybrid entity,
- (iv) where the enterprise referred to in subsection (1) is a participator in two or more hybrid entities, two or more such hybrid entities, or
- (v) where the entity referred to in subsection (1) is an entity on which a controlled foreign company charge or foreign company charge is made in respect of two or more hybrid entities, two or more such hybrid entities, and”,

- (d) in section 835AJ, in subsection (1), by the substitution of “A financial instrument deduction without inclusion mismatch outcome shall arise in respect of a payment where” for “A financial instrument deduction without inclusion mismatch outcome shall arise where”,
- (e) in section 835AL, in subsection (1), by the substitution of “shall arise in respect of a payment to a hybrid entity where it would be reasonable to consider that” for “shall arise in respect of a payment to a hybrid entity where”,
- (f) by the insertion of the following Chapter after Chapter 10:

“Chapter 10A

Reverse hybrid mismatches

Interpretation (Chapter 10A)

835AVA. (1) In this Chapter—

‘collective investment scheme’ shall be construed in accordance with section 835AVB;

‘relevant ownership interest’, in relation to a reverse hybrid entity, shall be construed in accordance with subsection (4);

‘relevant participator’, in relation to a reverse hybrid entity, means a participator with a relevant ownership interest in the reverse hybrid entity;

‘reverse hybrid entity’ means a hybrid entity established in the State—

- (a) that, for the purposes of the Acts, is not chargeable to tax in respect of its profits or gains, because those profits or gains are treated, or would be so treated but for an insufficiency of profits or gains, as arising or accruing to the participators in the hybrid entity, and
- (b) some or all of the profits or gains of which are regarded, for the purposes of the tax law of the territory in which a participator in the hybrid entity is established, as arising or accruing to the hybrid entity on its own account;

‘reverse hybrid mismatch outcome’ shall be construed in accordance with section 835AVD.

- (2) In this Chapter, ‘associated entities’ has the meaning given to ‘associated enterprises’ by section 835AA, subject to the following modifications:
 - (a) a reference, in that section, to ‘enterprise’ shall be construed as a reference to ‘entity’;
 - (b) a reference, in subsection (2) of that section, to ‘25 per cent’ shall be construed as a reference to ‘50 per cent’; and
 - (c) two entities shall not be treated as acting together with respect to voting rights, share ownership rights or similar ownership rights solely because they are partners in a partnership.
- (3) A reference in this Chapter to the territory in which a reverse hybrid entity is established shall be construed as a reference to the territory in which the reverse hybrid entity is registered, incorporated or created.
- (4) A participator shall have a relevant ownership interest in a reverse hybrid entity where—
 - (a) the participator possesses or is beneficially entitled to, or the participator and its associated entities possess or are beneficially entitled to, directly or indirectly, 50 per cent or more of the ownership rights in the reverse hybrid entity,
 - (b) the participator is, or the participator and its associated entities are, entitled to exercise, directly or indirectly, 50 per cent or more of the voting power in the reverse hybrid entity, or

- (c) the participator holds, or the participator and its associated entities hold, directly or indirectly, rights giving rise to an entitlement to 50 per cent or more of the profits of the reverse hybrid entity.

Collective investment scheme

835AVB. (1) In this section—

‘beneficial owner’, in relation to an undertaking, is any individual who is a beneficial owner within the meaning of—

- (a) the Investment Limited Partnerships Act 1994, or
- (b) the Investment Funds, Companies and Miscellaneous Provisions Act 2005,

and in applying this Chapter to a relevant partnership the beneficial owner of the partnership shall be identified in the same manner as the beneficial owner of an investment limited partnership is identified;

‘collective investment scheme’ means a relevant investment undertaking—

- (a) that is widely held, and
- (b) which holds a diversified portfolio of assets;

‘relevant AIFM’ means an AIFM, within the meaning of the European Union (Alternative Investment Fund Managers) Regulations 2013 (S.I. No. 257 of 2013), authorised under those Regulations;

‘relevant investment undertaking’ means—

- (a) a common contractual fund, within the meaning of section 739I,
- (b) an investment limited partnership, within the meaning of section 739J, or
- (c) a relevant partnership,

but where the undertaking referred to in paragraph (a) or (b) is an umbrella scheme, within the meaning of section 739B, it shall mean a sub-fund of that undertaking;

‘relevant partnership’ means—

- (a) a partnership, or
- (b) a limited partnership under the Limited Partnerships Act 1907, the affairs of which are managed by a relevant AIFM and which has been established under the law of the State.

- (2) For the purposes of the definition of ‘collective investment scheme’ in subsection (1), a relevant investment undertaking is widely held where there is no beneficial owner of that undertaking.
- (3) Subject to subsection (4), for the purposes of determining whether a

relevant investment undertaking holds a diversified portfolio of assets, regard shall be had to—

- (a) the nature of the assets held by the relevant investment undertaking,
 - (b) the extent to which the relevant investment undertaking is exposed to the risks and rewards of different classes of assets (whether directly or indirectly),
 - (c) the number of investments made by the relevant investment undertaking,
 - (d) the means through which the investment objective of the relevant investment undertaking is to be achieved, as set out in its prospectus, and
 - (e) where the assets held are derivatives, the assets to which the derivatives give exposure.
- (4) A relevant investment undertaking shall not be determined to hold a diversified portfolio of assets—
- (a) in a case in which the undertaking holds securities, where more than 10 per cent of those securities are issued by a single issuer, or
 - (b) in a case in which the undertaking holds land, unless the undertaking holds 3 or more properties and the market value of each of those properties is less than 40 per cent of the total market value of the properties held.
- (5) In a case in which a relevant investment undertaking, having satisfied the conditions in paragraphs (a) and (b) of the definition of ‘collective investment scheme’ in subsection (1), ceases to satisfy one or both of those conditions, the relevant investment undertaking will be treated as satisfying those conditions where it would be reasonable to consider that the failure to satisfy the condition was temporary, inadvertent and unavoidable at the time the condition ceased to be satisfied, having regard to—
- (a) the means through which the investment objective of the relevant investment undertaking is to be achieved, as set out in its prospectus,
 - (b) the date or dates on which the condition ceased to be satisfied,
 - (c) the circumstances giving rise to the condition ceasing to be satisfied,
 - (d) the steps taken, if any, to ensure the condition is satisfied and the date or dates on which it is satisfied, and
 - (e) the steps taken, if any, to prevent the circumstances, referred to in paragraph (c), reoccurring.

- (6) In a case in which a relevant investment undertaking, has not satisfied the conditions in paragraphs (a) and (b) of the definition of ‘collective investment scheme’ in subsection (1), the relevant investment undertaking will be treated as satisfying those conditions where it would be reasonable to consider that the conditions will be satisfied within 24 months of the date on which the undertaking makes its first investment, and that the failure to satisfy the conditions is temporary, inadvertent and unavoidable, having regard to—
- (a) the means through which the investment objective of the relevant investment undertaking is to be achieved, as set out in its prospectus,
 - (b) the circumstances giving rise to the condition not being satisfied, and
 - (c) the steps taken, if any, to ensure the condition will be satisfied.
- (7) In a case in which a relevant investment undertaking, having satisfied the conditions in paragraphs (a) and (b) of the definition of ‘collective investment scheme’ in subsection (1), ceases to satisfy one or both of those conditions, the relevant investment undertaking will be treated as satisfying those conditions where—
- (a) the failure to satisfy the condition is due to the commencement of the winding down of the relevant investment undertaking, and
 - (b) the date on which the winding down is completed is less than 12 months after the date on which the condition first ceased to be satisfied as a result of the winding down.

Application (Chapter 10A)

835AVC. This Chapter shall apply to—

- (a) a reverse hybrid entity, other than a collective investment scheme, in which one or more of the participators is a relevant participator, and
- (b) a reverse hybrid mismatch outcome.

Reverse hybrid mismatch outcome

835AVD. (1) Subject to subsection (2), a reverse hybrid mismatch outcome shall arise where some or all of the profits or gains of a reverse hybrid entity that are attributable to a relevant participator are subject to neither domestic nor foreign tax.

- (2) A reverse hybrid mismatch outcome shall not arise in respect of the profits or gains of a reverse hybrid entity where the profits or gains are attributable to a relevant participator that—
- (a) under the laws of the territory in which it is established, is exempt from tax which generally applies to profits or gains in that territory,

- (b) is established in a territory, or part of a territory, that does not impose a foreign tax, or
 - (c) is established in a territory that does not impose a tax that generally applies to profits or gains derived from payments receivable in that territory by enterprises from sources outside that territory.
- (3) Subject to subsections (7) and (8), a reverse hybrid mismatch outcome shall be neutralised, notwithstanding any other provision of the Tax Acts and the Capital Gains Tax Acts, by the profits and gains referred to in subsection (1) being charged to corporation tax on the reverse hybrid entity concerned as if the business carried on in the State by the reverse hybrid entity was carried on by a company resident in the State.
- (4) In subsection (5), ‘unit’ has, as the context requires, the meaning assigned to it in section 739B(1), that meaning as modified in accordance with section 739J(1)(b), or, where this section is applied to a relevant partnership, a ‘partnership interest’, within the meaning of section 739J.
- (5) A reverse hybrid entity that is liable to tax under subsection (3) shall—
 - (a) be entitled to appropriate or cancel such portion of units of the relevant participator concerned as are required to meet the amount of the tax arising on profits attributable to that participator, and
 - (b) be acquitted and discharged of such appropriation or cancellation, as the case may be, as if the amount of tax had been paid to the participator.
- (6) Where a reverse hybrid entity exercises its right under subsection (5)
 - (a)—
 - (a) the participator concerned shall allow the appropriation or cancellation, as the case may be, and
 - (b) the appropriation or cancellation, as the case may be, shall take place at the end of the tax period in respect of which the tax arose.
- (7) Where, in respect of a reverse hybrid entity, a participator is resident in a territory with the government of which arrangements having the force of law by virtue of section 826(1) have been made, then any corporation tax being charged on that entity by virtue of subsection (3) shall take account of the provisions of those arrangements.
- (8) The provisions of the Tax Acts relating to the calculation, assessment and collection of tax shall apply to any tax due pursuant to this section—
 - (a) as if the reverse hybrid entity was a company resident in the State for the tax period, and

(b) without prejudice to the generality of paragraph (a), where the reverse hybrid entity—

(i) is a common contractual fund, all obligations falling on the common contractual fund pursuant to this Part shall be fulfilled on behalf of the common contractual fund by the management company who is authorised to act on behalf, or for the purposes, of the common contractual fund and habitually does so, but the management company shall not be liable in a personal capacity to any tax imposed by this Part on the common contractual fund, and

(ii) is a partnership, all obligations falling on the partnership pursuant to this part shall be fulfilled by the precedent partner (within the meaning of section 1007) on behalf of the partnership.”,

and

(g) by the substitution of the following section for section 835AW:

“**835AW.** (1) Chapters 1 to 10 shall apply to payments made or arising on or after 1 January 2020.

(2) Chapter 10A shall apply to tax periods commencing on or after 1 January 2022.”.

(2) *Subsection (1)(c)* shall be deemed to have come into operation on 1 January 2020.

Interest limitation

31. (1) Part 3 of the Principal Act is amended—

(a) in section 37, in subsection (3), by the substitution of “Notwithstanding anything in the Tax Acts, other than Part 35D,” for “Notwithstanding anything in the Tax Acts,”, and

(b) in section 38, in subsection (3), by the substitution of “Notwithstanding anything in the Tax Acts, other than Part 35D,” for “Notwithstanding anything in the Tax Acts,”.

(2) Part 12 of the Principal Act is amended—

(a) in section 400, by the insertion of the following subsection after subsection (7):

“(7A) The predecessor shall not be entitled to relief under section 835AAD or 835AAE and the successor shall be entitled to relief under section 835AAD(8) or (10) or, on making a claim, under section 835AAD(3) or section 835AAE(2), for any amount for which the predecessor would have been entitled to claim relief if the predecessor had continued to carry on the trade.”,

and

(b) in section 401, in subsection (2)—

- (i) in paragraph (i), by the substitution of “after the change of ownership,” for “after the change of ownership, or”,
- (ii) in paragraph (ii), by the substitution of “after the change of ownership, or” for “after the change of ownership.”, and
- (iii) by the insertion of the following paragraph after paragraph (ii):

“(iii) under section 835AAE for total spare capacity (within the meaning of Part 35D) arising to the company in an accounting period beginning before the change of ownership for any accounting period after the change of ownership.”.

(3) The Principal Act is amended by the insertion of the following Part after Part 35C:

“PART 35D

Implementation of Council Directive (EU) 2016/1164 of 12 July 2016 as regards interest limitation

Chapter 1

Interpretation and general (Part 35D)

Interpretation (Part 35D)

835AY. (1) In this Part—

‘allowable amount’ shall be construed in accordance with subsection (2);

‘alternative body of accounting standards’ means standards that accounts of entities are to comply with which are laid down by such body or bodies having authority to lay down standards of that kind in Australia, Canada, Hong Kong, Japan, New Zealand, Singapore, the Republic of Korea, the United States of America, the Republic of India and the People’s Republic of China;

‘associated enterprise’, other than in Chapter 3, means an enterprise that is associated with another enterprise in accordance with subsections (2) and (4) of section 835AA, other than enterprises which would be considered associated enterprises pursuant only to paragraphs (e), (f) or (g) of section 835AA(2);

‘CGT rate’ means—

- (a) other than in the cases referred to in paragraphs (b) and (c), the rate specified in section 28(3),
- (b) in the case of a relevant disposal (within the meaning of Chapter 2 of Part 22), the rate specified in section 649A(1)(b), and
- (c) in the case of a disposal of an asset to which section 747A applies, the rate specified in section 747A(4);

‘consolidating entity’ means an entity which is included in the ultimate consolidated financial statements, other than a non-consolidating entity;

‘*de minimis* amount’—

- (a) in respect of an accounting period of 12 months, means €3,000,000, and
- (b) in respect of an accounting period of less than 12 months, the amount referred to in paragraph (a) reduced *pro rata*;

‘deductible interest equivalent’ means the amount in respect of interest equivalent that is deducted in calculating the relevant profit or loss of a relevant entity;

‘deemed borrowing cost’ has the meaning assigned to it by section 835AAD(1);

‘Directive (EU) 2016/1164’ has the same meaning as it has in Part 35C;

‘disallowable amount’ means the amount by which the exceeding borrowing costs is greater than the allowable amount;

‘EBITDA’ shall be construed in accordance with section 835AAB(5);

‘EBITDA limit’ means 30 per cent;

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

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

‘exceeding borrowing costs’ has the meaning assigned to it by section 835AAB(4);

‘finance cost element of non-finance lease payments’ in respect of a company and an accounting period, means the portion of the deductible lease payment in that accounting period calculated as follows—

$$P \times (A - B) / A$$

where—

- P is the deductible lease payment,
- A is the total expected cost of the lease, over the course of the life of the lease on the date the lease was entered into, and
- B is the value of the right of use asset recognised in the accounts under international accounting standards, or would be so recognised if accounts were prepared in accordance with international accounting standards, on the date the lease was entered into,

but where the terms of the lease are amended during the life of the lease such that either of A or B are amended, then, for the accounting period in which that amendment was made and all successive accounting periods, A and B shall be calculated as if a new lease was entered into at the date of that amendment;

‘finance element of finance lease payments’ in respect of a company and an accounting period, means the portion of the deductible, or taxable, finance lease payment, as the case may be, in that accounting period calculated as follows—

$$P \times (A/B)$$

where—

- P is the deductible, or taxable, finance lease payment, as the case may be,
- A is the expected total finance cost, or finance income, as the case may be, which will be recognised in the accounts under generally accepted accounting practice over the course of the life of the lease on the date the lease was entered into, and
- B is the total expected cost of the lease, or income of the lease, as the case may be, over the course of the life of the lease on the date the lease was entered into,

but where the terms of the lease are amended during the life of the lease such that either of A or B are amended, then, for the accounting period in which that amendment was made and all successive accounting periods, A and B shall be calculated as if a new lease was entered into at the date of amendment;

‘finance income element of non-finance lease payments’ in respect of a company and an accounting period, means the portion of the taxable lease payment in that accounting period calculated as follows—

$$P \times (A - B) / A$$

where—

- P is the taxable lease payment,
- A is the total expected income of the lease, over the course of the life of the lease on the date the lease was entered into, and
- B is the value of the leased asset recognised in the accounts under generally accepted accounting practice on the date the lease was entered into less the expected depreciated value of the leased asset at the end of the lease, determined in accordance with the accounting policy in the financial statements for the year in which the lease is entered into,

but where the terms of the lease are amended during the life of the lease such that either of A or B are amended, then, for the accounting period in which that amendment was made and all successive accounting periods, A and B shall be calculated as if a new lease was entered into at the date of amendment;

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

‘interest equivalent’ means—

- (a) interest,
- (b) amounts economically equivalent to interest including—
 - (i) a discount, where securities are issued at a discount,
 - (ii) the finance element of finance lease payments,
 - (iii) the finance income element and finance cost element of non-finance lease payments of a company that carries on a trade of leasing that is treated for the purposes of the Tax Acts as a separate trade distinct from all other activities carried on by such company under section 403(2),
 - (iv) amounts under derivative instruments or hedging arrangements directly connected with the raising of finance, and
 - (v) such portion of the profit or loss on—
 - (I) a financial asset (within the meaning of section 76B), or
 - (II) a financial liability (within the meaning of section 76B),the coupon or return on which principally comprises interest or one or more of the amounts referred to in this paragraph, to the extent that it would be reasonable to consider that such amount is economically equivalent to interest,
- (c) any amounts referred to in paragraph (a) or (b) claimed by a claimant company under section 420(6),
- (d) amounts arising directly in connection with raising finance, including—
 - (i) guarantee fees,
 - (ii) arrangement fees, and
 - (iii) commitment fees,
- (e) foreign exchange gains and losses on interest or amounts economically equivalent to interest, and
- (f) any amount arising from an arrangement, or part of an arrangement, which could reasonably be considered, when the arrangement is

considered in the whole, to be economically equivalent to interest;

‘interest group’ shall be construed in accordance with section 835AAK(1);

‘interest spare capacity’ has the meaning given to it by section 835AAB(4);

‘large scale asset’ means—

- (a) a development, within the meaning of the Planning and Development Act 2000, specified in the Seventh Schedule of that Act, approved by—
 - (i) An Bord Pleanála under section 37G of that Act, on foot of an application made pursuant to section 37A(2)(a) or (b) of that Act, or
 - (ii) a local authority under section 170 of that Act,
- (b) a development, referred to in section 182A of the Planning and Development Act 2000, approved by An Bord Pleanála under section 182B of that Act,
- (c) a development, referred to in section 182C of the Planning and Development Act 2000, approved by An Bord Pleanála under section 182D of that Act,
- (d) railway works, within the meaning of the Transport (Railway Infrastructure) Act 2001, in respect of which an order has been made under section 43 of that Act,
- (e) a scheme, within the meaning of the Roads Act 1993, which has been approved under section 49 of that Act,
- (f) a strategic housing development, within the meaning of Chapter 1 of Part 2 of the Planning and Development (Housing) and Residential Tenancies Act 2016 approved by—
 - (i) An Bord Pleanála, under section 9 of that Act, or
 - (ii) a local authority, under section 170 of the Planning and Development Act 2000,
- (g) an asset (within the meaning of the State Authorities (Public Private Partnership Arrangements) Act 2002) constructed pursuant to a public private partnership arrangement (within the meaning of that Act),
- (h) an installation generating energy from renewable sources (within the meaning of the European Union (Renewable Energy) Regulations (S.I. No. 365 of 2020)), which is regulated, either solely or jointly with another party, by the Commission for the Regulation of Utilities, or

- (i) an asset specified by the Minister for Finance in regulations made under section 835AAA(1),

that has a minimum expected life span of 10 years;

‘limitation spare capacity’ is the amount by which the exceeding borrowing costs are less than the allowable amount;

‘long-term infrastructure project’ means a project to provide, upgrade, operate or maintain a large scale asset;

‘non-consolidating entity’ means an entity which is valued in ultimate consolidated financial statements—

- (a) using fair value accounting (within the meaning of international accounting standards),
- (b) on the basis that it is an asset held for sale or held for distribution (within the meaning of international accounting standards), or
- (c) where the ultimate consolidated financial statements are prepared under an alternative body of accounting standards, on an equivalent basis under those standards;

‘non-finance element of finance lease payments’ in respect of a company and an accounting period, means the deductible, or taxable, finance lease payments, as the case may be, in that accounting period less the finance element of the finance lease payments;

‘P rate’ is the rate specified in section 21A(3)(a);

‘payment for relief’ means a payment made by one member of an interest group to another member of an interest group pursuant to an agreement between them as respects an allocation of a disallowable amount or total spare capacity, being a payment not exceeding the reduction in tax payable in the current accounting period or successive accounting periods as a result of the allocation in respect of the member of the interest group making the payment;

‘qualifying long-term infrastructure project’ means a long-term infrastructure project—

- (a) in respect of which the operator is established in, and tax resident in, a Member State,
- (b) in respect of which the large scale asset concerned is in a Member State, and
- (c) the income arising from which and the deductible interest equivalent relating to which arise in a Member State;

‘relevant entity’ means a company or an interest group;

‘relevant loss’ shall be construed in accordance with section 835AZ(7);

‘relevant profit’ has the meaning assigned to it by section 835AZ(1);

‘reporting company’ shall be construed in accordance with section 835AAM(1);

‘single company worldwide group’ means a company that is not—

- (a) a member of a worldwide group,
- (b) a member of an interest group, or
- (c) a standalone entity;

‘specified return date for the accounting period’ has the same meaning as it has in Part 41A;

‘standalone entity’ means a company resident in the State that—

- (a) is not a member of a worldwide group,
- (b) has no associated enterprises, and
- (c) does not have a permanent establishment in a territory other than the State;

‘T rate’ is the rate specified in section 21(1)(f);

‘taxable interest equivalent’ means the amount in respect of interest equivalent that is income, profits or gains included in the calculation of the relevant profit or loss of a relevant entity, including a reversal of deductible interest equivalent;

‘total spare capacity’ is the aggregate of interest spare capacity and limitation spare capacity;

‘ultimate consolidated financial statements’ means the consolidated financial statements prepared by an ultimate parent under generally accepted accounting practice or an alternative body of accounting standards;

‘ultimate parent’ means an entity that prepares consolidated financial statements under generally accepted accounting practice, or an alternative body of accounting standards, and whose results are not fully included in any other consolidated financial statements prepared under such a practice or standard;

‘worldwide group’ means the ultimate parent and all consolidating entities in the ultimate consolidated financial statements and ‘member of a worldwide group’ shall be construed accordingly.

- (2) The ‘allowable amount’ in respect of a relevant entity for an accounting period shall be calculated as follows:

$$\text{allowable amount} = \text{EBITDA} \times \text{EBITDA limit.}$$

- (3) A word or expression which is used in this Part and is also used in

Directive (EU) 2016/1164 has, unless the context otherwise requires, the same meaning in this Part as it has in Directive (EU) 2016/1164.

Relevant profit and loss

835AZ. (1) Subject to subsections (2) and (3), ‘relevant profit’, in respect of a relevant entity and an accounting period, means—

- (a) the amount of the profits on which corporation tax falls finally to be borne, and
- (b) the amount of the gains or losses on a relevant disposal (within the meaning of section 648),

reduced by the amount, if any, of—

- (i) the amount of the excess referred to in subsection (2) of section 243B, to the extent relief may be claimed under that subsection, but for this Part, and
- (ii) the amount of the excess referred to in subsection (2) of section 396B, to the extent relief may be claimed under that subsection, but for this Part.

- (2) Where an amount of charge, income, expense, gain or loss used to calculate an amount referred to in subsection (1) is subject to corporation tax or provides relief at the P rate, that amount shall be adjusted for the purpose of calculating ‘relevant profit’ under subsection (1) as follows:

$$A_{\text{adj}} = A_{\text{act}} \times (\text{P rate}/\text{T rate})$$

where—

A_{adj} is the adjusted amount of charge, income, expense, gain or loss, as the case may be, and

A_{act} is the actual amount of charge, income, expense, gain or loss, as the case may be.

- (3) Where an amount of charge, income, expense, gain or loss used to calculate an amount referred to in subsection (1) is subject to corporation tax or capital gains tax or provides relief at the CGT rate, that amount shall be adjusted for the purpose of calculating ‘relevant profit’ under subsection (1) as follows:

$$A_{\text{adj}} = A_{\text{act}} \times (\text{CGT rate}/\text{T rate})$$

where—

A_{adj} is the adjusted amount of charge, income, expense, gain or loss, as the case may be, and

A_{act} is the actual amount of charge, income, expense, gain or loss, as

the case may be.

- (4) For the purpose of calculating relevant profit under subsection (1), no account shall be taken of—
 - (a) any relief for losses, or excesses, as the case may be, carried forward from a previous accounting period under section 396(1), 399(1) or 399(2),
 - (b) any relief for losses or excesses, as the case may be, carried back from a subsequent accounting period under section 396(2), 396A(3), 396B(3), 397(1) or 399(2), or
 - (c) amounts set off under section 420 (other than interest treated as a charge on income that may be set off under section 420(6), but for this Part) or 420A.
- (5) Subject to subsection (6), for the purpose of calculating relevant profit under subsection (1) of a relevant entity carrying on a qualifying long-term infrastructure project, no account shall be taken of any income or expenses directly connected with a qualifying long-term infrastructure project.
- (6) Where a relevant entity carries on both a qualifying long-term infrastructure project and activities other than a qualifying long-term infrastructure project, income and expenses shall be apportioned between the qualifying long-term infrastructure project and those other activities on a just and reasonable basis.
- (7) The amount of relevant loss for an accounting period shall be calculated in the like manner as relevant profit would have been calculated and for these purposes the reference in subsection (1) to an amount of profits on which corporation tax falls finally to be borne shall be read as a reference to the amount of losses, after making all deductions and giving all reliefs that for the purposes of corporation tax are made or given from or against profits, including deductions and reliefs which under any provision are treated as reducing profits for those purposes.

Long-term public infrastructure projects

- 835AAA.** (1) The Minister for Finance, in consultation with the Minister for Public Expenditure and Reform, may make regulations for the purpose of this section specifying an asset is to be treated as a large scale asset, but an asset shall not be so specified unless—
- (a) specifying the asset would not give rise to a breach of Article 107 of the Treaty of Functioning of the European Union,
 - (b) the purpose of the asset is to enhance the general public interest,
 - (c) it is in the public interest to so specify the asset, and
 - (d) the financing arrangements for the long-term infrastructure project

to which the large scale asset relates present special features which justify such specification.

- (2) For the purposes of subsection (1), in determining whether it is in the public interest to specify the asset concerned, the Minister shall have regard to whether—
 - (a) the asset concerned would be likely to be provided, upgraded, operated, or maintained in the absence of such specification,
 - (b) specifying the asset concerned would distort fair competition, and
 - (c) specifying the asset would give rise to a loss of Exchequer income, and whether the public benefit of specifying the asset outweighs any such loss.

Chapter 2

Interest limitation

Interpretation (Chapter 2)

835AAB. (1) In this Chapter—

‘legacy debt’ means a debt the terms of which were agreed before 17 June 2016, together with any contract entered into before or after that date with the sole purpose of eliminating or reducing interest rate risk on that debt, but where the terms of that debt include provision for an amount of principal not yet drawn down at that date, such principal shall only be considered an agreed term of that debt to the extent the lender is legally obliged to make available such amounts upon the happening of milestones as set out in the terms agreed before 17 June 2016;

‘milestone’ means a pre-determined deliverable or project phase defined in the terms of a debt, connected with the drawdown of principal, but does not include a call by the borrower for drawdown of principal.

- (2) The deductible interest equivalent in respect of legacy debt of a relevant entity for an accounting period is the lower of—
 - (a) the deductible interest equivalent that arises on the legacy debt in the accounting period, and
 - (b) the deductible interest equivalent that would have arisen on the legacy debt in the accounting period in accordance with the terms of the legacy debt as they stood on 17 June 2016.
- (3) For the purposes of this Part, the ‘net interest equivalent’ in respect of a relevant entity for an accounting period shall be calculated as follows:

$$IE_{\text{net}} = (IE_{\text{ded}} - IE_{\text{LD-ded}}) - IE_{\text{tax}}$$

where—

IE_{net} is the amount of net interest equivalent in respect of the relevant entity for the accounting period,

IE_{ded} is the amount of deductible interest equivalent in respect of the relevant entity for the accounting period,

$IE_{\text{LD-ded}}$ is the amount of deductible interest equivalent in respect of the legacy debt of the relevant entity for the accounting period, and

IE_{tax} is the amount of taxable interest equivalent in respect of the relevant entity for the accounting period.

- (4) Where the net interest equivalent in respect of a relevant entity for an accounting period is greater than or equal to zero, it shall be referred to in this Part as ‘exceeding borrowing costs’ and where the net interest equivalent in respect of a relevant entity for an accounting period is less than zero, it shall be referred to in this Part as ‘interest spare capacity’.
- (5) In this Part, the EBITDA in respect of a relevant entity for an accounting period shall be the greater of zero and the amount calculated as follows:

$$R + I + FT + [(Cap_{\text{allow}} - IE_{\text{ded allow}}) - (Cap_{\text{charge}} - IE_{\text{ded charge}})] + IE_{\text{LD-ded}}$$

where—

R is the relevant profit or relevant loss, as the case may be, of the relevant entity for the accounting period,

I is the net interest equivalent of the relevant entity for the accounting period,

FT is the amount deducted in respect of foreign tax in calculating the relevant entity’s relevant profit or relevant loss, as the case may be, for the accounting period,

Cap_{allow} is the amount of allowances in respect of capital expenditure under Parts 9, 24 and 29 made to a relevant entity, and the amount in respect of the non-finance element of finance lease payments deducted in calculating that entity’s relevant profit or relevant loss, as the case may be, for the accounting period,

Cap_{charge} is the amount of charges in respect of capital expenditure under Parts 9, 24 and 29 made on a relevant entity in calculating the relevant entity’s relevant profit or relevant loss, as the case may be, for the accounting period,

$IE_{\text{ded allow}}$ is the amount of deductible interest equivalent referable to allowances in respect of capital expenditure under Parts 9, 24 and 29 made to a relevant entity in calculating the relevant entity’s relevant profit or relevant loss, as the case may be, for the accounting period,

$IE_{\text{ded charge}}$ is the amount of deductible interest equivalent referable to charges in respect of capital expenditure under Parts 9, 24 and 29 made on a relevant entity in calculating the relevant entity's relevant profit or relevant loss, as the case may be, for the accounting period, and

$IE_{\text{LD-ded}}$ is the amount of deductible interest equivalent in respect of the legacy debt of the relevant entity for the accounting period.

Interest limitation

835AAC. (1) This section shall apply to a relevant entity for an accounting period where—

- (a) the relevant entity is not, at any time in that accounting period, a standalone entity,
 - (b) the relevant entity has a disallowable amount greater than zero in respect of the accounting period, and
 - (c) the exceeding borrowing costs of the relevant entity exceeds the *de minimis* amount.
- (2) For the purposes of determining whether the exceeding borrowing costs of a relevant entity exceeds the *de minimis* amount for an accounting period—
- (a) in a case in which an amount of deductible interest equivalent is deducted against profits chargeable to tax at the P rate, the amount of that deductible interest equivalent shall be adjusted as follows:

$$IE_{\text{ded-adj}} = IE_{\text{ded}} \times (\text{T rate}/\text{P rate})$$

where—

$IE_{\text{ded-adj}}$ is the adjusted amount of deductible interest equivalent in respect of the relevant entity for the accounting period, and

IE_{ded} is the amount of deductible interest equivalent in respect of the relevant entity for the accounting period deducted against profits chargeable to tax at the P rate,

- (b) in a case in which an amount of taxable interest equivalent is chargeable to tax at the P rate, the amount of that taxable interest equivalent shall be adjusted as follows:

$$IE_{\text{tax-adj}} = IE_{\text{tax}} \times (\text{T rate}/\text{P rate})$$

where—

$IE_{\text{tax-adj}}$ is the adjusted amount of taxable interest equivalent in respect of the relevant entity for the accounting period, and

IE_{tax} is the amount of taxable interest equivalent in respect of the

relevant entity for the accounting period chargeable to tax at the P rate,

- (c) in a case in which an amount of deductible interest equivalent is deducted against chargeable gains chargeable to tax at the CGT rate, the amount of that deductible interest equivalent shall be adjusted as follows:

$$IE_{ded-adj} = IE_{ded} \times (T \text{ rate}/CGT \text{ rate})$$

where—

$IE_{ded-adj}$ is the adjusted amount of deductible interest equivalent in respect of the relevant entity for the accounting period, and

IE_{ded} is the amount of deductible interest equivalent in respect of the relevant entity for the accounting period deducted against chargeable gains chargeable to tax at the CGT rate,

- (d) in a case in which an amount of deductible interest equivalent in respect of the legacy debt of the relevant entity is deducted against profits chargeable to tax at the P rate, the amount of that deductible interest equivalent shall be adjusted as follows:

$$IE_{LD-ded-adj} = IE_{LD-ded} \times (T \text{ rate}/P \text{ rate})$$

where—

$IE_{LD-ded-adj}$ is the adjusted amount of deductible interest equivalent in respect of the legacy debt of the relevant entity for the accounting period, and

IE_{LD-ded} is the amount of deductible interest equivalent in respect of the legacy debt of the relevant entity for the accounting period deducted against profits chargeable to tax at the P rate, and

- (e) in a case in which an amount of deductible interest equivalent in respect of the legacy debt of the relevant entity is deducted against chargeable gains chargeable to tax at the CGT rate, the amount of that deductible interest equivalent shall be adjusted as follows:

$$IE_{LD-ded-adj} = IE_{LD-ded} \times (T \text{ rate}/CGT \text{ rate})$$

where—

$IE_{LD-ded-adj}$ is the adjusted amount of deductible interest equivalent in respect of the legacy debt of the relevant entity for the accounting period, and

IE_{LD-ded} is the amount of deductible interest equivalent in respect of the legacy debt of the relevant entity for the accounting period deducted against chargeable gains chargeable to tax at the CGT

rate.

- (3) Subject to section 835AAL, and subsections (4) and (5), where this section applies to a relevant entity for an accounting period, the amount of tax payable (within the meaning of section 959A) by the relevant entity for the accounting period, or where there is no amount of tax payable due to an insufficiency of income, profits or gains, the amount of any loss or excess arising to the relevant entity in an accounting period, but for the application of this Part, shall be adjusted by reducing the amount of interest equivalent that, but for this Part, would have been deducted in the calculation of that tax payable or that loss or excess, as the case may be, by the disallowable amount until the disallowable amount has been exhausted.
- (4) For the purposes of subsection (3), where the interest equivalent mentioned in that subsection is deducted against profits chargeable to tax at the P rate, or treated as reducing the corporation tax payable on profits chargeable to tax at the P rate, then the amount by which the interest equivalent shall be reduced in respect of a disallowable amount shall be calculated by applying the following fraction:

$$\text{T rate/P rate.}$$

- (5) For the purposes of subsection (3), where the interest equivalent mentioned in that subsection is deducted against chargeable gains, or treated as reducing the corporation tax payable on profits chargeable to tax at the CGT rate, then the amount by which the interest equivalent shall be reduced in respect of a disallowable amount shall be calculated by applying the following fraction:

$$\text{T rate/CGT rate.}$$

- (6) Where a reduction of interest equivalent in accordance with subsection (3) reduces an amount of interest equivalent deducted in connection with the provision of a specified intangible asset, by reference to which allowances referred to in section 291A(6)(a)(i) are made, then for the purposes of section 291A(6), the aggregate amount for an accounting period referred to in section 291A(6)(a) shall be an amount calculated by reference to the interest equivalent so reduced.

Carry forward of disallowable amount

835AAD. (1) Where section 835AAC applies to a relevant entity for an accounting period (in this section referred to as the ‘first-mentioned accounting period’), the relevant entity may carry forward the disallowable amount to succeeding accounting periods in accordance with this section and any such amount carried forward shall be referred to in this section as a ‘deemed borrowing cost’.

- (2) This subsection applies where an amount of deemed borrowing cost

arises from a disallowable amount which would have, but for this Part, reduced the amount of tax payable by the relevant entity in the first-mentioned accounting period or the accounting period immediately prior to the first-mentioned accounting period.

- (3) Subject to subsections (5), (6), (15) and (16), where subsection (2) applies, a relevant entity may make a claim to deduct the amount of deemed borrowing cost referred to in subsection (2), or a portion thereof—
- (a) from its total profits or chargeable gains arising in an accounting period subsequent to the first-mentioned accounting period, or
 - (b) where there is an insufficiency of such profits, to create a loss or excess in an accounting period subsequent to the first-mentioned accounting period and relief for that loss or excess shall be given in accordance with section 31, 396(1) or 399, as the case may be, and sections 397, 400 and 401 shall apply to that loss.
- (4) Where a claim is made for a deduction under subsection (3), any such deduction shall be applied after all other claims for relief have been made.
- (5) Where a deemed borrowing cost is deducted from profits chargeable to tax at the P rate, for the purpose of calculating the amount of the deemed borrowing cost applied in reducing the amount of profits chargeable to tax at that rate, the amount of deemed borrowing cost shall be multiplied by the following fraction:

P rate/T rate.

- (6) Where a deemed borrowing cost is deducted from chargeable gains, for the purpose of calculating the amount of the deemed borrowing cost applied in reducing the amount of chargeable gains chargeable to tax at the CGT rate, the amount of deemed borrowing cost shall be multiplied by the following fraction:

CGT rate/T rate.

- (7) This subsection applies where an amount of deemed borrowing cost arises from a disallowable amount which would have, but for this Part, resulted in the relevant entity—
- (a) incurring a loss or excess,
 - (b) incurring a greater loss or excess than would have been incurred, or
 - (c) offsetting a lower amount of loss or excess against its income under section 396(1), 399(1) or 399(2) than would have been offset,
- in the first-mentioned accounting period.
- (8) Subject to subsections (9), (10), (15) and (16), where subsection (7)

applies, a relevant entity's deemed borrowing cost shall be treated as a loss or excess incurred in the first-mentioned accounting period (to the extent such a loss or excess would have arisen but for this Part) and relief for that loss or excess shall be given in accordance with section 31, 396(1) or 399, as the case may be, and sections 397, 400 and 401 shall apply to the amount of deemed borrowing cost referred to in subsection (7) in the same manner as they apply to a loss.

- (9) Where a deemed borrowing cost that is treated as a loss or excess incurred in the first-mentioned accounting period is deducted from profits chargeable to tax at the P rate, for the purpose of calculating the amount of deemed borrowing cost treated as a loss or excess applied in reducing the amount of profits chargeable to tax at that rate, the amount of deemed borrowing cost treated as a loss or excess shall be multiplied by the following fraction:

P rate/T rate.

- (10) Where a deemed borrowing cost that is treated as a loss incurred in the first-mentioned accounting period is deducted from chargeable gains, for the purpose of calculating the amount of deemed borrowing cost treated as a loss applied in reducing the amount of profits chargeable to tax at the CGT rate, the amount of deemed borrowing cost treated as a loss shall be multiplied by the following fraction:

CGT rate/T rate.

- (11) This subsection applies where an amount of deemed borrowing cost arises from a disallowable amount which would have, but for this Part, resulted in a relevant entity incurring—

- (a) an excess of expenses of management referred to in section 83(3),
or
- (b) a greater excess of expenses of management than would have been incurred,

in the first-mentioned accounting period.

- (12) Subject to subsections (13), (14), (15) and (16), where subsection (11) applies, the amount of deemed borrowing cost of the relevant entity shall be treated for the purposes of subsection (3) of section 83, and any further application of that subsection, as if it has been disbursed as expenses of management for the first-mentioned accounting period.
- (13) Where a deemed borrowing cost that is treated as if it has been disbursed as expenses of management incurred in the first-mentioned accounting period is deducted from profits chargeable to tax at the P rate, for the purpose of calculating the amount of deemed borrowing cost treated as expenses of management applied in reducing the amount of profits chargeable to tax at that rate, the amount of deemed

borrowing cost treated as an expense of management shall be multiplied by the following fraction:

$$\text{P rate/T rate.}$$

- (14) Where a deemed borrowing cost that is treated as if it has been disbursed as expenses of management incurred in the first-mentioned accounting period is deducted from chargeable gains, for the purpose of calculating the amount of deemed borrowing cost treated as expenses of management applied in reducing the amount of chargeable gains chargeable to tax at the CGT rate, the amount of deemed borrowing cost treated as an expense of management shall be multiplied by the following fraction:

$$\text{CGT rate/T rate.}$$

- (15) The aggregate of the deemed borrowing cost utilised in an accounting period under subsections (3), (8) and (12) shall be limited to the amount of the total spare capacity in the accounting period.
- (16) Where the relief available under subsections (3), (8) and (12) would, but for subsection (15), exceed the total spare capacity of a relevant entity in an accounting period, relief under subsection (8) shall be given in priority to relief under subsection (3) or (12).
- (17) For the purposes of determining, in respect of a disallowable amount carried forward in accordance with subsection (1), the amount of relief available in accordance with subsections (3), (8) and (12) in an accounting period (in this subsection referred to as the ‘relevant accounting period’) subsequent to the first-mentioned accounting period, the amount of relief given in respect of the deemed borrowing cost concerned under those subsections in the accounting periods, if any, prior to the relevant accounting period shall be deducted from the amount of the deemed borrowing cost.
- (18) A deemed borrowing cost shall not be taken into account in calculating a relevant entity’s deductible interest equivalent in an accounting period subsequent to the first-mentioned accounting period.
- (19) Notwithstanding anything in this section, no amount shall be deductible in respect of a deemed borrowing cost that arises from a disallowable amount which reduced an amount of interest equivalent deducted in connection with the provision of a specified intangible asset, by reference to which allowances referred to in section 291A(6)(a)(i) are made, and for the purposes of section 291A(6)(b)(ii) such amount shall, for the accounting period in which the disallowable amount arises, be treated as an amount of interest for which relief cannot be given by virtue of section 291A(6)(a).

Carry forward of total spare capacity

- 835AAE.** (1) A relevant entity may carry forward its total spare capacity for a period not exceeding 60 months from the end of the accounting period in which the total spare capacity arose (in this section referred to as the ‘relevant period’).
- (2) Where a disallowable amount arises in respect of a relevant entity for an accounting period during a relevant period, the relevant entity may, on making a claim, reduce the disallowable amount by an amount of the total spare capacity carried forward from a previous accounting period in accordance with subsection (1).
- (3) Where a claim is made under subsection (2)—
- (a) the disallowable amount for the accounting period concerned shall, subject to subsection (4), be reduced by the amount of total spare capacity carried forward from the previous accounting period, and
- (b) the amount of total spare capacity not applied to reduce the disallowable amount in the accounting period shall be carried forward to the next accounting period.
- (4) Where the total spare capacity carried forward from previous accounting periods is greater than the disallowable amount for an accounting period, the relevant entity shall, in reducing the disallowable amount, apply total spare capacity which has arisen in an earlier accounting period in priority to total spare capacity which has arisen in a later accounting period.
- (5) Where a disallowable amount arises in respect of a relevant entity for an accounting period which begins before the end of a relevant period in respect of an amount of total spare capacity being applied to reduce the disallowable amount, the amount of total spare capacity shall be reduced by multiplying it by the following fraction:

$$A/B$$

where—

A is the length of the period common to the relevant period and accounting period, and

B is the length of the accounting period.

- (6) For the purposes of determining the amount of relief available for total spare capacity, after the making of a claim or claims for relief under this section, or under subsection (3), (8) or (10) of section 835AAD, the amount of total spare capacity available for any subsequent claims shall be reduced by the amount claimed under the first-mentioned claims.

Reporting

835AAF. (1) Subject to subsection (2), a company shall make a return, by the specified return date for the accounting period, in the form specified by the Revenue Commissioners for that purpose.

(2) The return referred to in subsection (1) may include the following details in respect of the company and an accounting period:

- (a) EBITDA;
- (b) the allowable amount;
- (c) exceeding borrowing costs;
- (d) the disallowable amount;
- (e) interest spare capacity;
- (f) limitation spare capacity;
- (g) in respect of amounts carried forward from prior accounting periods—
 - (i) deemed borrowing cost carried forward,
 - (ii) deemed borrowing cost utilised in the accounting period,
 - (iii) total spare capacity carried forward, and
 - (iv) total spare capacity utilised in the accounting period;
- (h) where the group ratio election is made in accordance with section 835AAH—
 - (i) group exceeding borrowing costs, and
 - (ii) group EBITDA;
- (i) where the group equity election is made in accordance with section 835AAI—
 - (i) the amount inserted in respect of E, for the company and the worldwide group, in the formula for the calculation of the ratio of equity over total assets in section 835AAI(1), and
 - (ii) the amount inserted in respect of A, for the company and the worldwide group, in the formula for the calculation of the ratio of equity over total assets in section 835AAI(1);
- (j) whether the company is a single company worldwide group.

(3) Where a company is a member of an interest group and section 835AAM applies, paragraphs (a), (b), (c), (h), (i) and (j) of subsection (2) shall not apply.

Chapter 3

*Group and equity ratio***Interpretation (Chapter 3)****835AAG.** (1) In this Chapter—

‘associated enterprise’ has the same meaning as it has in Part 35C, other than in Chapters 2, 3 and 8 of that Part and in the application of that Part to hybrid entities;

‘group EBITDA’ means the amount included in respect of profit or loss, before taking into account any amount of income tax, finance income, finance costs, depreciation, amortisation or impairments, excluding any amounts in respect of a qualifying long-term infrastructure project, in the ultimate consolidated financial statements of the group of which the relevant entity is a member for the period in which the relevant entity’s accounting period ends;

‘group exceeding borrowing costs’ means the amount included in respect of net finance expense, excluding any amount of finance income or finance expense in respect of a qualifying long-term infrastructure project, in the ultimate consolidated financial statements of the group of which the relevant entity is a member for the period in which the relevant entity’s accounting period ends;

‘group ratio’ means the following fraction expressed as a percentage:

$$(\text{group exceeding borrowing costs})/(\text{group EBITDA}).$$

- (2) Where a relevant entity is a single company worldwide group, group exceeding borrowing costs and group EBITDA shall be calculated on the basis of the financial statements of the relevant entity prepared under generally accepted accounting practice, adjusted such that transactions with associated enterprises are disregarded.
- (3) Where arrangements are entered into by any person and it is reasonable to consider that the main purpose or one of the main purposes of the arrangements, or any part of them, is the avoidance of the effect of the adjustment referred to in subsection (2), then that subsection shall apply as if the arrangements, or the part of them, as the case may be, had not been entered into.

Group ratio

- 835AAH.** (1) Subject to section 835AAJ(2) and (3), where the group ratio exceeds 30 per cent for an accounting period of a relevant entity, the relevant entity may make an election under this subsection.
- (2) Where a relevant entity makes an election under subsection (1), the definition of ‘allowable amount’ in section 835AY(2) shall, for the purposes of the application of this Part to the relevant entity for the

accounting period concerned, be subject to the modification that the reference in that definition to the EBITDA limit shall be construed as a reference to the group ratio of the relevant entity for that accounting period.

Equity ratio

835AAI. (1) In this section, ‘ratio of equity over total assets’ means the following fraction expressed as a percentage:

$$E/A$$

where—

E is the equity, including share capital, share premium and reserves of a relevant entity, worldwide group or single company worldwide group, and

A is the total assets, of a relevant entity, worldwide group or single company worldwide group,

in each case, as disclosed in the financial statements of the relevant entity, worldwide group or single company worldwide group, as the case may be, which are prepared under generally accepted accounting practice or an alternative body of accounting standards.

- (2) For the purpose of calculating the ratio of equity over total assets for a single company worldwide group, the amount to be included as E in the formula in subsection (1) shall be increased by an amount equal to the amount owed by the relevant entity to its associated enterprises which gives rise to deductible interest equivalent.
- (3) This section applies to a relevant entity in respect of an accounting period where—
 - (a) the relevant entity’s ratio of equity over total assets is greater than, equal to or not more than two percentage points less than the worldwide group’s ratio of equity over total assets, calculated on the basis of the ultimate consolidated financial statements relating to the period in which the relevant entity’s accounting period ends, or
 - (b) the relevant entity is a member of a single company worldwide group, the relevant entity’s ratio of equity over total assets is greater than, equal to or not more than two percentage points less than the single company worldwide group’s ratio of equity over total assets calculated on the basis of the financial statements relating to the period in which the relevant entity’s accounting period ends.
- (4) Where, in the period of 6 months prior to the end of an accounting period of a relevant entity, a scheme or arrangement is entered into which results in an increase in the amount represented by E in the

formula in subsection (1) for the relevant entity, the effect of that scheme or arrangement shall not be taken into account in calculating the relevant entity's ratio of equity over total assets for that accounting period, unless—

- (a) it is shown that the scheme or arrangement was entered into for *bona fide* commercial reasons, and
 - (b) it is not reasonable to consider that the scheme or arrangement is, or forms part of, any scheme or arrangement of which the main purpose, or one of the main purposes, is the satisfaction of paragraph (a) or (b) of subsection (3).
- (5) Where arrangements are entered into by any person and it is reasonable to consider that the main purpose, or one of the main purposes, of the arrangements, or any part of them, is the avoidance of an increase, in accordance with subsection (2), in the amount included as E in the formula in subsection (1), subsection (2) shall apply as if the arrangements, or that part of them, had not been entered into.
- (6) Subject to section 835AAJ(2) and (3), where this section applies in respect of an accounting period of a relevant entity, the relevant entity may make an election under this subsection.
- (7) Where a relevant entity makes an election under subsection (6) in respect of an accounting period, section 835AAC shall not apply to the relevant entity in respect of the accounting period.

Election

835AAJ. (1) An election under section 835AAH or 835AAI shall be made—

- (a) in such form as the Revenue Commissioners shall specify, and
 - (b) on or before the specified return date for the accounting period to which the election relates.
- (2) An election shall not be made by a relevant entity under section 835AAH and 835AAI in respect of an accounting period.
- (3) An election shall not be made by a relevant entity under section 835AAH or 835AAI in respect of an accounting period where the relevant entity is an interest group and its members include a company referred to in section 835AAK(1)(a)(ii).

Chapter 4

Application of this Part to interest groups

Interpretation (Chapter 4)

835AAK. (1) For the purposes of this Part, an 'interest group' shall comprise the companies within the charge to corporation tax in the State that—

- (a) are—

- (i) members of the same worldwide group, or
 - (ii) where not members of the same worldwide group, deemed to be members of the same group of companies under section 411,
- and
- (b) have elected to be members of the interest group.
- (2) Where a company, branch or agency, or any activities of a company, branch or agency, falls to be included in two interest groups, then the company, branch or agency shall elect to be treated as a member of one such group only for the purposes of this Part.
- (3) The election referred to in subsection (1) shall—
 - (a) apply for a period of at least three years from the beginning of the accounting period in respect of which the election is made or, if later, the date on which one of the conditions set out in subsection (1)(a) is satisfied,
 - (b) be made in such form as the Revenue Commissioners shall specify, and
 - (c) be made on or before the specified return date for the accounting period to which the election first relates.
- (4) Subsequent to the period referred to in subsection (3)(a), an election referred to in subsection (1) may be withdrawn and such withdrawal shall—
 - (a) apply for a period of at least three years from the beginning of the accounting period in respect of which the withdrawal is made,
 - (b) be made in such form as the Revenue Commissioners shall specify, and
 - (c) be made on or before the specified return date for the accounting period to which the withdrawal first relates.

Application of Part to interest group

- 835AAL.** (1) This section applies where a company is a member of an interest group.
- (2) Where a relevant entity is an interest group, section 835AAC shall apply, subject to the modification that a reference to a disallowable amount of a relevant entity shall be construed as a reference to the disallowable amount of the member of the interest group calculated or allocated, as the case may be, in accordance with subsection (6), (7) or (8), as the case may be.
 - (3) Where an amount is required to be calculated in respect of an interest group for the purposes of this Part, it shall comprise the results of all the members of the interest group.

- (4) The accounting period of an interest group shall be the accounting period which is common to more than half of the members of the interest group or, where there is no such accounting period, the accounting period of the reporting company.
- (5) Where the accounting period of a member of an interest group does not coincide with the accounting period of the interest group—
- (a) the results of such a member shall be apportioned such that the income and expenses are those which, on a just and reasonable basis, arose during the accounting period of the interest group, and
- (b) all balance sheet amounts shall be those which would be reflected in the balance sheet of the member of the interest group on the final day of the accounting period of the interest group.
- (6) Subject to subsections (7) and (8), the disallowable amount of a member of an interest group shall be calculated as follows:

$$DA_{\text{member}} = DA_{\text{group}} \times (DIE_{\text{member}} / DIE_{\text{group}})$$

where—

DA_{member} is the disallowable amount of the member of the interest group,

DA_{group} is the disallowable amount of the interest group,

DIE_{member} is the deductible interest equivalent of the member of the interest group, and

DIE_{group} is the deductible interest equivalent of the interest group.

- (7) Where a reporting company and each member of the interest group concerned jointly notify the Revenue Commissioners, in the form specified by the Revenue Commissioners for that purpose, that the disallowable amount, or a portion of the disallowable amount, of the interest group should be deemed to be the disallowable amount of a member of the interest group, the disallowable amount of that member shall be the amount so notified.
- (8) A disallowable amount allocated under subsection (7) to a member of an interest group in an accounting period shall not exceed the deductible interest equivalent of that group member for that accounting period.
- (9) Subject to subsection (10), the total spare capacity of a member of an interest group arising in an accounting period shall be calculated as follows:

$$TSC_{\text{member}} = TSC_{\text{group}} \times (TIE_{\text{member}} / TIE_{\text{group}})$$

where—

TSC_{member} is the total spare capacity of the member of the interest group,

TSC_{group} is the total spare capacity of the interest group,

TIE_{member} is the taxable interest equivalent of the member of the interest group, and

TIE_{group} is the taxable interest equivalent of the interest group.

- (10) Where a reporting company and each member of the interest group concerned jointly notify the Revenue Commissioners, in the form specified by the Revenue Commissioners for that purpose, that the total spare capacity, or a portion of the total spare capacity, of the interest group should be deemed to be the total spare capacity of a member of the interest group, the total spare capacity of that member shall be the amount so notified.
- (11) For the purposes of the application of section 835AAD or 835AAE to an interest group, a reference in the section concerned to a relevant entity shall be construed as a reference to a member of an interest group.
- (12) Where—
 - (a) an amount of total spare capacity is carried forward from a preceding accounting period by a member of an interest group, and
 - (b) the reporting company of the interest group and each member of the interest group concerned jointly notify the Revenue Commissioners, in the form specified by the Revenue Commissioners for that purpose, that the total spare capacity so carried forward, or a portion of that total spare capacity, should be reallocated to a member of the interest group,the total spare capacity so notified shall be allocated to the member of the interest group.
- (13) Subject to subsection (14), where the relevant entity is an interest group, section 835AAI shall apply subject to the modification that the relevant entity's ratio of equity over total assets shall be calculated on the basis of a consolidation of the results of the members of the interest group as if each member of the interest group had a common ultimate parent resident in the State prepared under the same body of accounting standards and same accounting policies as applies to the ultimate consolidated financial statements of the worldwide group concerned, but where a member of an interest group is a branch or agency of a company not resident in the State, then the results of that member of the interest group shall be the results of the branch or agency.
- (14) Where members of an interest group hold investments in companies

which are not members of an interest group, and such investments would, but for this subsection, be fully consolidated in the results of the members of an interest group prepared pursuant to subsection (13), those investments shall, for the purposes of subsection (13) be accounted for at cost, measured at the lower of their carrying amount and fair value less costs to sell, as if the relevant entity was a company required to prepare non-consolidated financial statements.

(15) A payment for relief shall not—

- (a) be taken into account in computing profits or losses of either the payor or the recipient of the payment for relief for corporation tax purposes, and
- (b) be regarded as a distribution or a charge on income for any of the purposes of the Corporation Tax Acts.

Interest group reporting

835AAM. (1) An interest group shall appoint a member of the group that is a chargeable person, within the meaning of Part 41A, for the purposes of this Chapter (in this Part referred to as a ‘reporting company’).

(2) Where an election has been made in accordance with section 835AAK to form an interest group, the reporting company shall make a return on behalf of the interest group on or before the specified return date for the accounting period, in the form specified by the Revenue Commissioners.

(3) The return referred to in subsection (2) may include the following details in respect of the interest group and an accounting period of the interest group:

- (a) the name and tax reference number of each member of the interest group;
- (b) EBITDA;
- (c) the allowable amount;
- (d) exceeding borrowing costs;
- (e) the disallowable amount and its allocation as amongst the members of the interest group;
- (f) total spare capacity and its allocation as amongst the members of the interest group;
- (g) in respect of amounts carried forward from prior accounting periods—
 - (i) deemed borrowing cost carried forward and its allocation as amongst the members of the interest group,
 - (ii) deemed borrowing cost utilised in the accounting period and its

- allocation as amongst the members of the interest group,
- (iii) total spare capacity carried forward and its allocation as amongst the members of the interest group, and
- (iv) total spare capacity utilised in the accounting period and its allocation as amongst the members of the interest group;
- (h) where an election is made in accordance with section 835AAH(1)—
 - (i) group exceeding borrowing costs, and
 - (ii) group EBITDA;
- (i) where an election is made in accordance with section 835AAI(6)—
 - (i) amount inserted in respect of E, for the interest group and the worldwide group, in the formula for the calculation of the ratio of equity over total assets in section 835AAI(1), and
 - (ii) amount inserted in respect of A, for the interest group and the worldwide group, in the formula for the calculation of the ratio of equity over total assets in section 835AAI(1);
- (j) where a payment for relief is made in accordance with section 835AAL(15)—
 - (i) the name and tax reference number of the payee and payor, and
 - (ii) the amount of the payment.

Chapter 5

Application of this Part

Scope of application

835AAN. This Part shall apply to an accounting period of a relevant entity commencing on or after 1 January 2022.

Order of application

835AAO. This Part shall apply after all provisions of the Tax Acts and the Capital Gains Tax Acts, other than section 811C.”.

- (4) The Principal Act is amended in Part 35C, in section 835AX, in subsection (1), by the substitution of “other than section 811C and Part 35D” for “other than section 811C”.
- (5) The Principal Act is amended in Part 41A—
 - (a) in section 959AR, by the substitution of the following subsection for subsection (4)—
 - “(4) Where as respects an accounting period, other than a relevant accounting period, of a company—
 - (a) for accounting periods other than those referred to in paragraph (b)—
 - (i) the preliminary tax paid by the chargeable person for the

accounting period in accordance with subsection (1) is less than 90 per cent of the tax payable by the chargeable person for the accounting period,

- (ii) the preliminary tax so paid by the chargeable person for the accounting period is not less than 90 per cent of the amount of tax which would be payable by the chargeable person for the accounting period if no amount were included in the company's profits for the accounting period—

- (I) in respect of chargeable gains on the disposal of assets in the part of the accounting period which is after the date by which preliminary tax for the accounting period is payable in accordance with subsection (1), or

- (II) in the case of a relevant company, in respect of profits or gains or losses accruing, and not realised, in the accounting period on financial assets or financial liabilities as are attributable to changes in value of those assets or liabilities in the part of the accounting period which is after the end of the month immediately preceding the month in which preliminary tax for the accounting period is payable in accordance with subsection (1),

and

- (iii) the chargeable person makes a further payment of preliminary tax for the accounting period within one month after the end of the accounting period and the aggregate of that payment and the preliminary tax paid by the chargeable person for the accounting period in accordance with subsection (1) is not less than 90 per cent of the tax payable by the chargeable person for the accounting period,

or

- (b) for accounting periods commencing on or after 1 January 2022 and ending on or before 31 December 2027—

- (i) the preliminary tax paid by the chargeable person for the accounting period in accordance with subsection (1) is less than 90 per cent of the tax payable by the chargeable person for the accounting period,

- (ii) the preliminary tax so paid by the chargeable person for the accounting period is not less than 90 per cent of the amount of tax which would be payable by the chargeable person for the accounting period if no amount were included in the company's profits for the accounting period, in respect of a disallowable amount (within the meaning of Part 35D),

- (iii) the chargeable person makes a further payment of preliminary

tax for the accounting period within a period of 6 months after the end of the accounting period, but where the last day of that period of 6 months is later than day 21 of the month in which it occurs, the further payment of preliminary tax for the accounting period is paid no later than—

(I) day 21 of the month in which that last day occurs, or

(II) where payment is made by such electronic means as are required by the Revenue Commissioners, day 23 of the month in which that last day occurs,

and

(iv) the aggregate of that payment and the preliminary tax paid by the chargeable person for the accounting period in accordance with subsection (1) is not less than 90 per cent of the tax payable by the chargeable person for the accounting period,

the further payment of preliminary tax paid by the chargeable person for the accounting period shall be treated for the purposes of subsection (3) as having been paid by the date by which it is due and payable.”,

and

(b) in section 959AS, by the substitution of the following subsection for subsection (7):

“(7) Where, as respects a relevant accounting period, either—

(a) for accounting periods other than those referred to in paragraph (b)—

(i) the aggregate of the initial instalment and the final instalment of preliminary tax paid by the chargeable person for the accounting period in accordance with subsection (2) is less than 90 per cent of the tax payable by the chargeable person for the accounting period,

(ii) the aggregate of the initial instalment and the final instalment of preliminary tax so paid by the chargeable person for the accounting period is not less than 90 per cent of the amount of tax which would be payable by the chargeable person for the accounting period if no amount were included in the company’s profits for the accounting period—

(I) in respect of chargeable gains on the disposal of assets in the part of the accounting period which is after the date by which the final instalment of preliminary tax for the accounting period is payable in accordance with subsection (2), or

(II) in the case of a relevant company, in respect of profits or

gains or losses accruing, and not realised, in the accounting period on financial assets or financial liabilities as are attributable to changes in value of those assets or liabilities in the part of the accounting period which is after the end of the month immediately preceding the month in which the final instalment of preliminary tax for the accounting period is payable in accordance with subsection (2),

and

- (iii) the chargeable person makes a further payment of preliminary tax for the accounting period within one month after the end of the accounting period and the aggregate of that payment and the initial instalment and final instalment of preliminary tax paid by the chargeable person for the accounting period in accordance with subsection (2) is not less than 90 per cent of the tax payable by the chargeable person for the accounting period,

or

- (b) for accounting periods commencing on or after 1 January 2022 and ending on or before 31 December 2027—

- (i) the aggregate of the initial instalment and the final instalment of preliminary tax paid by the chargeable person for the accounting period in accordance with subsection (2) is less than 90 per cent of the tax payable by the chargeable person for the accounting period,
- (ii) the aggregate of the initial instalment and the final instalment of preliminary tax so paid by the chargeable person for the accounting period is not less than 90 per cent of the amount of tax which would be payable by the chargeable person for the accounting period if no amount were included in the company's profits for the accounting period, in respect of a disallowable amount (within the meaning of Part 35D),
- (iii) the chargeable person makes a further payment of preliminary tax for the accounting period within a period of 6 months after the end of the accounting period, but where the last day of that period of 6 months is later than day 21 of the month in which it occurs, the further payment of preliminary tax for the accounting period is paid no later than—

- (I) day 21 of the month in which that last day occurs, or

- (II) where payment is made by such electronic means as are required by the Revenue Commissioners, day 23 of the month in which that last day occurs,

and

- (iv) the aggregate of the payment referred to in subparagraph (iii) and the initial instalment and final instalment of preliminary tax paid by the chargeable person for the accounting period in accordance with subsection (2) is not less than 90 per cent of the tax payable by the chargeable person for the accounting period,

the final instalment of preliminary tax paid by the chargeable person for the accounting period shall be treated for the purposes of subsection (4) as having been paid by the date on which it is due and payable.”.

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

32. Section 481 of the Principal Act is amended, in subsection (1), in the definition of “eligible expenditure”—

- (a) by the substitution, in paragraph (a), of “the film,” for “the film, and”,
- (b) by the substitution, in paragraph (b), of “subsection (2E), and” for “subsection (2E);”, and
- (c) by the insertion of the following paragraph after paragraph (b):

“(c) directly by the qualifying company concerned on the provision of labour only services by an individual (not being an eligible individual) for the purposes of the production of the film;”.

Digital games relief

33. (1) The Principal Act is amended by the insertion of the following section after section 481:

“Relief for investment in digital games

481A. (1) In this section—

‘date of completion’, in relation to a qualifying digital game, means the date on which the game is first made available to the public or, where the game is commissioned by an undertaking other than the digital games development company, the date on which the game is first provided by the digital games development company to the undertaking and ‘completed’ shall be construed accordingly;

‘digital game’ means a game which—

- (a) integrates digital technology,
- (b) incorporates not less than three of the following classes of information, in digital form:
 - (i) text;
 - (ii) sound;
 - (iii) still images;

- (iv) animated images,
- (c) is capable of being published on an electronic medium, and
- (d) is controlled by software enabling the person playing the game to interact fully with the dynamics of the game, including by providing feedback to the person, enabling control over elements of the game by the person and allowing the person to adapt elements of the game;

‘digital games development company’ means a company that—

- (a) is resident in the State, or is resident in a European Economic Area (EEA) state other than the State and carries on business in the State through a branch or agency,
- (b) carries on a trade of developing digital games that are wholly or principally to be made available to the public on a commercial basis with a view to the realisation of profit,
- (c) has delivered to the Collector-General a return, in accordance with section 959I, in respect of—
 - (i) the accounting period referred to in paragraph (a) of the definition of ‘qualifying period’, or
 - (ii) each accounting period ending in the qualifying period, referred to in paragraph (b) of that definition,as the case may be, and
- (d) is not, or is not part of, an undertaking which would be regarded as an undertaking in difficulty;

‘digital games corporation tax credit’, in relation to a qualifying digital game, means an amount equal to 32 per cent of the lowest of—

- (a) the eligible expenditure,
- (b) 80 per cent of the qualifying expenditure, and
- (c) €25,000,000;

‘eligible digital game’ means a digital game which is—

- (a) developed on a commercial basis with a view to the realisation of profit,
- (b) wholly or mainly to be made available to the public,
- (c) an exempted work (within the meaning of the Video Recordings Act 1989), and
- (d) which is not produced solely or mainly—
 - (i) as part of a promotional campaign or advertising for a specific product or undertaking, or

- (ii) as a game of skill or chance for a prize comprising money or money's worth;

'eligible expenditure' means the portion of the qualifying expenditure that is expended on the development of the digital game in the State or the EEA;

'final certificate' shall be construed in accordance with subsection (9);

'interim certificate' shall be construed in accordance with subsection (4);

'interim digital game' means a digital game in respect of which—

- (a) an interim certificate has been issued, and
- (b) no final certificate has been issued;

'interim digital games corporation tax credit', in relation to an interim digital game, means an amount incurred in an accounting period equal to 32 per cent of the lowest of—

- (a) the eligible expenditure amount,
- (b) 80 per cent of the qualifying expenditure, and
- (c) €25,000,000;

'qualifying digital game' means a digital game in respect of which the Minister has issued a final certificate;

'qualifying expenditure', in relation to an interim digital game or a qualifying digital game, is expenditure incurred by the digital games development company on the design, production and testing of a digital game;

'qualifying period', in relation to digital games corporation tax credit means—

- (a) the accounting period of the digital games development company, in respect of which the specified return date for the chargeable period, within the meaning of section 959A, immediately precedes the date the claim referred to in subsection (19) or subsection (20), as the case may be, was made, or
- (b) where the accounting period referred to in paragraph (a) is a period of less than 12 months, the period—
 - (i) commencing on the date on which the most recently commenced accounting period, which commences on or before the date which is 12 months before the end of the accounting period referred to in paragraph (a), commences, and
 - (ii) ending on the date the accounting period referred to in paragraph (a) ends,

and references in subsections (22) and (23) to corporation tax and in

subsection (23) to corporation tax paid shall be construed accordingly;

‘Rescuing and Restructuring Guidelines’ means the Communication of the Commission on Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty⁴;

‘specified amount’ has the meaning assigned to it by subsection (23);

‘the Minister’ means the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media;

‘undertaking’ means the relevant economic unit that would be regarded as an undertaking for the purposes of the Rescuing and Restructuring Guidelines;

‘undertaking in difficulty’ shall be construed in accordance with section 2.2 of the Rescuing and Restructuring Guidelines.

- (2) Subject to the provisions of this section, a digital games development company may make an application to the Minister—
 - (a) in relation to a digital game that is to be developed by the company, for the issue by the Minister of an interim certificate, or
 - (b) in relation to a digital game that is developed and completed by the company, for the issue by the Minister of a final certificate.
- (3) An application for an interim or final certificate under subsection (2) shall be in a form approved by the Minister for that purpose and shall contain such information as may be specified in regulations made under subsection (17).
- (4) The Minister may, following an application by a digital games development company under subsection (2)(a), subject to subsection (5) and in accordance with regulations made under subsection (17), issue to the digital games development company a certificate (in this section referred to as an ‘interim certificate’) stating—
 - (a) that the certificate is an interim certificate,
 - (b) that the digital game is to be treated as an interim digital game for the purposes of this section, and
 - (c) the expiry date of the interim certificate.
- (5) In considering whether to issue the interim certificate referred to in subsection (4), the Minister shall have regard to—
 - (a) whether the digital game as proposed is likely to be an eligible digital game when completed, and
 - (b) the contribution which the development of the digital game is expected to make to the promotion and expression of Irish and European culture, by reference to the following:

⁴ OJ No. C249, 31.7.2014, p. 1

- (i) the cultural content of the game, including its setting, principal characters, language and subject matter;
 - (ii) any cultural creativity employed in the development of the game, including innovation in the portrayal of Irish or European culture, the use of materials written or created in Ireland or Europe as the basis for the game, technological innovation or the use of music created by a composer who is a national of or ordinarily resident in Ireland or another EEA state;
 - (iii) the contribution of the game to the development of a concentration of cultural activity, by reference to such matters as the proportion of the creative work carried out in Ireland or another EEA state, the number of key positions in the development of the game occupied by persons who are nationals of or ordinarily resident in Ireland or another EEA state, and the proportion of the members of the development team who are nationals of or ordinarily resident in Ireland or another EEA state;
 - (iv) the concomitant cultural contribution of the game, by reference to matters including the educational content of games aimed at children and the inclusion of themes relating to diversity and equality;
 - (v) whether the content of the game promotes the protection, restoration and promotion of sustainable use of Irish or European terrestrial ecosystems or the raising of awareness of the exigencies of increasing environmental sustainability and minimising climate change.
- (6) Where an interim certificate is issued, the Minister, having regard to the criteria specified in subsection (5), shall specify in the interim certificate such conditions, as the Minister may consider proper, including conditions—
- (a) in relation to the employment-related responsibilities of the digital games development company in the development of that digital game, or
 - (b) in relation to, in respect of the Communication from the Commission (2013/C 332/01)⁵, the maximum aid intensity.
- (7) The Minister may amend or revoke any condition (including a condition added by virtue of this subsection) specified in an interim certificate, or add to such conditions, by giving notice in writing to the digital games development company concerned of the amendment, revocation or addition, as the case may be, and this section shall apply as if—

5 OJ No. C332, 15.11.2013, p. 1

- (a) a condition so amended or added by the notice was specified in the interim certificate, and
 - (b) a condition so revoked was not specified in the interim certificate.
- (8) On the expiry of an interim certificate, the interim certificate will cease to have effect and is treated as never having had effect—
 - (a) an application has been made in advance of the expiry date to the Minister under subsection (2)(b), and
 - (b) on the determination of the application, a final certificate is issued by the Minister.
- (9) The Minister may, following an application by a digital games development company under subsection (2)(b), subject to subsection (10) and in accordance with regulations made under subsection (17), issue to the digital games development company a certificate (in this section referred to as a ‘final certificate’) stating—
 - (a) that the certificate is a final certificate, and
 - (b) that the digital game is to be treated as a qualifying digital game for the purposes of this section.
- (10) In considering whether to issue a final certificate, the Minister shall have regard to the following criteria—
 - (a) whether the digital game as completed is an eligible digital game,
 - (b) the contribution which the digital game makes to the promotion and expression of Irish or European culture, by reference to the matters referred to in subparagraphs (i) to (v) of subsection (5)(b), and
 - (c) where an interim certificate has been issued in respect of the digital game, whether the conditions specified in the interim certificate have been satisfied.
- (11) Where a final certificate is issued, the Minister, having regard to the criteria specified in subsection (10), shall specify in the final certificate such conditions, as the Minister may consider proper, including a condition—
 - (a) in relation to the employment-related responsibilities of the digital games development company for the development of that digital game, and
 - (b) in relation to, in respect of the Communication from the Commission (2013/C 332/01), the maximum aid intensity.
- (12) The Minister may amend or revoke any condition (including a condition added by virtue of this paragraph) specified in a final certificate, or add to such conditions, by giving notice in writing to the digital games development company concerned of the amendment,

revocation or addition, as the case may be, and this section shall apply as if—

- (a) a condition so amended or added by the notice was specified in the final certificate, and
 - (b) a condition so revoked was not specified in the final certificate.
- (13) A digital games development company shall not make a claim for an interim digital games corporation tax credit under subsection (19) or a digital games corporation tax credit under subsection (20) where—
- (a) there has not been issued to the digital games development company either an interim certificate, as respects claims made under subsection (19), or a final certificate, as respects claims made under subsection (20), by the Minister in respect of the digital game concerned,
 - (b) as respects claims made under subsection (19), the interim certificate has expired,
 - (c) the digital games development company, any company controlled by the digital games development company and each person who is either the beneficial owner of, or able directly or indirectly to control, more than 15 per cent of the ordinary share capital of the digital games development company (in this paragraph referred to as a ‘relevant person’), as the case may be, is not in compliance with all of the obligations imposed by the Tax Acts, the Capital Gains Tax Acts or the Value-Added Tax Consolidation Act 2010 in relation to—
 - (i) the payments or remittances of taxes, interest or penalties required to be paid or remitted under those Acts,
 - (ii) the delivery of returns, and
 - (iii) requests to supply to an officer of the Revenue Commissioners accounts of, or other information about, any business carried on, by the digital games development company, or relevant person, as the case may be,
 - (d) as respects a claim made under subsection (20), the qualifying expenditure amount is less than €100,000,
 - (e) the digital games development company is an undertaking in difficulty, or
 - (f) any company in an undertaking of which the digital games development company is part is subject to an outstanding recovery order following a previous decision of the European Commission that declared an aid illegal and incompatible with the internal market.

- (14) A digital games development company shall not make a claim for an interim digital games corporation tax credit under subsection (19) or a digital games corporation tax credit under subsection (20) where—
- (a) it would be reasonable to consider that any particular item of expenditure in the claim is inflated,
 - (b) the company has obtained relief under Part 29 in respect of the expenditure,
 - (c) the company has obtained relief under section 481 in respect of the expenditure,
 - (d) the expenditure has been met directly or indirectly by grant assistance or any other assistance which is granted by or through—
 - (i) the State or another Member State of the European Union,
 - (ii) any board established by statute, any public or local authority or any other agency of the State or another relevant Member State or an institution, office, agency or other body of the European Union, or
 - (iii) a state, other than the State or a Member State referred to in subparagraph (i), and any board, authority, institution, office, agency or other body in such state,
 - (e) there is no commercial rationale for the corporate structure of the digital games development company—
 - (i) for the development, financing, distribution or sale of the digital game, or
 - (ii) for all of the purposes referred to in subparagraph (i),
 - (f) the corporate structure of the digital games development company would hinder the Revenue Commissioners in verifying compliance with any of the provisions governing the relief, or
 - (g) prior to making a claim, the company does not have such information and records as the Revenue Commissioners may reasonably require for the purposes of determining whether that claim complies with this section.
- (15) In carrying out their functions under this section, the Revenue Commissioners may—
- (a) consult with any person, agency or body of persons, as in their opinion may be of assistance to them,
 - (b) notwithstanding any obligation as to secrecy or other restriction on the disclosure of information imposed by, or under, the Tax Acts or any other statute or otherwise, disclose any detail in an application or claim of a digital games development company under this

section which they consider necessary for the purposes of such consultation, and

- (c) where they have reason to believe that financial arrangements have been entered into in contravention of subsection (16)(a), the Revenue Commissioners may seek any information they consider appropriate in relation to the arrangements or in relation to any person who is, directly or indirectly, a party to the arrangements.

(16) A company shall not be regarded as a digital games development company in respect of an interim digital game or a qualifying digital game for the purposes of this section—

- (a) where the financial arrangements which the company enters into in relation to the interim digital game or the qualifying digital game are—

- (i) financial arrangements of any type with a person resident, registered or operating in a territory other than—

- (I) a Member State of the European Communities, or

- (II) a territory with the government of which, arrangements having the force of law by virtue of section 826(1), have been made,

or

- (ii) financial arrangements under which funds are channelled, directly or indirectly, to, or through, a territory other than a territory referred to in clause (I) or (II) of subparagraph (i),

other than where—

- (A) those arrangements relate to the development of part of the interim digital game or the qualifying digital game in a territory other than a territory referred to in clause (I) or (II) of subparagraph (i),

- (B) the digital games development company has sufficient records to enable the Revenue Commissioners to verify, in the case of development of an interim digital game or a qualifying digital game in such a territory, the amount of each item of expenditure on the development of the interim digital game or the qualifying digital game expended in the territory, whether expended by the digital games development company or by any other person, and

- (C) the digital games development company has such records in place to substantiate such expenditure in advance of making a claim under either or both of subsection (19) and subsection (20),

- (b) without prejudice to the generality of section 886, where the

company fails to provide, when requested to do so by the Revenue Commissioners, for the purposes of verifying compliance with the provisions governing the relief or with any condition specified in a certificate issued by the Minister under subsection (4) or subsection (9), evidence to vouch each item of expenditure in the State or elsewhere on the development of the interim digital game and the qualifying digital game, whether expended by the digital games development company or by any other person engaged, directly or indirectly, by the digital games development company to provide goods, services or facilities in relation to such development and, in particular, such evidence shall include—

- (i) records required to be kept or retained by the digital games development company by virtue of section 886, and
 - (ii) records, in relation to the development of the interim digital game and the qualifying digital game, required to be kept or retained by that other person by virtue of section 886, or which would be so required if that other person were subject to the provisions of that section,
- (c) in relation to a claim under subsection (20), where the company fails to provide, when requested to do so by the Revenue Commissioners, for the purposes of verifying compliance with the provisions governing the relief or with any condition specified in a certificate issued by the Minister under subsection (9), a copy of the digital game in such format and manner required under paragraph (d)(ii),
- (d) where the company, within such time as is specified in the regulations made under subsection (17)—
- (i) fails to notify the Minister in writing of the date of completion of the development of the qualifying digital game, and
 - (ii) fails to provide to the Minister a copy of the completed digital game in such format and manner as may be specified in those regulations,
- (e) unless the company makes a claim under subsection (20), within the time referred to in paragraph (d), and has available, prior to making that claim, a compliance report, in such format and manner as is specified in the regulations made under subsection (17), which provides proof that—
- (i) the provisions of this section in so far as they apply in relation to the company have been met,
 - (ii) where an interim certificate has been issued to the company in relation to an interim digital game, any conditions attaching to the interim certificate have been fulfilled, and

(iii) any conditions attaching to the final certificate issued to the company in relation to a qualifying digital game have been fulfilled,

or

(f) where the company ceases to carry on the trade referred to in paragraph (b) of the definition of ‘digital games development company’ before a time which is 12 months after the date referred to in paragraph (d).

(17) The Revenue Commissioners, with the consent of the Minister for Finance and, in relation to the matters specified in paragraphs (a) to (d), with the consent of the Minister, shall make regulations with respect to the administration by the Revenue Commissioners of the relief under this section and, without prejudice to the generality of the foregoing, regulations under this subsection may include provisions—

- (a) governing the application for interim certification or final certification, the timing of such applications, and the information and documents to be provided in or with such applications,
- (b) the information required to be included in the application made to the Minister by a digital games development company,
- (c) specifying the time within which a digital games development company shall notify the Minister of the date of completion of the development of a qualifying digital game,
- (d) specifying the time within which, and the format, number of copies and manner in which, a qualifying digital game shall be provided to the Minister,
- (e) governing the records that a digital games development company shall maintain or provide to the Revenue Commissioners,
- (f) governing the period for which, and the place at which, such records shall be maintained,
- (g) specifying the form and content of the compliance report that must be available in accordance with subsection (16)(e), the manner in which such report shall be made and verified, and the documents to accompany the report,
- (h) specifying the type of expenditure which may be treated as qualifying or eligible expenditure on the development of an interim digital game or a qualifying digital game,
- (i) specifying the currency exchange rate to be applied to expenditure on the development of an interim digital game or a qualifying digital game,
- (j) governing financial arrangements in accordance with subsection

(16)(a), and

- (k) governing the payment of the specified amount by the Revenue Commissioners to the digital games development company.
- (18) The Revenue Commissioners shall, for the purpose of making regulations under subsection (17) in relation to the matter referred to in paragraph (h) of that subsection have regard to—
- (a) whether the type of expenditure relates to design, production or testing and the stage of development of the game in which the expenditure is incurred,
 - (b) whether the type of expenditure is directly related to design, production and testing, and
 - (c) the extent to which the type of expenditure is incurred directly by the digital games development company on design, production or testing.
- (19) Where the Minister has issued an interim certificate in relation to an interim digital game to a digital games development company and the provisions of this section have been complied with, a digital games development company may, in advance of the date of completion, make a claim for the interim digital games corporation tax credit where—
- (a) the claim is made within 12 months of the end of the accounting period in which the expenditure giving rise to the claim is incurred,
 - (b) the interim certificate has not expired, and
 - (c) the aggregate of all claims made pursuant to the interim certificate does not exceed 32 per cent of €25,000,000.
- (20) Where the Minister has issued a final certificate in relation to a qualifying digital game to a digital games development company and the provisions of this section have been complied with, a digital games development company may make a claim for the digital games corporation tax credit, less the amount, if any, already claimed in respect of the qualifying digital game under subsection (19).
- (21) A claim under subsection (19) or (20) shall be made in the return required under Part 41A, the specified return date of which immediately precedes the making of the claim.
- (22) Where a digital games development company makes a claim under subsection (19) or (20), the corporation tax of the company, for the qualifying period, shall be reduced by so much of an amount equal to the interim digital games corporation tax credit or the digital games corporation tax credit, as the case may be, as does not exceed that corporation tax and where the qualifying period is a period referred to in paragraph (b) of the definition of ‘qualifying period’, the

corporation tax of an earlier accounting period shall be reduced in priority to the corporation tax of a later accounting period.

- (23) Subject to subsection (31), where a digital games development company has made a claim under subsection (19) or (20), and the amount of the credit exceeds the corporation tax of the qualifying period, as reduced by the corporation tax paid by the company in respect of that period, but before any reduction under subsection (22), the excess (in this section referred to as the ‘specified amount’) shall be paid to the digital games development company by the Revenue Commissioners.
- (24) An amount payable by the Revenue Commissioners to a digital games development company under subsection (23) shall be deemed to be an overpayment of corporation tax, for the purposes only of section 960H(2).
- (25) A claim in respect of a specified amount shall be deemed, for the purposes of section 1077F, to be a claim in connection with a credit and, for the purposes of determining an amount in accordance with section 1077F(3) or 1077F(5), a reference to an amount of tax that would have been payable for the relevant periods by the person concerned shall be read as if it were a reference to a specified amount.
- (26) Where the Revenue Commissioners have paid a specified amount to a digital games development company and it is subsequently found that payment of all or part of the amount is not authorised by this section (in this section referred to as the ‘unauthorised amount’), then—
- (a) the company,
 - (b) any director of the company, or
 - (c) any person referred to in subsection (13)(c),
- may be charged to tax under Case IV of Schedule D for the accounting period, or year of assessment, as the case may be, in respect of which the payment was made, in an amount equal to—
- (i) in the case of a company, 4 times, and
 - (ii) in the case of an individual, one hundred fortieths,
- of so much of the specified amount as is not so authorised.
- (27) The circumstances in which an unauthorised amount arises shall include any circumstances where the amount was claimed under either or both subsection (19) and subsection (20), or paid in accordance with subsection (23) and—
- (a) the company made a claim contrary to either or both subsection (19) and subsection (20), or
 - (b) the digital games development company—

- (i) fails to satisfy or comply with any condition or obligation under this section or regulations made under this section,
 - (ii) fails to satisfy or comply with any condition or obligation specified in a certificate, or
 - (iii) at any time on or before the time referred to in subsection (16)(f) fails to comply with any of the obligations referred to in subsection (13)(c).
- (28) Where, in accordance with subsection (26), an assessment is made or amended in respect of a specified amount, the amount so charged shall for the purposes of section 1080 be deemed to be tax due and payable and shall carry interest as determined in accordance with subsection (2)(c) of section 1080 as if a reference to the date when the tax became due and payable were a reference to the date the amount was paid by the Revenue Commissioners.
- (29) Notwithstanding section 851A, where a digital games development company is in receipt of relief from tax under this section, the Revenue Commissioners may disclose the following taxpayer information in accordance with State aid transparency requirements:
- (a) the name of the company;
 - (b) the name of the digital game;
 - (c) the number of the certificate of incorporation of the company;
 - (d) in respect of the principal activity carried on by the company, the NACE classification code, as determined in accordance with Regulation (EC) No. 1893/2006 of the European Parliament and of the Council of 20 December 2006⁶ establishing the statistical classification of economic activities NACE Revision 2 and amending Council Regulation (EEC) No. 3037/90 as well as certain EC Regulations on specific statistical domains;
 - (e) the amount of interim digital games corporation tax credit or digital games corporation tax credit, as the case may be, granted, by reference to ranges set out in page 30, paragraph 166(vi) of the Guidelines on State Aid to Promote Risk Finance⁷, inserted by Communication from the Commission (2014/C 198/02)⁸;
 - (f) whether the company is—
 - (i) a category of enterprise referred to in Article 2.1 of Annex 1 to Commission Regulation (EU) No. 651/2014 of 17 June 2014⁹, or
 - (ii) a category of enterprise which is larger than the categories of

6 OJ No. L393, 30.12.2006, p. 1

7 OJ No. C19, 22.1.2014, p. 4

8 OJ No. C198, 27.6.2014, p. 30

9 OJ No. L187, 26.6.2014, p. 70

enterprise referred to in subparagraph (i);

- (g) the territorial unit, within the meaning of the NUTS Level 2 classification specified in Annex 1 to Regulation (EC) No. 1059/2003 of the European Parliament and of the Council of 26 May 2003¹⁰ amended by Regulation (EC) No. 1888/2005 of the European Parliament and of the Council of 26 October 2005¹¹, Commission Regulation (EC) No. 105/2007 of 1 February 2007¹², Regulation (EC) No. 176/2008 of the European Parliament and of the Council of 20 February 2008¹³, Regulation (EC) No. 1137/2008 of the European Parliament and of the Council of 22 October 2008¹⁴, Commission Regulation (EU) No. 31/2011 of 17 January 2011¹⁵, Council Regulation (EU) No. 517/2013 of 13 May 2013¹⁶, Commission Regulation (EU) No. 1319/2013 of 9 December 2013¹⁷, Commission Regulation (EU) No. 868/2014 of 8 August 2014¹⁸, Commission Regulation (EU) No. 2066/2016 of 21 November 2016¹⁹, Regulation (EU) 2017/2391 of the European Parliament and of the Council of 12 December 2017²⁰, and Commission Delegated Regulation 2019/1755 of 8 August 2019²¹, in which the company is located;
 - (h) the date on which the interim digital games corporation tax credit or digital games corporation tax credit, as the case may be, is granted.
- (30) In relation to information provided to the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media by a company for the purposes of obtaining an interim or final certificate under this section, the Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media, in processing such information, shall, for the purposes of section 851A, be deemed to be engaged as a service provider with respect to the administration of this section.
- (31) The Revenue Commissioners shall not pay a specified amount to a digital games development company in respect of an interim or final certificate issued after 31 December 2025.
- (32) Every regulation made under this section shall be laid before Dáil Éireann as soon as may be after it is made and, if a resolution annulling the regulation is passed by Dáil Éireann within the next 21 days on which Dáil Éireann has sat after the regulation is laid before

10 OJ No. L154, 21.6.2003, p. 1
 11 OJ No. L309, 25.11.2005, p. 1
 12 OJ No. L39, 10.2.2007, p. 1
 13 OJ No. L61, 5.3.2008, p. 1
 14 OJ No. L311, 21.11.2008, p. 1
 15 OJ No. L13, 18.1.2011, p. 3
 16 OJ No. L158, 10.6.2013, p. 1
 17 OJ No. L342, 18.12.2013, p. 1
 18 OJ No. L241, 13.8.2014, p. 1
 19 OJ No. L322, 29.11.2016, p. 1
 20 OJ No. L350, 29.12.2017, p. 1
 21 OJ No. L270, 24.10.2019, p. 1

it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.”.

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

Amendment of section 486C of Principal Act (relief from tax for certain start-up companies)

34. Section 486C of the Principal Act is amended—

- (a) in subsection (1)(a), by the substitution of the following definition for the definition of “relevant period”:

“ ‘relevant period’, in relation to a qualifying trade, means the period beginning on the day the company commences to carry on the qualifying trade and ending—

- (i) 5 years after that date where the company commences to carry on the qualifying trade on or after 1 January 2018, or
- (ii) 3 years after that date in all other cases;”,

and

- (b) in subsection (2)(a), by the substitution of “31 December 2026” for “31 December 2021”.

Amendment of Part 35B of Principal Act (implementation of Articles 7 and 8 of Council Directive (EU) 2016/1164 of 12 July 2016 (controlled foreign companies))

35. Part 35B of the Principal Act is amended by the substitution of the following section for section 835YA:

“835YA. (1) In this section, ‘listed territory’ means—

- (a) in relation to an accounting period beginning on or after 1 January 2021 but before 1 January 2022, a territory included in Annex 1 of the Council conclusions on the revised EU list of non-cooperative jurisdictions for tax purposes²², as replaced by the EU list of non-cooperative jurisdictions for tax purposes Report by the Code of Conduct Group (business taxation) suggesting amendments to the Annexes to the Council conclusions of 18 February 2020²³,
- (b) in relation to an accounting period beginning on or after 1 January 2022, a territory included in Annex 1 of the Council conclusions on the revised EU list of non-cooperative jurisdictions for tax purposes²⁴.

- (2) Where, in an accounting period of a controlled foreign company, the

²² OJ No. C64, 27.2.2020, p. 8

²³ OJ No. C331, 7.10.2020, p. 3

²⁴ OJ No. C413I, 12.10.2021, p. 1

territory in which the controlled foreign company is resident is a listed territory, sections 835T, 835U and 835V shall not apply in respect of that accounting period.”.

Amendment of section 840A of Principal Act (interest on loans to defray money applied for certain purposes)

36. Section 840A of the Principal Act is amended—

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

“ ‘loan’ includes a promissory note and any other agreement or arrangement having a similar effect;”,

and

(b) by the substitution of the following subsection for subsection (2):

“(2) Subject to subsections (3), (6), (7) and (8), in computing the amount of the profits or gains to be charged to corporation tax under Schedule D, no sum shall be deducted in respect of—

(a) any interest payable on a loan to a company (in this section referred to as the ‘investing company’) used in acquiring assets from a company which, at the time of the acquiring of the assets, was connected with the investing company, where the loan is made to the investing company by a person who is connected with the investing company, or

(b) any interest payable on any form of refinancing of a loan referred to in paragraph (a).”.

CHAPTER 6

Capital Gains Tax

Amendment of section 604 of Principal Act (disposals of principal private residence)

37. Section 604 of the Principal Act is amended by the insertion of the following subsection after subsection (14):

“(15) (a) This subsection applies where an individual disposes of or of an interest in an asset (being an asset within subsection (2) or (11)) by way of a lottery or game with prizes and the proceeds of the lottery or game exceed the market value of the asset on the date of the disposal.

(b) Where this subsection applies, the consideration for the purposes of computing any chargeable gain accruing on the disposal referred to in paragraph (a) shall be the whole of the proceeds of the lottery or game referred to in paragraph (a) or, where there is more than one prize, so much of those proceeds as

are referable to the asset referred to in paragraph (a).

(c) Where—

(i) a gain accrues to an individual on a disposal referred to in paragraph (a), and

(ii) apart from this subsection relief would be given under this section in respect of the disposal referred to in paragraph (a),

then that relief shall be given in respect of the gain only to the extent (if any) to which such relief would be given if, in computing the chargeable gain accruing on the disposal, there were excluded from the computation—

(I) the amount by which the consideration for the disposal of the asset exceeds the market value of the asset on the date of the disposal, and

(II) such proportion of the incidental costs to the individual of the disposal as would be referable to the amount referred to in clause (I).”.

Transfers arising from certain mergers under Companies Act 2014

38. Chapter 1 of Part 20 of the Principal Act is amended by the insertion of the following section after section 617:

“617A. The transfer of all the assets and liabilities of a company which is a wholly owned subsidiary of another company (in this section referred to as the ‘parent company’) to the parent company as a consequence of a merger by absorption to which Chapter 3 of Part 9 of, or Chapter 16 of Part 17 of, the Companies Act 2014 applies shall not be treated as involving a disposal by the parent company of the share capital which it held in the subsidiary company immediately before the merger.”.

Amendment of section 630 of Principal Act (interpretation (Part 21))

39. Section 630 of the Principal Act is amended by the substitution of the following definition for the definition of “transfer”:

“ ‘transfer’ means the transfer by a company (other than a transfer referred to in section 633D) of the whole or part of its trade in the circumstances set out in section 631(1) or 634(2), as the case may be;”.

PART 2

EXCISE

Rates of tobacco products tax

40. The Finance Act 2005 is amended with effect as on and from 13 October 2021 by the substitution of the following Schedule for Schedule 2:

“SCHEDULE 2

RATES OF TOBACCO PRODUCTS TAX

(With effect as on and from 13 October 2021)

Description of Product	Rate of Tax
Cigarettes	Rate of tax at— (a) except where paragraph (b) applies, €383.42 per thousand together with an amount equal to 8.83 per cent of the price at which the cigarettes are sold by retail, or (b) €434.19 per thousand in respect of cigarettes sold by retail where the rate of tax would be less than that rate had the rate been calculated in accordance with paragraph (a).
Cigars	Rate of tax at €434.496 per kilogram.
Fine-cut tobacco for the rolling of cigarettes	Rate of tax at €418.010 per kilogram.
Other smoking tobacco....	Rate of tax at €301.434 per kilogram.

”.

Amendment of Chapter 1 of Part 2 of Finance Act 1999 (mineral oil tax)

41. The Finance Act 1999 is amended—

- (a) in section 94, in subsection (3A), by the deletion of “, save where the reference occurs in subsections (1) and (5)(c) of section 99A”, and
- (b) in section 99A(1), in the definition of “qualifying motor vehicle”, by the substitution of the following paragraph for paragraph (b):

“(b) a motor vehicle designed and constructed for the carriage of passengers by road, and falling within Category M2 or Category M3 referred to in Article 4(1)(a) of Regulation (EU) 2018/858 of the European Parliament and of the Council of 30 May 2018²⁵;”.

25 OJ No. L151, 14.6.2018, p.1

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

42. The Finance Act 1999 is amended with effect as on and from 1 April 2022 by the substitution of the following Schedule for Schedule 2:

“SCHEDULE 2**RATES OF MINERAL OIL TAX**

With effect as on and from:	Light Oil:		Heavy Oil:						Liquefied Petroleum Gas:		Vehicle gas:
	Rates per 1,000 litres		Rates per 1,000 litres						Rates per 1,000 litres		Rate per megawatt hour at gross calorific value
	Petrol	Aviation gasoline	Used as a propellant	Used for air navigation	Used for private pleasure navigation	Kerosene used other than as a propellant	Fuel oil	Other heavy oil	Used as a propellant	Other liquefied petroleum gas	
1 April 2022	€628.58	€628.58	€527.33	€527.33	€527.33	€84.84	€118.01	€138.17	€118.27	€54.68	€9.36
1 May 2022	€628.58	€628.58	€527.33	€527.33	€527.33	€103.83	€141.12	€158.50	€130.52	€66.93	€9.36
12 October 2022	€654.07	€654.07	€555.53	€555.53	€555.53	€103.83	€141.12	€158.50	€130.52	€66.93	€9.36
1 May 2023	€654.07	€654.07	€555.53	€555.53	€555.53	€122.83	€164.23	€178.83	€142.76	€79.17	€9.36
11 October 2023	€671.43	€671.43	€575.61	€575.61	€575.61	€122.83	€164.23	€178.83	€142.76	€79.17	€9.36
1 May 2024	€671.43	€671.43	€575.61	€575.61	€575.61	€141.82	€187.34	€199.17	€155.01	€91.42	€10.13
9 October 2024	€688.78	€688.78	€595.68	€595.68	€595.68	€141.82	€187.34	€199.17	€155.01	€91.42	€10.13
1 May 2025	€688.78	€688.78	€595.68	€595.68	€595.68	€160.81	€210.45	€219.50	€167.25	€103.66	€11.48
8 October 2025	€706.14	€706.14	€615.76	€615.76	€615.76	€160.81	€210.45	€219.50	€167.25	€103.66	€11.48
1 May 2026	€706.14	€706.14	€615.76	€615.76	€615.76	€179.81	€233.57	€239.83	€179.49	€115.90	€12.84
14 October 2026	€723.49	€723.49	€635.83	€635.83	€635.83	€179.81	€233.57	€239.83	€179.49	€115.90	€12.84
1 May 2027	€723.49	€723.49	€635.83	€635.83	€635.83	€198.80	€256.68	€260.16	€191.74	€128.15	€14.20
13 October 2027	€740.85	€740.85	€655.90	€655.90	€655.90	€198.80	€256.68	€260.16	€191.74	€128.15	€14.20
1 May 2028	€740.85	€740.85	€655.90	€655.90	€655.90	€217.80	€279.79	€280.49	€203.98	€140.39	€15.56
11 October 2028	€758.21	€758.21	€675.98	€675.98	€675.98	€217.80	€279.79	€280.49	€203.98	€140.39	€15.56
1 May 2029	€758.21	€758.21	€675.98	€675.98	€675.98	€236.79	€302.90	€300.83	€216.23	€152.64	€16.91
10 October 2029	€773.25	€773.25	€693.38	€693.38	€693.38	€236.79	€302.90	€300.83	€216.23	€152.64	€16.91
1 May 2030	€773.25	€773.25	€693.38	€693.38	€693.38	€253.25	€322.93	€318.45	€226.84	€163.25	€18.09

”.

Amendment of Chapter 1 of Part 2 of Finance Act 2003 (alcohol products tax)

43. The Finance Act 2003 is amended—

(a) in section 73, in subsection (1)—

(i) by the deletion of the definition of “CN Code”, and

(ii) by the substitution of the following definition for the definition of “Directive”:

“ ‘Directive’ means Council Directive 92/83/EEC of 19 October 1992²⁶, as amended by Council Directive (EU) 2020/1151 of 29 July 2020²⁷;”,

(b) in section 77—

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

“(c) to have been used as part of the manufacturing process of any product not for human consumption, where the alcohol has been denatured in accordance with the requirements of any Member State applicable to that use, and such denatured alcohol—

(i) has been incorporated into the product concerned, or

(ii) is used for maintenance and cleaning of the manufacturing equipment used for the manufacturing process concerned,”

and

(ii) by the substitution of the following paragraph for paragraph (d):

“(d) to have been completely denatured in accordance with the requirements of another Member State, where it has been released for consumption, where such requirements have been notified to the European Commission and accepted in accordance with paragraphs 3 and 4 of Article 27 of the Directive,”

and

(c) by the insertion of the following section after section 78A:

“Certification of small producers

78B. (1) A producer of alcohol products established in the State—

(a) availing of relief under section 78A in the State, or

(b) availing of reduced rates of duty in accordance with Article 4, 9a, 13a, 18a or 22 of the Directive in another Member State,

shall, in accordance with such conditions as the Commissioners may prescribe, provide declarations as to—

(i) the compliance of the producer with the criteria set out in Article 4, 9a, 13a, 18a or 22 of the Directive, as may be applicable, and

(ii) the total annual production of the producer in the previous year.

(2) A consignor of alcoholic products referred to in subsection (1) shall

²⁶ OJ No. L316, 31.10.1992, p.21

²⁷ OJ No. L256, 5.8.2020, p.1

ensure that the declarations referred to in that subsection are made in the electronic administrative document (within the meaning of Chapter 2A of Part 2 of the Finance Act 2001) or the simplified accompanying document (within the meaning of Part 2 of the Finance Act 2001), as the case may be, relating to the consignment of those products.”.

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

44. Section 78A of the Finance Act 2003 is amended, in subsection (1), by the substitution of “brewed in a brewery” for “brewed in the European Union in a brewery”.

Waiver of excise duty on renewal of certain liquor licences, public dancing licences and certificates of registration of clubs

45. (1) Subject to *subsection (3)*, no duty of excise shall be chargeable, leviable or payable under section 43 of the Finance (1909-1910) Act 1910 on the renewal, for the period from 1 October 2021 to 30 September 2022, of the following licences for the sale of intoxicating liquor specified in the First Schedule to that Act:
- (a) retailers’ on-licences;
 - (b) passenger vessel licences;
 - (c) railway restaurant car licences;
 - (d) passenger aircraft licences.
- (2) Subject to *subsection (3)*, no duty of excise shall be chargeable, leviable or payable—
- (a) under section 171(1) of the Finance Act 2001 on the renewal, for the period from 1 October 2021 to 30 September 2022, of a licence granted under section 2 of the Intoxicating Liquor (National Concert Hall) Act 1983,
 - (b) under section 105(1) of the Finance Act 2000 on the renewal, for the period from 1 October 2021 to 30 September 2022, of a licence granted under section 62 of the National Cultural Institutions Act 1997,
 - (c) under section 21(5) of the Intoxicating Liquor Act 2003 on the renewal, for the period from 1 October 2021 to 30 September 2022, of a licence issued under section 21(3) of that Act,
 - (d) under section 1(7) of the Intoxicating Liquor (Breweries and Distilleries) Act 2018 on the renewal, for the period from 1 October 2021 to 30 September 2022, of a producer’s retail licence issued under section 1(2) of that Act authorising the sale of intoxicating liquor in accordance with section 1(6)(a) of that Act, or
 - (e) under section 1(8) of the Intoxicating Liquor (National Conference Centre) Act 2010 on the renewal, for the period from 1 October 2021 to 30 September 2022, of a licence issued under section 1(2) of that Act.
- (3) *Subsections (1) and (2)* shall apply to licences referred to in those subsections that expired on 30 September 2021.

- (4) No duty of excise shall be chargeable, leviable or payable—
- (a) under section 78(2) of the Finance Act 1980 on the renewal, in the year 2021, of a public dancing licence granted under section 2 of the Public Dance Halls Act 1935, or
 - (b) under section 48(2) of the Finance Act 1989 on the renewal, in the year 2021, of a certificate of registration of a club granted under the Registration of Clubs (Ireland) Act 1904.

Waiver of excise duty on special exemption orders

46. No duty of excise shall be chargeable, leviable or payable under section 78(4) of the Finance Act 1980 on a special exemption order granted under section 5 of the Intoxicating Liquor Act 1927 in respect of dates falling within the period beginning on 22 October 2021 and ending on 31 December 2021.

Amendment of Part 2 of Finance Act 2001 (excise)

47. (1) Part 2 of the Finance Act 2001 is amended—
- (a) in section 96—
 - (i) in subsection (1)—
 - (I) in the definition of “authorised warehousekeeper”—
 - (A) in paragraph (a), by the substitution of “process, hold or store” for “process, or hold”, and
 - (B) in paragraph (b), by the substitution of “authority” for “authorities”,
 - (II) by the substitution of the following definition for the definition of “Directive”:

“ ‘Directive’ means Council Directive (EU) No. 2020/262 of 19 December 2019²⁸,”
 - (III) in the definition of “European Union”, by the substitution of the following paragraph for paragraph (f):

“(f) in the case of France, the territories referred to in Article 349 and Article 355(1) of the Treaty on the Functioning of the European Union, and”,
 - (IV) in the definition of “registered consignee”, by the deletion of “other than an authorised warehousekeeper or an exempt consignee,” in each place where it occurs,
 - (V) in the definition of “registered consignor”—
 - (A) by the substitution of “only dispatch” for “consign” in each place where it occurs, and

28 OJ No. L58, 27.2.2020, p. 4

- (B) by the substitution of “Article 201 of the Council Regulation” for “Article 79 of Council Regulation (EEC) No. 2913/92” in each place where it occurs,
- (VI) in the definition of “suspension arrangement”, by the substitution of “held, stored or moved” for “held or moved”,
- (VII) in the definition of “tax warehouse”, by the substitution of “held, stored, received or dispatched” for “held, received or dispatched” in each place where it occurs, and
- (VIII) by the insertion of the following definitions:
- “ ‘certified consignee’ means, as the case requires—
- (a) a person registered with the Commissioners in accordance with section 109RA(4) in order to receive, in the course of business, excisable products that have been released for consumption in another Member State and then moved to the State, or
- (b) a person registered with a competent authority in another Member State in order to receive, in the course of business, excisable products that have been released for consumption in the Member State of dispatch and then moved to the first-mentioned Member State;
- ‘certified consignor’ means, as the case requires, either—
- (a) a person registered with the Commissioners in accordance with section 109RA(4) in order to dispatch, in the course of business, excisable products that have been released for consumption in the State to another Member State, or
- (b) a person registered with the competent authority of another Member State in order to dispatch, in the course of business, excisable products that have been released for consumption in that Member State and then moved to another Member State;
- ‘Commission Regulation’ means Commission Regulation (EC) No. 684/2009 of 24 July 2009²⁹;
- ‘computerised system’ means the system referred to in Article 1 of Decision (EU) 2020/263 of the European Parliament and of the Council of 15 January 2020³⁰;
- ‘consignment’ has the meaning, as the case requires, assigned to it by section 109B or section 109Q;
- ‘Council Regulation’ means Regulation (EU) No. 952/2013 of the European Parliament and of the Council of 9 October 2013³¹ laying down the Union Customs Code;

29 OJ No. L197, 29.7.2009, p. 24

30 OJ No. L58, 27.2.2020, p. 43

31 OJ No. L269, 10.10.2013, p. 1

‘declarant’ means the declarant as defined in point (15) of Article 5 of the Council Regulation;

‘destination Member State’, in respect of a consignment, means the Member State where, as the case may be, the designated consignee, place of exportation, or certified consignee for that consignment is located;

‘electronic change of destination document’ means a document that complies with the requirements set out in Table 3 of Annex 1 of the Commission Regulation;

‘importation’ means the release of goods for free circulation in accordance with Article 201 of the Council Regulation;

‘irregular entry’ means an entry of goods into the territory of the European Union, which have not been placed under release for free circulation in accordance with Article 201 of the Council Regulation and for which a customs debt under Article 79(1) of that Regulation has been incurred, or would have been incurred if the goods had been subject to customs duty;

‘irregularity’ means an occurrence during a movement of excisable products made under Chapter 2B that has not been ended in accordance with the provisions of that Chapter;

‘irregular release’ means an occurrence giving rise to a release for consumption during a movement of excisable products made under Chapter 2A that has not been ended in accordance with the provisions of that Chapter;

‘Member State of dispatch’ means the Member State from which a consignment is dispatched;

‘paper confirmation of receipt’ has the meaning, as the case requires, assigned to it by section 109N(1), section 109TA(1) or section 109VA(3);

‘place of importation’ means a place where excisable products are released for free circulation in accordance with Article 201 of the Council Regulation;

‘report of receipt’ means a report by means of the computerised system, in accordance with (as the case may be)—

- (a) Article 24(1) of the Directive, certifying that a consignment has been received by a designated consignee, or
- (b) Article 37(1) of the Directive certifying a consignment has been received by a certified consignee;

‘SEED register’ means the register of economic operators and of premises authorised as tax warehouses that is required to be

maintained by the Commissioners under Article 19 of Council Regulation (EU) No. 389/2012³²,”

and

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

“(4) A reference in any other enactment to Council Directive No. 2008/118/EC of 16 December 2008³³ shall be construed as a reference to the Directive.”,

(b) by the substitution of the following section for section 98:

“Importation from outside territory of European Union

98. (1) The Commissioners may require that, on the importation of excisable products from outside the territory of the European Union, the person who declares such products for free circulation in accordance with Article 201 of the Council Regulation shall provide such information as they require for the correct accounting for, and payment of, any excise duty that is payable on such products.

(2) Where the excisable products referred to in subsection (1) are to be moved upon release for free circulation from the place of importation in the State under a suspension arrangement, the declarant or any person directly or indirectly involved in the accomplishment of customs formalities in accordance with Article 15 of the Council Regulation shall provide to the Commissioners—

- (a) the unique excise number in the SEED register identifying the registered consignor for the movement,
- (b) the unique excise number in the SEED register identifying the consignee to whom the excisable products are being dispatched, and
- (c) if the movement is to be made in accordance with Chapter 2A, such evidence as the Commissioners may require to show that the imported excisable products are intended to be dispatched from the State to another Member State.”,

(c) in section 98A—

(i) by the substitution of the following subsection for subsection (1):

“(1) In this Part ‘release for consumption’ means—

- (a) any release, including irregular release, of excisable products from a suspension arrangement,
- (b) any production, processing or extraction, including irregular production, processing or extraction, of excisable products outside a suspension arrangement,

³² OJ No. L121, 8.5.2012, p. 1

³³ OJ No. L9, 14.1.2009, p. 12

- (c) any importation of excisable products from outside the European Union or any arrival in the State of products from within the European Union, except where the excisable products are, immediately upon such importation or arrival, placed under a suspension arrangement, or
 - (d) any irregular entry of excisable products, except where the customs debt was extinguished under points (e), (f), (g) or (k) of Article 124(1) of the Council Regulation.”,
- (ii) in subsection (3), by the insertion of “or stored” after “held”,
- (iii) by the substitution of the following subsection for subsection (4):
 - “(4) Without prejudice to subsection (1), excisable products shall be deemed not to have been released for consumption where they are shown to the satisfaction of the Commissioners to have been totally or partially lost—
 - (a) during production, processing, holding or storage in the State, or
 - (b) in the course of movement to, from or within the State,under a suspension arrangement, and where such loss is shown to their satisfaction to have been—
 - (i) due to unforeseen circumstances or force majeure,
 - (ii) in the case of a loss referred to in paragraph (a), due to the nature of the excisable products, or
 - (iii) the result of destruction in accordance with such procedures as the Commissioners may require.”,
- (iv) by the insertion of the following subsections after subsection (4):
 - “(4A) Where excisable products are shown to the satisfaction of the Commissioners to have been partially lost during transport to the State from another Member State, and the loss is shown to their satisfaction to have been due to the nature of the excisable products, the products shall, unless an officer has reasonable grounds to suspect that a fraud or an irregular release has occurred in connection with the excisable products, be deemed not to have been released for consumption in so far as the amount of loss falls below a common partial loss threshold established in delegated acts adopted by the Commission in accordance with Article 51 of the Directive.
 - (4B) Where the Commissioners are satisfied that destruction or loss, as referred to in subsection (4), of the excisable products has been established and that no release for consumption has occurred, any security provided in accordance with section 109(7) or 109A(8), as the case may be, shall be released fully or partially, as appropriate, upon the production of satisfactory proof of such destruction or loss.”,

- (v) in subsection (5), by the substitution of “this section” for “subsection (4)”, and
 - (vi) in subsection (7), by the insertion of “and in such circumstances, the Commissioners shall inform the competent authority of the Member State of dispatch” after “so occurred”,
- (d) by the insertion of the following section after section 98A:

“Chargeability of excisable products released for consumption

98B. (1) In the case of a movement of excisable products delivered to the State in accordance with Chapter 2B, excise duty shall not be chargeable in the State on such products where the products are shown to the satisfaction of the Commissioners to have been totally or partially lost in the course of movement to the State from the Member State in which they were released for consumption, and where such loss is shown to have been—

- (a) due to unforeseen circumstances or force majeure, or
 - (b) the result of destruction in accordance with such procedures as the Commissioners may require.
- (2) Where excisable products are shown to the satisfaction of the Commissioners to have been partially lost in the State during transport from another Member State in which they were released for consumption, and the loss is shown to the satisfaction of the Commissioners to have been due to the nature of the excisable products, excise duty on those products shall, unless an officer has reasonable grounds to suspect that a fraud or an irregularity has occurred in connection with the excisable products, not be chargeable in so far as the loss falls below a common partial loss threshold established in delegated acts adopted by the Commission in accordance with Article 51 of the Directive.
- (3) Where the Commissioners are satisfied that destruction or loss, as referred to in subsection (1), of the excisable products has been established and that excise duty shall not be chargeable on those excisable products, the security referred to in section 109SB(1) or 109U, as the case may be, shall be released fully or partially, as appropriate, upon the production of satisfactory proof of such destruction or loss.
- (4) In the case of an irregularity occurring during the movement of excisable products released for consumption in another Member State, excise duty shall become chargeable on the products in the State if the irregularity occurred in the State or, where it is not possible to determine where the irregularity occurred, if it is detected in the State.
- (5) For the purposes of this section, excisable products are destroyed when they are rendered unusable as excisable products.”,

- (e) in section 99—

(i) by the substitution of the following subsection for subsection (3):

“(3) A registered consignor is liable for payment of the excise duty on any consignment dispatched by such registered consignor to another Member State under section 109E(1)(b) or to a place in the State, and that liability is fully or partly discharged where, and to the extent that, the consignment concerned has been (as the case may be)—

(a) received, under a suspension arrangement, into a tax warehouse in the State, or

(b) ended in accordance with subsection (1) of section 109K, and evidence to that effect has been received in accordance with subsection (2) of that section.”,

(ii) by the insertion of the following subsections after subsection (4):

“(4A) A certified consignee is liable for payment of excise duty on excisable products delivered to such certified consignee in the State in accordance with Chapter 2B.

(4B) Where excisable products are delivered to a person in the State in accordance with Chapter 2B and the person is not registered with the Commissioners in accordance with section 109RA(4), that person shall be liable for payment of excise duty on the excisable products.”,

(iii) by the substitution of the following subsection for subsection (5):

“(5) Without prejudice to the liability of any person under subsection (1), (3), (4), (4A) or (4B), where an irregular release of excisable products from a suspension arrangement or an irregularity in a movement of excisable products in accordance with Chapter 2B gives rise to a liability to excise duty, any person who knowingly participated in that irregular release or irregularity, as the case may be, is liable for payment of that excise duty.”,

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

“(6A) Where a tax representative is not appointed in accordance with section 109U or a tax representative so appointed fails to comply with the requirements of that section or with regulations made under section 153, the person liable to pay the excise duty is the person to whom the excisable products are consigned.”,

(v) in subsection (7)—

(I) by the insertion of “or there is an irregular entry of such products into the State” after “outside the European Union”,

(II) in paragraph (a), by the substitution of “Article 201 of the Council Regulation, or any person who participated in the irregular entry, as the case may be” for “Article 79 of Council Regulation (EEC) No. 2913/92”, and

- (III) in paragraph (b)—
 - (A) by the insertion of “or in the case of an irregular entry of such products” after “free circulation”,
 - (B) in subparagraph (i), by the insertion of “or participates in the irregular entry of” after “who imports”, and
 - (C) in subparagraph (ii), by the insertion of “or irregular entry” after “importation” in each place where it occurs,
- (vi) in subsection (8)—
 - (I) by the insertion of “, extracted or processed” after “produced”,
 - (II) in paragraph (a), by the insertion of “, extractor or processor” after “the producer”, and
 - (III) in paragraph (b), by the insertion of “, extraction or processing” after “the production” in each place where it occurs,
- (vii) in subsection (9)—
 - (I) in paragraph (b), by the insertion of “, held or stored” after “kept”, and
 - (II) in subparagraph (ii), by the insertion of “held, stored” after “kept”,
and
- (viii) in subsection (10)—
 - (I) in paragraph (b)—
 - (A) by the insertion of “, storage” after “holding”, and
 - (B) by the insertion of “or stored” after “held”,
and
 - (II) by the substitution of “who holds or stores them” for “who holds them”,
- (f) in section 104—
 - (i) in subsection (5)—
 - (I) in paragraph (a), by the substitution of “section 109SA or section 109VA,” for “section 109V, or”,
 - (II) in paragraph (b), by the substitution of “section 109W, or” for “section 109W.”, and
 - (III) by the insertion of the following paragraph after paragraph (b):
 - “(c) have been dispatched to another Member State in accordance with section 109SA or section 109VA, where an irregularity occurred or was detected during the movement.”,
 - and

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

“(5A) A repayment of excise duty for the purposes of subsection (5)(a) shall be on the basis of a report of receipt received from the competent authority in the destination Member State in accordance with section 109SC(4) or 109VA(3), as the case may be.”,

(g) in section 108A—

(i) in subsection (1)(b), by the insertion of “or storage” after “holding”, and

(ii) in subsection (4), by the insertion of “or stored” after “held” in each place where it occurs,

(h) in section 109—

(i) in subsection (3)(i), by the substitution of “held, stored or processed” for “held or processed”,

(ii) in subsection (4)—

(I) by the substitution of “subsections (2), (2A) and (3)” for “subsections (2) and (3)”, and

(II) in paragraph (b), by the substitution of “held or stored” for “held”,

(iii) in subsection (7)(a), by the substitution of “held or stored” for “held”,

(iv) in subsection (11), by the substitution of “held or stored” for “held”, and

(v) in subsection (12)(h), by the substitution of “held, stored or processed” for “held or processed”,

(i) in section 109B—

(i) in the definition of “administrative reference code”, by the substitution of “Article 20(3)” for “Article 21(3)”,

(ii) in the definition of “customs electronic data”, by the substitution of “Chapter 2 of Title II of Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015³⁴” for “Chapter 3 of Title IV of Commission Regulation (EEC) No. 2454/93 of 2 July 1993”,

(iii) in the definition of “customs office of exit”, by the substitution of “Article 329(5) of Commission Implementing Regulation (EU) 2015/2447” for “Article 793(2) of Commission Regulation (EEC) No. 2454/93”,

(iv) in the definition of “customs office of export”, by the substitution of “Article 221 of Commission Implementing Regulation (EU) 2015/2447” for “Article 161(5) of Council Regulation (EEC) No. 2913/92”,

(v) by the insertion of the following definition:

“ ‘customs special procedure’ means any one of the special procedures provided for under the Council Regulation relating to the customs

34 OJ No. L343, 29.12.2015, p. 558

supervision to which non-European Union goods are subjected upon their entry into the European Union customs territory, temporary storage, free zones or free warehouses, as well as any of the procedures referred to in Article 210 of that Regulation;”,

- (vi) in the definition of “electronic administrative document”, by the substitution of “Article 20(2)” for “Article 21(2)”,
- (vii) in the definition of “small wine producer”—
 - (I) by the substitution of “per wine year” for “per year”,
 - (II) by the substitution of “Article 48” for “Article 40”, and
 - (III) by the substitution of “Articles 14 to 31” for “Chapters III and IV”,
 and
- (viii) by the deletion of the definitions of “Commission Regulation”, “computerised system”, “customs suspensive arrangement”, “destination Member State”, “Member State of dispatch”, “paper confirmation of receipt”, “place of importation”, “report of receipt” and “SEED register”,
- (j) in section 109C—
 - (i) in subsection (2)(a), by the substitution of “the Directive” for “Council Directive No. 2008/118/EC”, and
 - (ii) in subsection (3), by the substitution of “customs special procedure” for “customs suspensive arrangement”,
- (k) in section 109E—
 - (i) in subsection (2)—
 - (I) in paragraph (c), by the substitution of “exportation,” for “exportation, or”,
 - (II) in paragraph (d), by the substitution of “consignee, or” for “consignee,”
 and
 - (III) by the insertion of the following paragraph after paragraph (d):

“(e) the customs office of exit, where that office is also the customs office of departure for the external transit procedure where provided for in Article 189(4) of Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015³⁵,”
 - (ii) in subsection (4)—
 - (I) by the substitution of the following paragraph for paragraph (a):

“(a) the administrative reference code, and”,
 and

³⁵ OJ No. L343, 29.12.2015, p. 1

(II) by the substitution of “such code” for “such document”,

and

(iii) by the insertion of the following subsection after subsection (4):

“(5) Where an officer deems it appropriate, the officer may request the consignor, or any person acting on behalf of such consignor, to make available a printed copy of the electronic administrative document or a commercial document with the same information.”,

(I) in section 109H—

(i) in subsection (1), by the insertion of “, using the computerised system,” after “electronic administrative document”,

(ii) in subsection (2)—

(I) by the insertion of “or the consignee of the excisable products” after “destination of the consignment”, and

(II) by the insertion of “and, for that purpose, the consignor shall submit a draft electronic change of destination document to the Commissioners using the computerised system” after “subsection 109E(2)”,

(iii) in subsection (4), by the insertion of the following paragraph after paragraph (b):

“(c) Paragraphs (a) and (b) shall not apply to the movements referred to in paragraphs (c) and (e) of section 109E(2).”,

and

(iv) by the insertion of the following subsections after subsection (4):

“(5) (a) In the case of a consignment from another Member State dispatched to a place of exportation in the State, where the excisable products are no longer to be taken out of the European Union customs territory, the Commissioners shall, subject to subsection (7), by means of the computerised system notify the competent authority in the Member State of dispatch of that fact as soon as they become aware thereof.

(b) In the case of a consignment dispatched from a place in the State to a place of exportation in another Member State, where the excisable products are no longer to be taken out of the European Union customs territory, the Commissioners shall, upon receipt of notification of that fact from the Member State of export, forward the notification without delay to the consignor.

(6) On receipt of a notification under subsection (5)(b), the consignor shall cancel the electronic administrative document in accordance with subsection (1) or amend the destination of the products in accordance with subsection (2), as appropriate.

(7) A notification referred to in subsection (5)(a) may, until 13 February 2024, be made by means other than the computerised system.”,

(m) in section 109I—

(i) by the substitution of the following subsection for subsection (5):

“(5) Where a consignment is under cover of a paper document, the consignor may, in accordance with such procedures as the Commissioners may prescribe—

(a) change the destination for that consignment, as recorded in that paper document, to any other destination that is allowable under section 109E(2), or

(b) in the case of a consignment of mineral oil, split the consignment in accordance with section 109H(3A),

and shall inform the Commissioners before the change of destination or the splitting of the consignment is initiated.”,

and

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

“(6) Where the computerised system is unavailable to the consignor in the cases referred to in section 109E(2)(c) and (e)—

(a) the consignor shall provide a copy of the paper document referred to in subsection (1)(b) to the declarant, and

(b) the declarant, on receipt of the paper document, shall provide the customs office of export with a copy of that paper document, the contents of which shall correspond to the excisable products declared in the export declaration, or the unique identifier of the paper document.”,

(n) in section 109J—

(i) in subsection (6)(b), by the substitution of “Article 26(1)” for “Article 26(3)”,

(ii) in subsection (7), by the substitution of “subsection (1)(c)” for “section 109J(1)(c)”, and

(iii) by the insertion of the following subsection after subsection (7):

“(8) In the case of a consignment referred to in subsection (1)(d)—

(a) the declarant shall provide the Commissioners with the administrative reference code indicating the excisable products referred to in the export declaration,

(b) before the release for export of the excisable products, the Commissioners shall verify that the data in the electronic administrative document correspond to those contained in the export declaration, and

- (c) where there are any inconsistencies between the electronic administrative document and the export declaration, the Commissioners shall notify the competent authority in the Member State of dispatch using the computerised system.”,
- (o) in section 109K(1)—
 - (i) in paragraph (a), by the substitution of “consignment,” for “consignment, and”,
 - (ii) in paragraph (b), by the substitution of “European Union, or” for “European Union.”, and
 - (iii) by the insertion of the following paragraph after paragraph (b):

“(c) in a case referred to in section 109E(2)(e), when the goods are placed under the external transit procedure.”,
- (p) in section 109L, by the insertion of the following subsection after subsection (3):

“(4) Where a consignment begins in the State, the Commissioners shall forward the report of receipt to the consignor.”,
- (q) in section 109M(1)—
 - (i) by the substitution of the following paragraph for paragraph (a):

“(a) a consignor in the State and has been duly verified, or”,

and
 - (ii) in paragraph (b), by the substitution of “Article 21(1)” for “Article 21.5”,
- (r) in section 109N(3), by the substitution of “authority” for “authorities”,
- (s) in section 109O(2), by the substitution of “Commission Delegated Regulation (EU) 2018/273 of 11 December 2017³⁶” for “Commission Regulation EC No. 884/2001 of 24 April 2001”,
- (t) by the substitution of the following section for section 109Q:

“Interpretation (Chapter 2B)

109Q. In this Chapter—

‘consignment’ means the single movement to a Member State of a specific quantity of excisable products that have been released for consumption in another Member State;

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

‘simplified administrative reference code’ means the unique simplified administrative reference code to be assigned to the draft electronic simplified administrative document, in accordance with Article 36(2) of the Directive.”,

³⁶ OJ No. L58, 28.2.2018, p. 1

- (u) in section 109R(2), by the substitution of “the Directive” for “Council Directive No. 2008/118/EC”,
- (v) by the insertion of the following section after section 109R:

“Movement of excisable products for commercial purposes

109RA. (1) (a) A consignment may be dispatched from the State to another Member State for commercial purposes only where the person who dispatches it is a certified consignor and the consignment is to be delivered to a certified consignee.

(b) A consignment may be delivered to the State for commercial purposes only where the person who receives it is a certified consignee and the person who dispatches it is a certified consignor.

(2) Where a consignment is dispatched from the State to another Member State in accordance with subsection (1)(a)—

(a) the consignment begins when the excisable products leave the premises of a certified consignor or any other location in the State, and

(b) the certified consignor shall notify the Commissioners using the computerised system of the consignment before it begins.

(3) Where a consignment is delivered to the State in accordance with subsection (1)(b)—

(a) the certified consignee shall notify the Commissioners using the computerised system of the consignment before it begins, and

(b) the consignment shall end when the certified consignee has taken delivery of the excisable products at his or her premises, or at any other location in the State.

(4) (a) A certified consignor in the State and a certified consignee in the State shall be registered as such with the Commissioners for such periods and subject to such conditions as the Commissioners may think fit to impose in any particular case.

(b) The Commissioners may at any time for reasonable cause revoke any registration granted under paragraph (a), or vary its terms.

(c) Where the Commissioners propose to revoke a registration under paragraph (b), they shall notify the holder of that registration in writing of that intention, and afford such holder an opportunity to make representations to them in relation to the matter.

(5) (a) Where a certified consignor or certified consignee sends or receives excisable products only occasionally, the Commissioners shall limit the registration of the certified consignor or certified consignee (as the case may be) to—

(i) a specified quantity of excisable products,

- (ii) a single consignee, in the case of a certified consignor, or a single consignor, in the case of a certified consignee, and
- (iii) a specified period of time,
(in this subsection referred to as a ‘temporary registration’) and the temporary registration may be limited to a single movement of excisable products.
- (b) The Commissioners may grant a temporary registration to a person who is not a certified consignor or a certified consignee where excisable products are dispatched by or delivered to the person for commercial purposes.”,
- (w) by the insertion of the following sections after section 109S:

“Consignment of excisable products, duty-paid in the State, to another Member State for commercial purposes

- 109SA.**(1) Except where section 109VA applies, where a certified consignor dispatches a consignment from the State to another Member State, the certified consignor shall submit a draft electronic simplified administrative document to the Commissioners using the computerised system.
- (2) The Commissioners shall carry out an electronic verification of the data in the draft electronic simplified administrative document.
 - (3) Where the data in the draft electronic simplified administrative document are verified in accordance with subsection (2), the Commissioners shall assign to the document a simplified administrative reference code and forward it without delay to the certified consignor and to the competent authority of the destination Member State.
 - (4) Where the data in the draft electronic simplified administrative document cannot be verified in accordance with subsection (2), the Commissioners shall, without delay, advise the certified consignor accordingly by means of the computerised system.
 - (5) The certified consignor shall ensure that a consignment under cover of the electronic simplified administrative document is accompanied at all times by a simplified administrative reference code and that such code is made available on request to an officer.
 - (6) Where a consignment has been dispatched to a certified consignee, the certified consignor may, using the computerised system, subject to verification under subsection (2), amend the destination of the consignment to—
 - (a) another place of delivery in the destination Member State operated by that certified consignee, or
 - (b) the place of dispatch,

and, for that purpose, the certified consignor shall submit a draft electronic change of destination document to the Commissioners using the computerised system.

- (7) An authorised warehousekeeper or registered consignor may act as a certified consignor for the purposes of this Chapter after having notified the Commissioners and complied with such conditions as the Commissioners may prescribe.

Consignment to the State of excisable products released for consumption in another Member State for commercial purposes

109SB. (1) Where a consignment is delivered to the State by a certified consignor to a certified consignee, the certified consignee shall, in advance of the dispatch of the consignment and subject to such conditions as the Commissioners may prescribe or otherwise require—

- (a) notify the Commissioners in such form as they may prescribe or otherwise require,
- (b) provide security, valid throughout the European Union, for the excise duty on such consignment,
- (c) pay the excise duty on the excisable products consigned.

- (2) A consignment referred to in subsection (1) shall at all times be under cover of—

- (a) an electronic simplified administrative document, or
- (b) in any case where the computerised system was unavailable at the time of the consignment, and Article 38 of the Directive applied for the time being, a paper document containing all the data required for an electronic simplified administrative document,

and where the Commissioners receive the document referred to in paragraph (a) from the competent authority of the Member State of dispatch, the Commissioners shall forward it without delay to the certified consignee.

- (3) An authorised warehousekeeper or registered consignee may act as a certified consignee for the purposes of this Chapter after having notified the Commissioners and complying with such conditions as the Commissioners may prescribe.

Report of receipt of duty-paid consignment

109SC. (1) Except where section 109TA applies, where a consignment has been delivered to a certified consignee in accordance with section 109SB, the certified consignee shall, without delay and no later than five working days after the end of the movement, submit a report of receipt to the Commissioners, using the computerised system.

- (2) The Commissioners shall carry out an electronic verification of the data in each report of receipt submitted to them under subsection (1).

- (3) (a) Where the data in the report of receipt are verified in accordance with subsection (2), the Commissioners shall by means of the computerised system confirm the registration of that report to the certified consignee and forward it to the competent authority of the Member State of dispatch.
 - (b) Where the data in the report of receipt cannot be verified in accordance with subsection (2), the Commissioners shall advise the certified consignee accordingly without delay.
 - (4) Where a consignment is dispatched from the State in accordance with section 109SA, the Commissioners shall, on receipt of a report of receipt from the competent authority of the destination Member State, forward the report of receipt to the certified consignor.
 - (5) A report of receipt referred to in subsection (4) shall, unless and until there is evidence to the contrary, be evidence that a consignment has been delivered to the certified consignee and that any excise duty due on the consignment in the destination Member State has been paid.”,
- (x) by the repeal of section 109T,
 - (y) by the insertion of the following section after section 109T:

“Consignment to the State where computerised system is unavailable

109TA. (1) (a) Where a report of receipt cannot be submitted in accordance with section 109SC, either because—

- (i) the computerised system is unavailable to the certified consignee in the State, or
- (ii) the consignment remains, for the time being, under cover of the paper document in accordance with section 109SB(2)(b),

the certified consignee shall submit to the Commissioners a paper confirmation of receipt containing all the data required for a report of receipt and stating that the movement has ended.

- (b) Where a paper confirmation of receipt has been submitted in accordance with paragraph (a), the Commissioners shall forward a copy of the paper confirmation of receipt to the competent authority of the Member State of dispatch.
 - (c) Where a paper confirmation of receipt has been submitted in accordance with paragraph (a), and as soon as subparagraph (i) or (ii) (as the case may be) of paragraph (a) no longer applies, the certified consignee shall submit a report of receipt for the consignment by means of the computerised system in accordance with section 109SC.
- (2) (a) A paper confirmation of receipt, as referred to in subsection (1), shall, unless and until there is evidence to the contrary, be evidence that a consignment has been delivered to the certified consignee

and that any excise duty due on the consignment in the destination Member State has been paid.

- (b) Without prejudice to paragraph (a), the Commissioners may, in any case where evidence under that paragraph is unavailable, accept alternative evidence that a consignment has ended.”,

(z) by the repeal of section 109V,

(aa) by the insertion of the following section after section 109V:

“Unavailability of the computerised system to a certified consignor in the State

109VA. (1) Where the computerised system is unavailable to a certified consignor, the consignor may dispatch a consignment where—

(a) before the consignment is dispatched—

- (i) the consignor informs the Commissioners of the consignment in such form as they may prescribe or otherwise require, and
- (ii) the consignment is under cover of the paper document containing all the data required for an electronic simplified administrative document,

and

- (b) the consignor complies with such other requirements, including the keeping of records, as the Commissioners may prescribe or otherwise require.

(2) (a) A certified consignor who has consigned in accordance with subsection (1) shall, as soon as the computerised system is available to that consignor, submit a draft electronic simplified administrative document in accordance with section 109SA(1) for the consignment.

(b) From such time as a simplified administrative reference code is assigned to the draft electronic simplified administrative document submitted in accordance with paragraph (a), the consignment is under cover of that document, and subject to the provisions of this Chapter that relate to the computerised system.

(3) Where, in respect of a consignment to another Member State, the Commissioners receive a paper confirmation of receipt containing all the data required for a report of receipt from the competent authority of the destination Member State and this has been accepted by the Commissioners—

- (a) it shall, unless and until there is evidence to the contrary, be evidence that the consignment has been delivered to the certified consignee and that any excise duty due on the consignment in the destination Member State has been paid, and

- (b) the Commissioners shall forward the paper confirmation of receipt to the certified consignor.
- (4) Where a consignment has been dispatched to a certified consignee under cover of a paper document, the certified consignor may, in accordance with such procedures as the Commissioners may prescribe, change the destination of the consignment to—
 - (a) another place of delivery in the destination Member State operated by that certified consignee, or
 - (b) the place of dispatch,
 and the certified consignor shall inform the Commissioners of the change of destination before the change is made.”,
- (ab) by the insertion of the following section after section 109X:

“Transitional arrangements

109Y. (1) From 13 February 2023 until 31 December 2023, a consignment to the State for commercial purposes—

- (a) may be under cover of the simplified accompanying document, and
- (b) may be delivered to a person other than a certified consignee.
- (2) The person referred to in subsection (1)(b) shall, in advance of the dispatch of a consignment in accordance with that subsection and subject to such conditions as the Commissioners may prescribe—
 - (a) notify the Commissioners in such form as they may prescribe,
 - (b) provide security, valid throughout the European Union, for the excise duty on such consignment, and
 - (c) pay the excise duty on the excisable products consigned.
- (3) The Commissioners may prescribe the procedure for receiving a consignment under the simplified accompanying document in accordance with subsection (1).”,
- (ac) in section 122—
 - (i) in clause (III), by the substitution of “section 109IA” for “section 109IA, or”,
 - (ii) in clause (IV), by the substitution of “section 109U, or” for “section 109U”, and
 - (iii) by the insertion of the following clause after clause (IV):

“(V) registration as a certified consignor or certified consignee under section 109RA(4).”,
- (ad) in section 125A(1), by the substitution of “products held or stored for wholesale” for “products held for wholesale”,
- (ae) in section 131(3)—

- (i) in paragraph (a), by the substitution of “processes, holds or stores” for “processes or holds”, and
 - (ii) in paragraph (b), by the substitution of “section 109SB” for “section 109T”,
 - (af) in section 136(3A), by the substitution of the following paragraph for paragraph (b):
 - “(b) for any declaration under the Council Regulation, Commission Delegated Regulation (EU) 2015/2446, Commission Delegated Regulation (EU) 2016/341 of 17 December 2015³⁷, Commission Implementing Regulation (EU) 2015/2447 or the Customs Act 2015 in relation to such foreign packet,”,
 - (ag) in section 144A(2), by the insertion of the following paragraph after paragraph (d):
 - “(da) the registration of a certified consignor or a certified consignee under section 109RA(4),”,
 - (ah) in section 146(1A), by the insertion of the following paragraph after paragraph (d):
 - “(da) a refusal to register a person as a certified consignor or a certified consignee under section 109RA(4) or a revocation under that section of any such registration;”,
- and
- (ai) in section 153(2)—
 - (i) in paragraph (b), by the substitution of “processing, holding and storing” for “processing and holding”,
 - (ii) in paragraph (e), by the insertion of “and a registered consignor” after “registered consignee”,
 - (iii) by the insertion of the following paragraph after paragraph (h):
 - “(ha) specifying in relation to the electronic simplified administrative document (within the meaning of Chapter 2B) and movements of excisable products which have been released for consumption between Member States—
 - (i) the correct completion of that document and the person responsible for that completion,
 - (ii) the submission of that document and the cancellation or amendment of that document after it is submitted,
 - (iii) the submission of a report of receipt (within the meaning of Chapter 2B), and
 - (iv) the confirmation of receipt where the computerised system is

37 OJ No. L69, 15.3.2016, p. 1

unavailable,”

- (iv) in paragraph (l), by the substitution of “section 109B” for “section 109J(7)”,
- (v) in paragraph (p), by the substitution of “holding, storing or transportation” for “holding or transportation”,
- (vi) in paragraph (s), by the deletion of “and” after “producer,”,
- (vii) in paragraph (t)(vi), by the insertion of “and” after “necessary,”, and
- (viii) by the insertion of the following paragraph after paragraph (t):

“(u) governing the registration and the conditions to be attached to such registration of a certified consignor and of a certified consignee.”.

(2) *Subsection (1)* shall come into operation on 13 February 2023.

Amendment of section 132 of Finance Act 1992 (charge of excise duty)

- 48.** Section 132 of the Finance Act 1992 is amended, in subsection (3), with effect as on and from 1 January 2022, by the substitution of the following Table for Table 1 to that subsection:

“Table 1

CO ₂ Emissions (CO ₂ g/km)	Percentage payable of the value of the vehicle
0g/km up to and including 50g/km	7% or €140 whichever is the greater
More than 50g/km up to and including 80g/km	9% or €180 whichever is the greater
More than 80g/km up to and including 85g/km	9.75% or €195 whichever is the greater
More than 85g/km up to and including 90g/km	10.5% or €210 whichever is the greater
More than 90g/km up to and including 95g/km	11.25% or €225 whichever is the greater
More than 95g/km up to and including 100g/km	12% or €240 whichever is the greater
More than 100g/km up to and including 105g/km	12.75% or €255 whichever is the greater
More than 105g/km up to and including 110g/km	13.5% or €270 whichever is the greater
More than 110g/km up to and including 115g/km	15.25% or €305 whichever is the greater
More than 115g/km up to and including 120g/km	16% or €320 whichever is the greater
More than 120g/km up to and including 125g/km	16.75% or €335 whichever is the greater

More than 125g/km up to and including 130g/km	17.5% or €350 whichever is the greater
More than 130g/km up to and including 135g/km	19.25% or €385 whichever is the greater
More than 135g/km up to and including 140g/km	20% or €400 whichever is the greater
More than 140g/km up to and including 145g/km	21.5% or €430 whichever is the greater
More than 145g/km up to and including 150g/km	25% or €500 whichever is the greater
More than 150g/km up to and including 155g/km	27.5% or €550 whichever is the greater
More than 155g/km up to and including 170g/km	30% or €600 whichever is the greater
More than 170g/km up to and including 190g/km	35% or €700 whichever is the greater
More than 190g/km	41% or €820 whichever is the greater

”.

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

49. Section 135C of the Finance Act 1992 is amended, in subsections (3)(b) and (4), by the substitution of “31 December 2023” for “31 December 2021” in each place where it occurs.

PART 3

VALUE-ADDED TAX

Interpretation (*Part 3*)

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

VAT groups

51. The Principal Act is amended—

(a) in section 15—

- (i) in subsection (1), by the substitution of “accountable person” for “taxable person” in each place where it occurs,
- (ii) in subsection (3), by the deletion of “(which date shall not be earlier than the date of issue of the notice)”, and
- (iii) by the insertion of the following subsections after subsection (4):

“(4A) Where there has been a significant change in the financial, economic and organisational links between the persons in a group, the person in the group notified in accordance with subsection (1)(a)(i) shall, not later than 30 days after the end of the taxable period during which the significant change concerned occurs, notify the Revenue Commissioners in writing that there has been such a significant change.

(4B) Where—

- (a) a person in a group ceases to be established in the State, or
- (b) the requirement that at least one of the persons in the group concerned is an accountable person is no longer met,

the person in the group notified in accordance with subsection (1)(a)(i) shall, not later than 30 days after the end of the taxable period during which the circumstance described in paragraph (a) or (b), as the case may be, has occurred, notify the Revenue Commissioners in writing of the occurrence of that circumstance.”,

and

(b) in section 115, by the insertion of the following subsections after subsection (1):

“(1A) A person who does not comply with subsection (4B) of section 15 shall be liable to a penalty of €4,000 in respect of the taxable period during which the person failed to comply with that subsection and to a further penalty of €4,000 for each subsequent taxable period during which the person has failed to comply with that subsection.

(1B) Where the person referred to in subsection (1A) is a body of persons, the secretary to that body of persons shall be liable to a separate penalty of €4,000 in respect of the taxable period during which the person referred to in subsection (1A) failed to comply with subsection (4B) of section 15 and to a separate further penalty of €4,000 for each subsequent taxable period during which that person has failed to comply with that subsection.”.

Amendment of section 56 of Principal Act (zero-rating scheme for qualifying businesses)

52. Section 56 of the Principal Act is amended, in subsection (1), in the definition of “qualifying person”, by the insertion of “or more” after “75 per cent”.

Cancellation deposits

53. The Principal Act is amended with effect from 1 January 2022—

- (a) in section 67, by the deletion of subsections (4) and (6)(a), and
- (b) in section 74, by the deletion of subsection (4).

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

54. Section 86 of the Principal Act is amended, in subsection (1), with effect from 1 January 2022, by the substitution of “5.5 per cent” for “5.6 per cent”.

Amendment of section 103 of Principal Act (Ministerial refund orders)

55. Section 103 of the Principal Act is amended by the insertion of the following subsection after subsection (2A):

“(2AA) Where a person referred to in subsection (1) has received a refund of tax, which is the subject of an order made under this section, and where, at any time after the refund of tax has been made, the Revenue Commissioners have reasonable grounds to believe that details of the claim giving rise to the refund were incorrect and that the person was therefore not entitled to all or part of that refund, it shall be considered that the conditions as specified in the order were not fulfilled by that person and accordingly that person shall be required to repay all or part of the refund, as appropriate, to the Revenue Commissioners.”.

Amendment of Schedules to Principal Act

56. (1) The Principal Act is amended—

- (a) in Schedule 1, in paragraph 15, by the insertion of the following subparagraph after subparagraph (1):

“(1A)(a) The importation of goods by the European Commission or by an agency or body established under European Union law where the European Commission or such agency or body imports those goods in the execution of tasks conferred on it by European Union law in order to respond to the Covid-19 pandemic, except where the goods imported are supplied for consideration by the European Commission or an agency or body established under European Union law.

- (b) In this subparagraph, ‘Covid-19’ has the same meaning as in the Emergency Measures in the Public Interest (Covid-19) Act 2020.”,

and

- (b) in Schedule 2—

- (i) in paragraph 5, by the insertion of the following subparagraph after subparagraph (1D):

“(1E) (a) The supply of goods or services to the European Commission or to an agency or body established under European Union law where the European Commission or such agency or body purchases those goods or services in the execution of tasks conferred on it by European Union law in order to respond to the

Covid-19 pandemic, except where the goods and services purchased are supplied for consideration by the European Commission or an agency or body established under European Union law.

- (b) In this subparagraph, ‘Covid-19’ has the same meaning as in the Emergency Measures in the Public Interest (Covid-19) Act 2020.”,

and

- (ii) in paragraph 11, by the insertion of the following subparagraph after subparagraph (4):

“(5) (a) The supply, during the period from 12 December 2020 to 31 December 2022, of—

- (i) Covid-19 vaccines and services closely linked to those vaccines, where those vaccines have been authorised by the State or by the European Commission, and

- (ii) Covid-19 *in vitro* diagnostic medical devices and services closely linked to those devices, where those devices comply with the requirements of EU legislation (or the law of a Member State giving effect to such legislation) applicable to such devices, including Directive 98/79/EC of the European Parliament and of the Council of 27 October 1998³⁸ and Regulation (EU) 2017/746 of the European Parliament and of the Council of 5 April 2017³⁹.

- (b) In this subparagraph, ‘Covid-19’ has the same meaning as in the Emergency Measures in the Public Interest (Covid-19) Act 2020.”.

- (2) *Subsection (1)(a)* shall apply in respect of the importation of goods on or after 1 January 2021 by the European Commission or by an agency or body established under European Union law.
- (3) *Subsection (1)(b)(i)* shall apply in respect of the supply of goods or services on or after 1 January 2021 to the European Commission or to an agency or body established under European Union law.

PART 4

STAMP DUTIES

Interpretation (*Part 4*)

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

³⁸ OJ No. L331, 7.12.1998, p. 1

³⁹ OJ No. L117, 5.5.2017, p. 176

Stamp duty on certain acquisitions of residential property

58. The Principal Act is amended—

(a) in section 31E—

(i) by the substitution of the following subsection for subsection (4):

“(4) In this section, a reference to acquisition shall include a reference to—

(a) acquisition by way of a conveyance, transfer, lease, instrument, contract or agreement referred to in subsection (2), and

(b) acquisition by way of a change in the person or persons having direct or indirect control by virtue of a conveyance or transfer on sale of stocks, marketable securities, units or interests referred to in subsection (9).”,

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

“(8A) For the purposes of subsection (8)(b), a person shall not be regarded as entering into a housing authority lease on the same day as the residential unit concerned is acquired by the person where the residential unit was subject to a housing authority lease immediately prior to that day.”,

(iii) in subsection (13), by the substitution of “then the contract or agreement shall be treated as a conveyance or transfer on sale of stocks, marketable securities, units or interests for the purposes of subsection (12), but paragraph (ii) of that subsection shall not apply in respect of the contract or agreement as so treated” for “then the contract or agreement shall be treated as a conveyance or transfer on sale of stocks, marketable securities, units or interests for the purposes of subsection (12)”,

(iv) by the substitution of the following subsection for subsection (19):

“(19) Where a conveyance, transfer or lease effects the acquisition of a relevant residential unit, sections 82(1), 82C(2) and 88(1)(b) shall not apply as respects stamp duty that is chargeable on the conveyance, transfer or lease in respect of the consideration which is attributable to the relevant residential unit.”,

and

(v) by the insertion of the following subsection after subsection (22):

“(23) A reference in subsection (9), (12) or (13) to a residential unit shall not include a reference to a residential unit in an apartment block.”,

and

(b) in section 83E, by the substitution of the following subsection for subsection (3):

“(3) This subsection applies where a person enters into a qualifying lease after the date of execution of a relevant instrument effecting the acquisition of the relevant residential unit leased under the qualifying

lease, but not later than 24 months after that date (and such a relevant residential unit leased within that period is referred to in this section as a ‘qualifying relevant residential unit’).”.

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

- 59.** Section 81AA of the Principal Act is amended, in subsection (16), by the substitution of “31 December 2022” for “31 December 2021”.

Amendment of section 126AA of Principal Act (further levy on certain financial institutions)

- 60.** The Principal Act is amended in section 126AA—

- (a) in subsection (1), in paragraph (d) of the definition of “base year”, by the substitution of “years 2021 and 2022” for “year 2021”,
- (b) by the substitution of the following subsection for subsection (2):
 - “(2) (a) Subject to paragraph (b), a relevant person shall, for each of the years 2014 to 2022, not later than the due date in respect of that year, deliver to the Commissioners a statement in writing showing the assessable amount for that person.
 - (b) In the case of the year 2022, the following persons shall not be regarded as relevant persons for the purposes of paragraph (a):
 - (i) KBC Bank Ireland plc;
 - (ii) Ulster Bank Ireland DAC.”,
- (c) in subsection (3), by the substitution of “Subject to subsection (3A), where at any time” for “Where at any time”, and
- (d) by the insertion of the following subsection after subsection (3):
 - “(3A) Where the due date falls within the year 2022, the following persons shall not be regarded as relevant persons for the purposes of subsection (3):
 - (a) KBC Bank Ireland plc;
 - (b) Ulster Bank Ireland DAC.”.

Banking levies modernisation

- 61.** (1) The Principal Act is amended—

- (a) in section 123B—
 - (i) in subsection (1), by the insertion of the following definition:
 - “ ‘electronic means’ has the same meaning as it has in section 917EA of the Taxes Consolidation Act 1997;”,

- (ii) in subsections (2) and (2B), by the deletion of “in writing”, and
- (iii) by the insertion of the following subsection after subsection (12):
 - “(13) Any statement required to be delivered to the Commissioners pursuant to subsection (2) or (2B), as the case may be, shall be delivered by electronic means and the relevant provisions of Chapter 6 of Part 38 of the Taxes Consolidation Act 1997 shall apply.”,
- (b) by the insertion of the following section after section 123C:

“Bills of Exchange

123D. (1) In this section—

‘credit institution’ and ‘financial institution’ have the same meanings respectively as they have in the European Union (Capital Requirements) Regulations 2014;

‘electronic means’ has the same meaning as it has in section 917EA of the Taxes Consolidation Act 1997;

‘processed’, in relation to an instrument that is a bill of exchange, means a bill of exchange that has been presented for payment and has been paid;

‘promoter’ means a credit institution or a financial institution;

‘relevant bill of exchange’ means a bill of exchange drawn on an account in the State maintained by a promoter but does not include the following:

- (a) a draft or order drawn by any promoter in the State on any other promoter in the State, not payable to bearer or to order, and used solely for the purpose of settling or clearing any account between such promoters;
- (b) a letter written by a promoter in the State to any other promoter in the State, directing the payment of any sum of money, the same not being payable to bearer or to order, and such letter not being sent or delivered to the person to whom payment is to be made or to any person on such person’s behalf;
- (c) a draft or order drawn by the Accountant of the Courts of Justice;
- (d) a coupon or warrant for interest attached to and issued with any security, or with an agreement or memorandum for the renewal or extension of time for payment of a security;
- (e) a coupon for interest on a marketable security being one of a set of coupons whether issued with the security or subsequently issued in a sheet;
- (f) direct debits and standing orders;
- (g) a bill drawn on or on behalf of the Minister by which payment in

respect of prize bonds is effected.

- (2) A promoter shall, within one month of the end of each year, commencing with the year 2024, deliver to the Commissioners a statement showing the number of relevant bills of exchange processed in the year.
 - (3) On the first occasion of a promoter delivering a statement to the Commissioners under subsection (2), the promoter may elect that the first statement and all subsequent statements shall show the number of relevant bills of exchange issued in the year rather than the number of relevant bills of exchange processed in the year.
 - (4) Where an election is made by a promoter under subsection (3), each statement delivered by the promoter under subsection (2) shall—
 - (a) indicate that the election has been made, and
 - (b) show the number of relevant bills of exchange issued in the year rather than the number of relevant bills of exchange processed in the year.
 - (5) Stamp duty shall be charged on every statement delivered by a promoter under subsection (2) at the rate of €0.50 for each relevant bill of exchange shown on the statement.
 - (6) The duty charged by subsection (5) on a statement delivered by a promoter under subsection (2) shall be paid by the promoter on delivery of the statement.
 - (7) There shall be furnished to the Commissioners by a promoter such particulars as the Commissioners may deem necessary in relation to any statement required by this section to be delivered by the promoter.
 - (8) In the case of failure by a promoter to pay any duty required to be paid in accordance with this section, the promoter shall be liable to pay, in addition to the duty, interest on the duty, calculated in accordance with section 159D, for the period commencing on the date it was required to be paid and ending on the date on which the duty was paid.
 - (9) A statement required to be delivered to the Commissioners under subsection (2) shall be delivered by electronic means and the relevant provisions of Chapter 6 of Part 38 of the Taxes Consolidation Act 1997 shall apply.”,
- (c) in section 124—
- (i) in subsection (1)—
 - (I) in paragraph (a)—
 - (A) by the substitution of the following definition for the definition of “chargeable period”:

“ ‘chargeable period’ means—

- (i) the 12 month period ending on 1 April 2006 and each subsequent 12 month period ending with the period ending on 1 April 2023,
- (ii) the period commencing on 2 April 2023 and ending on 31 December 2023, and
- (iii) each subsequent 12 month period beginning with the period ending on 31 December 2024;”,

and

(B) by the deletion of the definition of “relevant period”,

(II) in paragraph (b)—

(A) by the substitution of “within 3 months of the end of a chargeable period referred to in subparagraph (i) of the definition of ‘chargeable period’ in paragraph (a) and within one month of the end of a chargeable period referred to in subparagraph (ii) or (iii) of that definition” for “within 3 months of the end of each relevant period”, and

(B) by the deletion of “in writing”,

(III) in paragraph (c), by the substitution of “at the rate of €22.50 for the chargeable period referred to in subparagraph (ii) of the definition of ‘chargeable period’ in paragraph (a) and at the rate of €30 for a chargeable period referred to in subparagraph (i) or (iii) of that definition” for “at the rate of €30”, and

(IV) by the substitution of “chargeable period” for “relevant period” in each place where it occurs,

(ii) in subsection (2)—

(I) in paragraph (a)—

(A) by the substitution of the following definition for the definition of “chargeable period”:

“ ‘chargeable period’ means—

- (i) the 12 month period ending on 1 April 2006 and each subsequent 12 month period ending with the period ending on 1 April 2023,
- (ii) the period commencing on 2 April 2023 and ending on 31 December 2023, and
- (iii) each subsequent 12 month period beginning with the period ending on 31 December 2024;”,

and

- (B) by the deletion of the definition of “relevant period”,
- (II) in paragraph (b)—
 - (A) by the substitution of “within 3 months of the end of a chargeable period referred to in subparagraph (i) of the definition of ‘chargeable period’ in paragraph (a) and within one month of the end of a chargeable period referred to in subparagraph (ii) or (iii) of that definition” for “within 3 months of the end of each relevant period”, and
 - (B) by the deletion of “in writing”,
- (III) in paragraph (c), by the substitution of “at the rate of €22.50 for the chargeable period referred to in subparagraph (ii) of the definition of ‘chargeable period’ in paragraph (a) and at the rate of €30 for a chargeable period referred to in subparagraph (i) or (iii) of that definition” for “at the rate of €30”, and
- (IV) by the substitution of “chargeable period” for “relevant period” in each place where it occurs,
- (iii) in subsection (5), by the substitution of the following paragraph for paragraph (a):
 - “(a) In this subsection, ‘due date’ means—
 - (i) in relation to a statement required to be delivered pursuant to subsection (1)(b), the date on which the chargeable period to which the statement relates ends, and
 - (ii) in relation to a statement required to be delivered pursuant to subsection (2)(b), the date on which the chargeable period to which the statement relates ends.”,
 - and
- (iv) by the insertion of the following subsection after subsection (7):
 - “(8) (a) In this subsection, ‘electronic means’ has the same meaning as it has in section 917EA of the Taxes Consolidation Act 1997.
 - (b) Any statement required to be delivered to the Commissioners pursuant to subsection (1)(b) or (2)(b), as the case may be, shall be delivered by electronic means and the relevant provisions of Chapter 6 of Part 38 of the Taxes Consolidation Act 1997 shall apply.”,
- and
- (d) in Schedule 1, by the deletion of the following Headings and the provisions and cross-references under those Headings:
 - (i) “BILL OF EXCHANGE”,

- (ii) “CHEQUE”,
 - (iii) “DRAFT for money”, and
 - (iv) “ORDER for the payment of money”.
- (2) Sections 123C and 124A of the Principal Act are repealed.
- (3) Notwithstanding the repeals effected by *subsection (2)*—
- (a) section 123C of the Principal Act shall continue to apply in respect of a statement required to be delivered under subsection (3) of that section not later than 15 December 2022, and
 - (b) section 124A of the Principal Act shall continue to apply in respect of a statement required to be delivered under subsection (3) of that section not later than 15 December 2022.
- (4) *Subsections (1) to (3)* shall come into operation on such day as the Minister may appoint by order.

Insurance levies modernisation

62. (1) The Principal Act is amended—

- (a) in section 124B—
 - (i) in subsection (1), by the insertion of the following definition:

“ ‘electronic means’ has the same meaning as it has in section 917EA of the Taxes Consolidation Act 1997;”,
 - (ii) in subsection (2), by the deletion of “in writing”, and
 - (iii) by the insertion of the following subsection after subsection (8):

“(9) Any statement required to be delivered to the Commissioners pursuant to subsection (2) shall be delivered by electronic means and the relevant provisions of Chapter 6 of Part 38 of the Taxes Consolidation Act 1997 shall apply.”,
- (b) in section 125—
 - (i) in subsection (1), by the insertion of the following definition:

“ ‘electronic means’ has the same meaning as it has in section 917EA of the Taxes Consolidation Act 1997;”,
 - (ii) in subsection (2), by the deletion of “in writing”, and
 - (iii) by the insertion of the following subsection after subsection (7):

“(8) Any statement required to be delivered to the Commissioners pursuant to subsection (2) shall be delivered by electronic means and the relevant provisions of Chapter 6 of Part 38 of the Taxes Consolidation Act 1997 shall apply.”,

(c) by the insertion of the following section after section 125B:

“Policies of insurance other than life insurance

125C. (1) In this section—

‘electronic means’ has the same meaning as it has in section 917EA of the Taxes Consolidation Act 1997;

‘insurer’, ‘premium’ and ‘quarter’ have the same meanings respectively as they have in section 125;

‘relevant policy’ means a policy of insurance other than life insurance where the risk to which the policy relates is located in the State and—

- (a) there is one premium only and the amount of that premium equals or exceeds €20, or
 - (b) there is more than one premium and the total amount payable in respect of that premium in any period of 12 months equals or exceeds €20.
- (2) An insurer shall, in each year, within 25 days from the end of each quarter, deliver to the Commissioners a statement showing the number of relevant policies issued by the insurer in the quarter.
 - (3) There shall be charged on every statement delivered under subsection (2) a stamp duty at the rate of €1 in respect of each relevant policy shown in the statement.
 - (4) The duty charged by subsection (3) on a statement delivered by an insurer under subsection (2) shall be paid by the insurer on delivery of the statement.
 - (5) There shall be furnished to the Commissioners by an insurer such particulars as the Commissioners may deem necessary in relation to any statement required by this section to be delivered by the insurer.
 - (6) In the case of failure by an insurer to pay any duty chargeable on any such statement on the delivery of the statement, the insurer shall be liable to pay, in addition to the duty, interest on the duty, calculated in accordance with section 159D, for the period commencing on the date on which the statement was due to be delivered and ending on the date on which the duty is paid.
 - (7) A statement required to be delivered to the Commissioners pursuant to subsection (2) shall be delivered by electronic means and the relevant provisions of Chapter 6 of Part 38 of the Taxes Consolidation Act 1997 shall apply.”,

and

- (d) in Schedule 1, by the deletion of the following Headings, the provisions thereto and cross-references under those Headings:

- (i) “POLICY OF INSURANCE other than life insurance where the risk to which the policy relates is located in the State”, and
 - (ii) “INSURANCE”.
- (2) Sections 59 and 62 of the Principal Act are repealed.
- (3) *Subsections (1) and (2)* shall come into operation on such day as the Minister may appoint by order.

Banking and insurance levies compliance

63. (1) The Principal Act is amended—

(a) in section 123B—

- (i) in subsection (7), by the deletion of “and also, by means of a penalty, a sum of €380 for each day in that period”, and
- (ii) by the deletion of subsection (8),

(b) in section 124—

- (i) in subsection (5)(b), by the deletion of “and also, by means of further penalty, a sum of €380 for each day the duty remains unpaid after the expiration of 3 months from the due date”, and
- (ii) by the deletion of subsection (6),

(c) in section 124B—

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

“(6) In the case of failure by an insurer to deliver not later than the due date any statement required to be delivered by the insurer pursuant to subsection (2), or to pay the stamp duty chargeable on any such statement on delivery of the statement, the insurer shall, from that due date until the day on which the stamp duty is paid, be liable to pay, in addition to the stamp duty, interest on the stamp duty calculated in accordance with section 159D.”,

and

- (ii) by the deletion of subsection (8),

(d) in section 125, by the deletion of subsection (7),

(e) in section 126B—

- (i) in subsection (1)—

(I) by the substitution of the following definition for the definition of “relevant person”:

“ ‘relevant person’ means a person that is required to deliver a statement to the Commissioners under a specified section;”,

and

- (II) by the substitution of the following definition for the definition of “specified section”:

“ ‘specified section’ means section 123B, 123C, 123D, 124, 124A, 124B, 125, 125A, 125B, 125C or 126AA.”,

and

- (ii) by the insertion of the following subsection after subsection (10):

“(11) An assessment of duty under this section shall include any surcharge within the meaning of section 126C(3).”,

- (f) by the insertion of the following section after section 126B:

“Surcharge for late filing of return

126C.(1) In this section—

‘due date’ means the date on which a statement is required to be delivered to the Commissioners under a specified section;

‘relevant person’ means a person that is required to deliver a statement to the Commissioners under a specified section;

‘specified section’ means section 123B, 123C, 123D, 124, 124A, 124B, 125 or 125C.

- (2) For the purposes of this section—

- (a) where a relevant person deliberately or carelessly causes the delivery of an incorrect statement on or before the due date, that person shall be deemed to have failed to have delivered the statement on or before that date unless the error in the statement is remedied by the delivery of a correct statement on or before that date,
- (b) where a relevant person causes the delivery of an incorrect statement on or before the due date, but does so neither deliberately nor carelessly and it comes to that person’s notice that it is incorrect, the person shall be deemed to have failed to have delivered the statement on or before the due date unless the error in the statement is remedied by the delivery of a correct statement without unreasonable delay, and
- (c) where a relevant person causes the delivery of a statement on or before the due date, but the Commissioners, by reason of being dissatisfied with any information contained in the statement, require that person, by notice in writing served on him or her, to deliver a statement or evidence, or further statement or evidence, as may be required by them, the person shall be deemed not to have delivered the statement on or before the due date unless the person delivers the statement or evidence, or further statement or evidence,

within the time specified in any notice.

- (3) Where a relevant person fails to cause the delivery of a statement on or before the due date, any amount of stamp duty which would have been payable had a correct statement been delivered shall be increased by an amount (in this subsection referred to as a ‘surcharge’) equal to—
- (a) 5 per cent of that amount of duty, subject to a maximum surcharge of €12,695, where the statement is delivered before the expiry of 2 months from the due date, and
 - (b) 10 per cent of that amount of duty, subject to a maximum surcharge of €63,485, where the statement is not delivered before the expiry of 2 months from the due date.”,

(g) in section 128A—

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

“ ‘relevant person’ means—

- (a) an accountable person, or
- (b) a person that is required to deliver a statement to the Commissioners under Part 9;

‘return’ means—

- (a) an electronic return,
- (b) a paper return, or
- (c) any statement that is required to be delivered to the Commissioners under Part 9.”,

(ii) in subsection (2)—

(I) by the substitution of “relevant person” for “accountable person”, and

(II) in paragraph (a), by the deletion of “or statement”,

and

(iii) in subsection (4)(a), by the substitution of “a return” for “an electronic return or a paper return”,

(h) in section 128B(1)—

(i) by the substitution of the following definition for the definition of “relevant person”:

“ ‘relevant person’ means—

- (a) an accountable person, or
- (b) a person that is required to deliver a statement to the Commissioners under Part 9,

and, where records are retained on behalf of a person referred to in paragraph (a) or (b), as the case may be, a person who retains the records;”,

and

(ii) by the substitution of the following definition for the definition of “return”:

“ ‘return’ means—

- (a) an electronic return,
- (b) a paper return, or
- (c) any statement that is required to be delivered to the Commissioners under Part 9.”,

and

(i) in section 134A—

(i) in subsection (1)—

(I) in the definition of “person”, by the substitution of “an accountable person or a relevant person, as the case may be, where a return” for “an accountable person where an electronic return or a paper return” in each place where it occurs, and

(II) by the insertion of the following definitions:

“ ‘relevant person’ means a person that is required to deliver a relevant statement;

‘relevant statement’ means a statement that is required to be delivered to the Commissioners under section 123B, 123C, 123D, 124, 124A, 124B, 125 or 125C;

‘return’ means—

- (a) an electronic return,
- (b) a paper return, or
- (c) a relevant statement;”,

(ii) in subsection (2)—

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

“(c) causes an incorrect return to be delivered, or delivers an incorrect return, to the Commissioners which does not reflect all the facts and circumstances affecting the liability of such instrument or relevant statement, as the case may be, to duty or the amount of the duty with which such instrument or relevant statement is chargeable that are required by the Commissioners to be disclosed on such return, or”,

and

- (II) in paragraph (d), by the substitution of “a return” for “an electronic return or a paper return”,

(iii) in subsection (4)—

- (I) by the substitution of the following paragraph for paragraph (c):

“(c) causes an incorrect return to be delivered, or delivers an incorrect return, to the Commissioners which does not reflect all the facts and circumstances affecting the liability of such instrument or relevant statement, as the case may be, to duty or the amount of the duty with which such instrument or relevant statement is chargeable that are required by the Commissioners to be disclosed on such return, or”,

and

- (II) in paragraph (d), by substituting “a return” for “an electronic return or a paper return”,

(iv) in subsection (6)—

- (I) by the substitution of the following paragraph for paragraph (c):

“(c) causes to be delivered or delivers a return and it comes to that person’s notice that the return does not reflect all the facts and circumstances that are required by the Commissioners to be disclosed on such return, or”,

and

- (II) in paragraph (d), by the substitution of “a return” for “an electronic return or a paper return”,

and

(v) in subsection (9)—

- (I) in paragraph (a), by the substitution of “instrument or relevant statement, as the case may be” for “instrument”, and

- (II) by the substitution of the following paragraph for paragraph (b):

“(b) the amount of duty that would have been the amount so payable if all the facts and circumstances affecting the liability of such instrument or relevant statement, as the case may be, to duty or the amount of the duty with which such instrument or relevant statement is chargeable, that are required to be disclosed on such return by the Commissioners, had been disclosed to them.”.

(2) Sections 123 and 123A of the Principal Act are repealed.

(3) *Subsections (1) and (2)* shall come into operation on 1 January 2022.

PART 5

CAPITAL ACQUISITIONS TAX

Interpretation (*Part 5*)

64. In this Part, “Principal Act” means the Capital Acquisitions Tax Consolidation Act 2003.

Amendment of section 46 of Principal Act (delivery of returns)

65. Section 46 of the Principal Act is amended, in subsection (14)—

- (a) in paragraph (b), by the substitution of “the amount so specified,” for “the amount so specified, or”,
- (b) in paragraph (c), by the substitution of “a further taxable gift from the disponent, or” for “a further taxable gift from the disponent.”, and
- (c) by the insertion of the following paragraph after paragraph (c):
 - “(d) the gift comprises or includes—
 - (i) agricultural property, within the meaning of section 89(1), or
 - (ii) relevant business property, within the meaning of section 93(1).”.

Amendment of section 82 of Principal Act (exemption of certain receipts)

66. Section 82 of the Principal Act is amended, in subsection (1), by the substitution of the following paragraph for paragraph (c):

- “(c) the receipt by a person of any winnings *bona fide*, in money or money’s worth, from—
 - (i) betting (including pool betting), or
 - (ii) any lottery, sweepstake or game with prizes;”.

PART 6

MISCELLANEOUS

Interpretation (*Part 6*)

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

Repeal of section 857 of and Schedule 27 to, and amendment of section 867 of, Principal Act

68. The Principal Act is amended—

- (a) by the deletion of section 857 and Schedule 27, and
- (b) in section 867, by the substitution of “Schedule 28” for “Schedules 27 and 28”.

Amendment of section 949AQ of Principal Act (case stated for High Court)

69. Section 949AQ of the Principal Act is amended—

- (a) in subsection (1)(b), by the substitution of “section 949AP(3)(c)” for “section 949AP(3)(b)”,
- (b) in subsection (3)—
 - (i) by the substitution of the following paragraph for paragraph (a):

“(a) as soon as practicable, but not later than 3 months after receiving the notice referred to in section 949AP(2), send to the parties a draft of the case stated that they propose signing, and”,

and
 - (ii) by the substitution of “within that period of 21 days” for “within that period”,
- (c) by the substitution of the following subsection for subsection (6):

“(6) The Appeal Commissioners shall, not later than 21 days after the end of the period referred to in subsection (3)(b), complete and sign a case stated and send it to the parties.”.

Amendment of Part 7 of Emergency Measures in the Public Interest (Covid-19) Act 2020

70. (1) The Emergency Measures in the Public Interest (Covid-19) Act 2020 is amended—

- (a) in section 28A, in subsection (6), by the substitution of “paragraphs (aa) to (c)” for “paragraphs (a) to (c)” in each place where it occurs, and
- (b) in section 28B—
 - (i) in subsection (1), by the substitution of the following definition for the definition of “qualifying period”:

“ ‘qualifying period’ means the period commencing on 1 July 2020 and expiring on 30 April 2022;”,
 - (ii) in subsection (3)—
 - (I) in paragraph (a), by the insertion of “, on or before 31 December 2021,” after “applied”, and
 - (II) by the insertion of the following paragraph after paragraph (a):

“(aa) the employer has, on or before 31 December 2021, been paid a wage subsidy payment in accordance with subsection (7)(a) to which the employer was entitled in accordance with this section,”.

(iii) in subsection (5)(a), by the substitution of “, January 2022, February 2022, March 2022 and April 2022” for “and the last such month”,

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

“(8) Subject to subsections (9), (21)(aa) and (21)(c), the wage subsidy payment payable by the Revenue Commissioners to an employer in relation to a qualifying employee shall be—

(a) in the case where the date of the payment of the emoluments by the employer to the qualifying employee is in the period beginning on 1 July 2020 and ending on 19 October 2020 or the period beginning on 1 February 2022 and ending on 28 February 2022, the sum of—

(i) €151.50 per contribution week, where the employer pays the qualifying employee gross pay of at least €151.50 per week but not more than €202.99 per week, and

(ii) €203 per contribution week, where the employer pays the qualifying employee gross pay of at least €203 per week but not more than €1,462 per week,

(b) in the case where the date of the payment of the emoluments by the employer to the qualifying employee is in the period beginning on 20 October 2020 and ending on 31 January 2022, the sum of—

(i) €203 per contribution week, where the employer pays the qualifying employee gross pay of at least €151.50 per week but not more than €202.99 per week,

(ii) €250 per contribution week, where the employer pays the qualifying employee gross pay of at least €203 per week but not more than €299.99 per week,

(iii) €300 per contribution week, where the employer pays the qualifying employee gross pay of at least €300 per week but not more than €399.99 per week, and

(iv) €350 per contribution week, where the employer pays the qualifying employee gross pay of at least €400 per week but not more than €1,462 per week,

and

(c) in the case where the date of the payment of the emoluments by the employer to the qualifying employee is in the period beginning on 1 March 2022 and ending on 30 April 2022, the sum of €100 per contribution week, where the employer pays the qualifying employee gross pay of at least €151.50 per week but not more than €1,462 per week.”,

(v) in subsection (21)—

(I) by the deletion of paragraph (a), and

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

“(aa) make an order that any day referred to in paragraphs (a), (b) or (c) of subsection (8) as the day on which a period there referred to shall begin on, or end on, shall be such other day (but not later than 30 April 2022) as the Minister considers appropriate and specifies in the order.”,

and

(vi) in subsection (22), by the substitution of “paragraph (aa), (b) or (c) of subsection (21)” for “paragraph (a), (aa), (b) or (c) of subsection (21)”.

(2) *Subsection (1)(b)(iv)* shall be deemed to have come into operation on 1 October 2021.

Amendment of section 959AM of Principal Act (interpretation and miscellaneous (Chapter 7))

71. Section 959AM of the Principal Act is amended by the insertion of the following subsection after subsection (3):

“(3A) Where, apart from this subsection, C or, as the case may be, P in the definitions in subsection (1) of ‘corresponding corporation tax for the preceding accounting period’ and ‘corresponding income tax for the preceding accounting period’ would be 366 in the case where the accounting period concerned contains the date 29 February, then, in that case, C or, as the case may be, P in those definitions shall be deemed to be 365.”.

Amendment of section 1080B of Principal Act (Covid-19: special warehousing and interest provisions (income tax))

72. Section 1080B of the Principal Act is amended by the insertion of the following subsections after subsection (18):

“(19) Where—

- (a) a relevant person who is a person with a material interest (within the meaning of section 997A) in a company—
 - (i) has not estimated that the relevant person’s total income for 2020 will be less than 75 per cent of the relevant person’s total income for 2019,
 - (ii) has not formed the view that the relevant person’s total income for 2021 will be less than 75 per cent of the relevant person’s total income for 2019, or
 - (iii) was not a relevant person for 2019 and neither subsection (4) nor paragraph (b) of subsection (6) applies to that person,

and

(b) section 991B applies to the company,

this section shall apply to the relevant person, subject to the modification that a reference in this section to a relevant person's Covid-19 income tax shall be construed as a reference to that part of the relevant person's income tax liabilities which relates to the person's Schedule E income from the company.

(20) Where a relevant person referred to in subsection (19) includes on a return or declaration, as Covid-19 income tax, any amount of income tax other than income tax relating to the relevant person's Schedule E income from the company referred to in that subsection, section 959AO(3) shall apply to the relevant person's Covid-19 income tax.”.

Covid-19: interest charge on relevant person under section 1080B

73. The Principal Act is amended by the insertion of the following section after section 1080B:

“Covid-19: interest charge on relevant person under section 1080B

1080C. (1) In this section—

‘Covid-19 income tax’ has the same meaning as it has in section 1080B;

‘Covid-19 liabilities’ has the same meaning as it has in section 991B;

‘material interest’ shall be construed in accordance with section 997A(1)(b);

‘relevant emoluments’ means emoluments paid by a relevant employer to a relevant person;

‘relevant employer’ means a company—

(a) in which a relevant person has a material interest, and

(b) of which the relevant person is an employee;

‘relevant person’ has the same meaning as it has in section 1080B.

(2) This section shall apply to a relevant person where—

(a) section 991B applies to a relevant employer of the relevant person, and the relevant employer has complied with paragraphs (b) and (c) of subsection (8) of that section, and

(b) section 1080B applies to the relevant person and the relevant person has complied with paragraphs (b), (c) and (d) of subsection (11) of that section.

(3) Subject to subsection (4), where this section applies to a relevant person, notwithstanding the satisfaction of the conditions specified in section 1080B(11) by the relevant person, the obligation under section

1080B(11) to pay simple interest shall not apply to the amount of Covid-19 income tax remaining unpaid on relevant emoluments of the relevant person.

- (4) Where a relevant employer fails to pay Covid-19 liabilities or interest in accordance with an agreement referred to in section 991B(8)(c) and the conditions specified in section 1080B(11) are satisfied by the relevant person, the obligation under section 1080B(11) to pay simple interest shall apply in respect of any amount of Covid-19 income tax remaining unpaid on relevant emoluments of the relevant person from the date on which the relevant employer first fails to comply with the employer's payment obligations under the agreement.”.

Amendment of section 1077E of Principal Act (penalty for deliberately or carelessly making incorrect returns, etc.)

74. Section 1077E of the Principal Act is amended by the insertion of the following subsection after subsection (17):

“(18) This section shall not apply in respect of any disclosure made, act done or omission made after the date of the passing of the *Finance Act 2021*.”.

Penalty for deliberately or carelessly making incorrect returns or failing to make certain returns, etc.

75. (1) The Principal Act is amended—

- (a) by the insertion of the following section after section 1077E:

“Penalty for deliberately or carelessly making incorrect returns or failing to make certain returns, etc.

1077F.(1) In this section—

‘the Acts’ means the Tax Acts, the Capital Gains Tax Acts, Parts 18A, 18B, 18C, 18D, Part 22A of this Act and the Finance (Local Property Tax) Act 2012;

‘carelessly’ means failure to take reasonable care;

‘liability to tax’ means a liability to the amount of the difference specified in subsection (3) or (5), as the case may be, arising from any matter referred to in subsection (2) or (4), as the case may be;

‘period’ means a year of assessment, an accounting period, a return period as defined in section 530 or an income tax month as defined in section 983, as the context requires;

‘prompted qualifying disclosure’, in relation to a person, means a qualifying disclosure that has been made to the Revenue Commissioners or to a Revenue officer in the period between—

(a) the date on which the person is notified by a Revenue officer of the date on which an inquiry or investigation into any matter occasioning a liability to tax of that person will start, and

(b) the date that the inquiry or investigation starts;

‘qualifying disclosure’, in relation to a person, means—

(a) in relation to a penalty referred to in subsection (6), a disclosure that the Revenue Commissioners are satisfied is a disclosure of—

(i) complete information in relation to, and full particulars of, all matters occasioning a liability to tax that gives rise to a penalty referred to in subsection (6), and

(ii) full particulars of all matters occasioning any liability to tax or duty that gives rise to—

(I) a penalty referred to in section 116A(6) of the Value-Added Tax Consolidation Act 2010,

(II) a penalty referred to in section 134A(2) of the Stamp Duties Consolidation Act 1999, and

(III) the application of subsection (6) to the Capital Acquisitions Tax Consolidation Act 2003,

and

(b) in relation to a penalty referred to in subsections (7) and (8), as the case may be, a disclosure that the Revenue Commissioners are satisfied is a disclosure of complete information in relation to, and full particulars of, all matters occasioning a liability to tax that gives rise to a penalty referred to in subsection (7) or (8), as the case may be, for the relevant period under whichever of the Acts the disclosure relates to,

made in writing to the Revenue Commissioners or to a Revenue officer and signed by or on behalf of that person and that is accompanied by—

(A) a declaration, to the best of that person's knowledge, information and belief, made in writing that all matters contained in the disclosure are correct and complete, and

(B) a payment of the tax and duty payable in respect of any matter contained in the disclosure and the interest on late payment of that tax and duty;

‘Revenue officer’ means an officer of the Revenue Commissioners;

‘tax’ means any income tax, corporation tax, capital gains tax, domicile levy, income levy, parking levy, residential zoned land tax, universal social charge or local property tax;

‘unprompted qualifying disclosure’, in relation to a person, means a qualifying disclosure that the Revenue Commissioners are satisfied has been voluntarily furnished to them—

- (a) before an inquiry or investigation had been started by them or by a Revenue officer into any matter occasioning a liability to tax of that person, or
 - (b) where the person is notified by a Revenue officer of the date on which an inquiry or investigation into any matter occasioning a liability to tax of that person will start, before that notification.
- (2) Where a person—
- (a) delivers any incorrect return or statement of a kind mentioned in any of the provisions specified in column 1 of Schedule 29 where that return or statement contains—
 - (i) a deliberate understatement of—
 - (I) income, profits or gains, or
 - (II) income tax in respect of emoluments to which Chapter 4 of Part 42 relates,
 - or
 - (ii) a deliberately false or overstated claim in connection with any allowance, deduction, relief or credit,
 - (b) makes any incorrect return, statement or declaration in connection with any claim for any allowance, deduction, relief or credit and does so deliberately,
 - (c) submits to the Revenue Commissioners, the Appeal Commissioners or a Revenue officer any incorrect accounts which contain a deliberate understatement of income, profits or gains or a deliberate overstatement of any claim in connection with any allowance, deduction, relief or credit, or
 - (d) carelessly but not deliberately—
 - (i) delivers any incorrect return or statement of a kind mentioned in any of the provisions specified in column 1 of Schedule 29,
 - (ii) makes any incorrect return, statement or declaration in connection with any claim for any allowance, deduction, relief or credit, or
 - (iii) submits to the Revenue Commissioners, the Appeal Commissioners or a Revenue officer any incorrect accounts which contain an understatement of income, profits or gains or an overstatement of any claims in connection with any allowance, deduction, relief or credit,

then—

- (A) in the case of paragraphs (a) to (c), that action shall be a deliberate default for the purposes of this section, and
- (B) in the case of paragraph (d), that action shall be a careless default for the purposes of this section,

and the person shall be liable to a penalty.

- (3) The penalty referred to in subsection (2) shall be the difference between—

- (a) the amount of tax that would have been payable for the relevant periods or could have been claimed by the person concerned (including any amount deducted at source and not repayable) if that tax had been computed in accordance with the incorrect or false return, statement, declaration, claim or accounts as actually made or submitted by or on behalf of that person for those periods, and
- (b) the amount of tax that would have been payable for the relevant periods by, or refundable to, the person concerned (including any amount deducted at source and not repayable) if that tax had been computed in accordance with the true and correct return, statement, declaration, claim or accounts that should have been made or submitted by or on behalf of that person for those periods,

and for the purposes of this subsection and subsection (5) references in those subsections to tax payable shall be construed without regard to the definition of ‘income tax payable’ in section 3.

- (4) Where a person—

- (a) deliberately fails to comply, or
- (b) carelessly (but not deliberately) fails to comply,

with a requirement to deliver a return or statement of a kind mentioned in any of the provisions specified in column 1 of Schedule 29, then, that failure to comply with a requirement shall—

- (i) in the case of paragraph (a), be a deliberate default for the purposes of this section, and
- (ii) in the case of paragraph (b), be a careless default for the purposes of this section,

and the person shall be liable to a penalty.

- (5) In relation to any matter that would have been included in a return or statement referred to in subsection (4) if the return or statement had been delivered by a person and had been correct, the penalty referred to in subsection (4) shall be the difference between—

- (a) the amount of tax (if any) paid by the person for the relevant

periods (including any amount deducted at source and not repayable) before—

- (i) unless subparagraph (ii) applies, the date of the notice in writing from the Revenue Commissioners to the person concerned of an inquiry or investigation by the Revenue Commissioners or a Revenue officer into the matter, or
- (ii) where the Revenue Commissioners had announced publicly that they had started an inquiry or investigation into the matter, the date of that public announcement,

and

- (b) the amount of tax which would have been payable for the relevant periods (including any amount deducted at source and not repayable) if the return or statement had been delivered by that person and the return or statement had been correct.

- (6) (a) (i) Subject to subparagraphs (ii), (iii) and (iv), where a person is liable to a penalty under subsection (2) or (4), as the case may be, for a deliberate default, the penalty referred to in subsection (3) or (5), as the case may be, shall not be reduced.

- (ii) Where subparagraph (i) applies and the person cooperated fully with any inquiry or investigation started by the Revenue Commissioners or by a Revenue officer into any matter occasioning a liability to tax of that person, the penalty referred to in subsection (3) or (5), as the case may be, shall be reduced to 75 per cent of the difference referred to in subsection (3) or (5), as the case may be (referred to in this subsection and subsections (7) and (8) as ‘the difference’).

- (iii) Where subparagraph (ii) applies and the person made a prompted qualifying disclosure, the penalty referred to in subsection (3) or (5), as the case may be, shall be reduced to 50 per cent of the difference.

- (iv) Where subparagraph (ii) applies and the person made an unprompted qualifying disclosure, the penalty referred to in subsection (3) or (5), as the case may be, shall be reduced to 10 per cent of the difference.

- (b) (i) Subject to subparagraph (ii), where a second qualifying disclosure is made by a person within 5 years of such person’s first qualifying disclosure, the penalty referred to in subsection (3) or (5), as the case may be, for a deliberate default shall not be reduced.

- (ii) Where subparagraph (i) applies and the person cooperated fully with any inquiry or investigation started by the Revenue Commissioners or by a Revenue officer into any matter

occasioning a liability to tax of that person, then—

- (I) where that person made a prompted qualifying disclosure, the penalty referred to in subsection (3) or (5), as the case may be, shall be reduced to 75 per cent of the difference, and
 - (II) where that person made an unprompted qualifying disclosure, the penalty referred to in subsection (3) or (5), as the case may be, shall be reduced to 55 per cent of the difference.
- (c) Where a third or subsequent qualifying disclosure is made by a person within 5 years of such person's second qualifying disclosure, the penalty referred to in subsection (3) or (5), as the case may be, for a deliberate default under subsection (2) or (4), as the case may be, shall not be reduced.
- (7) (a) In this subsection and subsection (8), 'significant consequences' means, where subsection (2) applies, the amount of the difference referred to in subsection (3) exceeds 15 per cent of the amount referred to in paragraph (b) of subsection (3) and, where subsection (4) applies, the amount of the difference referred to in subsection (5) exceeds 15 per cent of the amount referred to in paragraph (b) of subsection (5).
- (b) (i) Subject to subparagraphs (ii), (iii) and (iv), where a person is liable to a penalty under subsection (2) or (4), as the case may be, for a careless default which has significant consequences, the penalty referred to in subsection (3) or (5), as the case may be, shall be reduced to 40 per cent of the difference.
- (ii) Where subparagraph (i) applies and the person cooperated fully with any inquiry or investigation started by the Revenue Commissioners or by a Revenue officer into any matter occasioning a liability to tax of that person, the penalty referred to in subsection (3) or (5), as the case may be, shall be reduced to 30 per cent of the difference.
- (iii) Where subparagraph (ii) applies and the person also made a prompted qualifying disclosure, the penalty referred to in subsection (3) or (5), as the case may be, shall be reduced to 20 per cent of the difference.
- (iv) Where subparagraph (ii) applies and the person also made an unprompted qualifying disclosure, the penalty referred to in subsection (3) or (5), as the case may be, shall be reduced to 5 per cent of the difference.
- (c) (i) Subject to subparagraph (ii), where a second qualifying disclosure is made by a person within 5 years of such person's

first qualifying disclosure, the penalty referred to in subsection (3) or (5), as the case may be, for a careless default with significant consequences shall be reduced to 40 per cent of the difference.

- (ii) Where subparagraph (i) applies and the person cooperated fully with any inquiry or investigation started by the Revenue Commissioners or by a Revenue officer into any matter occasioning a liability to tax of that person, then—
 - (I) where that person made a prompted qualifying disclosure, the penalty referred to in subsection (3) or (5), as the case may be, shall be reduced to 30 per cent of the difference, and
 - (II) where that person made an unprompted qualifying disclosure, the penalty referred to in subsection (3) or (5), as the case may be, shall be reduced to 20 per cent of the difference.
- (d) Where a third or subsequent qualifying disclosure is made by a person within 5 years of such person's second qualifying disclosure, the penalty referred to in subsection (3) or (5), as the case may be, for a careless default with significant consequences shall be reduced to 40 per cent of the difference.
- (8) (a) Subject to paragraphs (b), (c) and (d), where a person is liable to a penalty under subsection (2) or (4), as the case may be, for a careless default which does not have significant consequences, the penalty referred to in subsection (3) or (5), as the case may be, shall be reduced to 20 per cent of the difference.
- (b) Where paragraph (a) applies and the person cooperated fully with any inquiry or investigation started by the Revenue Commissioners or by a Revenue officer into any matter occasioning a liability to tax of that person, the penalty referred to in subsection (3) or (5), as the case may be, shall be reduced to 15 per cent of the difference.
- (c) Where paragraph (b) applies and the person also made a prompted qualifying disclosure, the penalty referred to in subsection (3) or (5), as the case may be, shall be reduced to 10 per cent of the difference.
- (d) Where paragraph (b) applies and the person also made an unprompted qualifying disclosure, the penalty referred to in subsection (3) or (5), as the case may be, shall be reduced to 3 per cent of the difference.
- (9) Where—
 - (a) the aggregate amount of—

- (i) the liability to tax (within the meaning of subsection (1)),
 - (ii) the liability to tax (within the meaning of section 116A(1) of the Value-Added Tax Consolidation Act 2010),
 - (iii) the liability to duty (within the meaning of section 134A(15) of the Stamp Duties Consolidation Act 1999), and
 - (iv) the differences specified in subsections (5) and (5A), as appropriate, of section 58 of the Capital Acquisitions Tax Consolidation Act 2003,
- does not exceed €6,000, and
- (b) but for this subsection the penalty would be reduced in accordance with subsection (7) or (8) of this section, subsection (7) or (8) of section 116A of the Value-Added Tax Consolidation Act 2010 or subsection (5)(b) or (5A)(b) of section 134A of the Stamp Duties Consolidation Act 1999, as the case may be,
- then, notwithstanding subsection (2) or (4), as the case may be, that person shall not be liable to a penalty.
- (10) Where any person is liable to a penalty under subsection (2) so much of the difference specified in subsection (3) as is attributable to a technical adjustment or an innocent error shall not be liable to a penalty.
 - (11) Where a person deliberately or carelessly furnishes, gives, produces or makes any incorrect return, information, certificate, document, record, statement, particulars, account or declaration of a kind mentioned in any of the provisions specified in column 2 or 3 of Schedule 29, the person shall be liable to—
 - (a) a penalty of €3,000 where that person has acted carelessly, or
 - (b) a penalty of €5,000 where that person has acted deliberately.
 - (12) Where any return, statement, declaration or accounts referred to in subsection (2) was or were made or submitted by a person, neither deliberately nor carelessly, and it comes to that person's notice that it was or they were incorrect, then, unless the error is remedied without unreasonable delay, the incorrect return, statement, declaration or accounts shall be treated for the purposes of this section as having been deliberately made or submitted by that person.
 - (13) Subject to section 1077D(2), proceedings or applications for the recovery of any penalty under this section shall not be out of time because they are commenced after the time allowed by section 1063.
 - (14) A disclosure in relation to a person shall not be a qualifying disclosure where—
 - (a) before the disclosure is made, a Revenue officer had started an

inquiry or investigation into any matter contained in that disclosure and had contacted or notified that person, or a person representing that person, in this regard, or

(b) matters contained in the disclosure are matters—

(i) that have become known, or are about to become known, to the Revenue Commissioners through their own investigations or through an investigation conducted by a statutory body or agency,

(ii) that are within the scope of an inquiry being carried out wholly or partly in public, or

(iii) to which the person who made the disclosure is linked, or about to be linked, publicly.

(15) (a) The relevant period for the purposes of subsections (3) and (5) shall be, in relation to anything delivered, made or submitted in any period, that period, the next period and any preceding period.

(b) For the purposes of this subsection, the references in subsections (3) and (5) to the amount of tax payable shall not, in relation to anything done in connection with a partnership, include any tax not chargeable in the partnership name.

(16) For the purposes of this section, any returns or accounts submitted on behalf of a person shall be deemed to have been submitted by the person unless that person proves that they were submitted without that person's consent or knowledge.”,

and

(b) in section 959V, by the insertion of the following subsection after subsection (7):

“(8) This section is without prejudice to the operation of section 1077E or 1077F, as appropriate.”.

(2) The Value-Added Tax Consolidation Act 2010 is amended by the insertion of the following section after section 116:

“Penalty for deliberately or carelessly making incorrect returns, etc.

116A.(1) In this section—

‘carelessly’ means failure to take reasonable care;

‘liability to tax’ means a liability to the amount of the difference specified in subsection (3) or (5), as the case may be, arising from any matter referred to in subsection (2) or (4), as the case may be;

‘period’ means taxable period, accounting period or other period, as the context requires;

‘prompted qualifying disclosure’, in relation to a person, means a qualifying disclosure that has been made to the Revenue

Commissioners or to a Revenue officer in the period between—

(a) the date on which a person is notified by a Revenue officer of the date on which an inquiry or investigation into any matter occasioning a liability to tax of that person will start, and

(b) the date that the inquiry or investigation starts;

‘qualifying disclosure’, in relation to a person, means—

(a) in relation to a penalty referred to in subsection (6), a disclosure that the Revenue Commissioners are satisfied is a disclosure of—

(i) complete information in relation to, and full particulars of, all matters occasioning a liability to tax that gives rise to a penalty referred to in subsection (6), and

(ii) full particulars of all matters occasioning any liability to tax or duty that gives rise to—

(I) a penalty referred to in section 1077F(6) of the Taxes Consolidation Act 1997,

(II) a penalty referred to in section 134A(2) of the Stamp Duties Consolidation Act 1999, and

(III) the application of section 1077F(6) of the Taxes Consolidation Act 1997 to the Capital Acquisitions Tax Consolidation Act 2003,

and

(b) in relation to a penalty referred to in subsection (7) or (8), as the case may be, a disclosure that the Revenue Commissioners are satisfied is a disclosure of complete information in relation to, and full particulars of, all matters occasioning a liability to tax that gives rise to a penalty referred to in subsection (7) or (8), as the case may be, for the relevant period,

made in writing to the Revenue Commissioners or to a Revenue officer and signed by or on behalf of that person and is accompanied by—

(A) a declaration, to the best of that person’s knowledge, information and belief, made in writing that all matters contained in the disclosure are correct and complete, and

(B) a payment of the tax and duty payable in respect of any matter contained in the disclosure and the interest on late payment of that tax and duty;

‘Revenue officer’ means an officer of the Revenue Commissioners;

‘unprompted qualifying disclosure’, in relation to a person, means a qualifying disclosure that the Revenue Commissioners are satisfied has been voluntarily furnished to them—

- (a) before an inquiry or investigation had been started by them or by a Revenue officer into any matter occasioning a liability to tax of that person, or
 - (b) where the person is notified by a Revenue officer of the date on which an inquiry or investigation into any matter occasioning a liability to tax of that person will start, before that notification.
- (2) Where a person—
 - (a) furnishes a return or makes a claim or declaration for the purposes of this Act or of regulations and, in so doing, the person deliberately—
 - (i) furnishes an incorrect return, or
 - (ii) makes an incorrect claim or declaration,or
 - (b) furnishes a return or makes a claim or declaration for the purposes of this Act or of regulations and, in so doing, the person carelessly but not deliberately—
 - (i) furnishes an incorrect return, or
 - (ii) makes an incorrect claim or declaration,then—
 - (I) in the case of paragraph (a), that action shall be a deliberate default for the purposes of this section, and
 - (II) in the case of paragraph (b), that action shall be a careless default for the purposes of this section,and the person shall be liable to a penalty.
- (3) The penalty referred to in subsection (2) shall be the difference between—
 - (a) the amount of tax (if any) paid or claimed by the person concerned for the relevant period on the basis of the incorrect return, claim or declaration as furnished or otherwise made, and
 - (b) the amount properly payable by, or refundable to, that person for that period.
- (4) Where a person—
 - (a) deliberately fails to comply, or
 - (b) carelessly (but not deliberately) fails to comply,with a requirement in accordance with this Act or regulations to furnish a return, that failure to comply with a requirement shall—

- (i) in the case of paragraph (a), be a deliberate default for the purposes of this section, and
 - (ii) in the case of paragraph (b), be a careless default for the purposes of this section,
- and the person shall be liable to a penalty.
- (5) In relation to any matter that would have been included in a return referred to in subsection (4) if it had been delivered by a person and had been correct, the penalty referred to in subsection (4) shall be the difference between—
- (a) the amount of tax (if any) paid by the person for the relevant period before—
 - (i) unless subparagraph (ii) applies, the date of the notice in writing from the Revenue Commissioners to the person concerned of an inquiry or investigation by the Revenue Commissioners or a Revenue officer into the matter, or
 - (ii) where the Revenue Commissioners had announced publicly that they had started an inquiry or investigation into the matter, the date of that public announcement,
 - and
 - (b) the amount of tax properly payable by the person for that period.
- (6) (a) (i) Subject to subparagraphs (ii), (iii) and (iv), where a person is liable to a penalty under subsection (2) or (4), as the case may be, for a deliberate default, the penalty referred to in subsection (3) or (5), as the case may be, shall not be reduced.
- (ii) Where subparagraph (i) applies and the person cooperated fully with any inquiry or investigation started by the Revenue Commissioners or by a Revenue officer into any matter occasioning a liability to tax of that person, the penalty referred to in subsection (3) or (5), as the case may be, shall be reduced to 75 per cent of the difference referred to in subsection (3) or (5), as the case may be (referred to in this subsection and subsections (7) and (8) as ‘the difference’).
 - (iii) Where subparagraph (ii) applies and the person made a prompted qualifying disclosure, the penalty referred to in subsection (3) or (5), as the case may be, shall be reduced to 50 per cent of the difference.
 - (iv) Where subparagraph (ii) applies and the person made an unprompted qualifying disclosure, the penalty referred to in subsection (3) or (5), as the case may be, shall be reduced to 10 per cent of the difference.

- (b) (i) Subject to subparagraph (ii), where a second qualifying disclosure is made by a person within 5 years of such person's first qualifying disclosure, the penalty referred to in subsection (3) or (5), as the case may be, for a deliberate default shall not be reduced.
 - (ii) Where subparagraph (i) applies and the person cooperated fully with any inquiry or investigation started by the Revenue Commissioners or by a Revenue officer into any matter occasioning a liability to tax of that person, then—
 - (I) where that person made a prompted qualifying disclosure, the penalty referred to in subsection (3) or (5), as the case may be, shall be reduced to 75 per cent of the difference, and
 - (II) where the person made an unprompted qualifying disclosure, the penalty referred to in subsection (3) or (5), as the case may be, shall be reduced to 55 per cent of the difference.
 - (c) Where a third or subsequent qualifying disclosure is made by a person within 5 years of such person's second qualifying disclosure, the penalty referred to in subsection (3) or (5), as the case may be, for a deliberate default under subsection (2) or (4), as the case may be, shall not be reduced.
- (7) (a) In this subsection and in subsection (8), 'significant consequences' means, where subsection (2) applies, the amount of the difference referred to in subsection (3) exceeds 15 per cent of the amount referred to in paragraph (b) of subsection (3) and, where subsection (4) applies, the amount of the difference referred to in subsection (5) exceeds 15 per cent of the amount referred to in paragraph (b) of subsection (5).
- (b) (i) Subject to subparagraphs (ii), (iii) and (iv), where a person is liable to a penalty under subsection (2) or (4), as the case may be, for a careless default which has significant consequences, the penalty referred to in subsection (3) or (5), as the case may be, shall be reduced to 40 per cent of the difference.
 - (ii) Where subparagraph (i) applies and the person cooperated fully with any inquiry or investigation started by the Revenue Commissioners or by a Revenue officer into any matter occasioning a liability to tax of that person, the penalty referred to in subsection (3) or (5), as the case may be, shall be reduced to 30 per cent of the difference.
 - (iii) Where subparagraph (ii) applies and the person also made a prompted qualifying disclosure, the penalty referred to in subsection (3) or (5), as the case may be, shall be reduced to 20

per cent of the difference.

- (iv) Where subparagraph (ii) applies and the person also made an unprompted qualifying disclosure, the penalty referred to in subsection (3) or (5), as the case may be, shall be reduced to 5 per cent of the difference.
 - (c) (i) Subject to subparagraph (ii), where a second qualifying disclosure is made by a person within 5 years of such person's first qualifying disclosure, the penalty referred to in subsection (3) or (5), as the case may be, for a careless default with significant consequences shall be reduced to 40 per cent of the difference.
 - (ii) Where subparagraph (i) applies and the person cooperated fully with any inquiry or investigation started by the Revenue Commissioners or by a Revenue officer into any matter occasioning a liability to tax of that person, then—
 - (I) where the person made a prompted qualifying disclosure, the penalty referred to in subsection (3) or (5), as the case may be, shall be reduced to 30 per cent of the difference, and
 - (II) where the person made an unprompted qualifying disclosure, the penalty referred to in subsection (3) or (5), as the case may be, shall be reduced to 20 per cent of the difference.
 - (d) Where a third or subsequent qualifying disclosure is made by a person within 5 years of such person's second qualifying disclosure, the penalty referred to in subsection (3) or (5), as the case may be, for a careless default with significant consequences shall be reduced to 40 per cent of the difference.
- (8) (a) Subject to paragraphs (b), (c) and (d), where a person is liable to a penalty under subsection (2) or (4), as the case may be, for a careless default which does not have significant consequences, the penalty referred to in subsection (3) or (5), as the case may be, shall be reduced to 20 per cent of the difference.
- (b) Where paragraph (a) applies and the person cooperated fully with any inquiry or investigation started by the Revenue Commissioners or by a Revenue officer into any matter occasioning a liability to tax of that person, the penalty referred to in subsection (3) or (5), as the case may be, shall be reduced to 15 per cent of the difference.
 - (c) Where paragraph (b) applies and the person also made a prompted qualifying disclosure, the penalty referred to in subsection (3) or (5), as the case may be, shall be reduced to 10 per cent of the difference.

- (d) Where paragraph (b) applies and the person also made an unprompted qualifying disclosure, the penalty referred to in subsection (3) or (5), as the case may be, shall be reduced to 3 per cent of the difference.
- (9) Where—
- (a) the aggregate amount of—
- (i) the liability to tax (within the meaning of subsection (1)),
 - (ii) the liability to tax (within the meaning of section 1077F(1) of the Taxes Consolidation Act 1997),
 - (iii) the liability to duty within the meaning of section 134A(15) of the Stamp Duties Consolidation Act 1999, and
 - (iv) the differences specified in subsections (5) and (5A), as appropriate, of section 58 of the Capital Acquisitions Tax Consolidation Act 2003,
- does not exceed €6,000, and
- (b) but for this subsection the penalty would be reduced in accordance with subsection (7) or (8) of this section, subsection (7) or (8) of section 1077F of the Taxes Consolidation Act 1997 or subsection (5)(b) or (5A)(b) of section 134A of the Stamp Duties Consolidation Act 1999, as the case may be,
- then, notwithstanding subsection (2) or (4), as the case may be, that person shall not be liable to a penalty.
- (10) Where any person is liable to a penalty under subsection (2) so much of the difference specified in subsection (3) as is attributable to a technical adjustment or an innocent error shall not be liable to a penalty.
- (11) Where, for the purposes of this Act or of regulations, a person deliberately or carelessly produces, furnishes, gives, sends or otherwise makes use of, any incorrect invoice, registration number, credit note, debit note, receipt, account, voucher, bank statement, estimate, statement, information, book, document or record, the person shall be liable to—
- (a) a penalty of €3,000 where that person has acted carelessly, or
 - (b) a penalty of €5,000 where that person has acted deliberately.
- (12) Where any return, claim or declaration referred to in subsection (2) was furnished or made by a person, neither deliberately nor carelessly, and it comes to the person's notice that it was incorrect, then, unless the error is remedied without unreasonable delay, the return, claim or declaration shall be treated for the purposes of this section as having been deliberately made or submitted by that person.

- (13) Subject to section 1077D(2) of the Taxes Consolidation Act 1997, proceedings or applications for the recovery of any penalty under this section shall not be out of time because they are commenced after the time allowed by section 113.
- (14) This section shall not apply to a person, being the second accountable person (within the meaning of section 108C), where—
 - (a) that person is jointly and severally liable by virtue of section 108C, and
 - (b) the penalty which would otherwise arise under this section only relates to the tax for which that person is jointly and severally liable by virtue of section 108C.
- (15) This section shall not apply to a person, being a tax representative appointed in accordance with section 109A, where—
 - (a) that person is jointly and severally liable by virtue of section 109A, and
 - (b) the penalty which would otherwise arise under this section only relates to tax for which that person is jointly and severally liable by virtue of that section.
- (16) This section shall not apply to a person, being an intermediary (within the meaning of section 91I), where—
 - (a) that person is jointly and severally liable by virtue of section 91J(10), and
 - (b) the penalty which would otherwise arise under this section only relates to tax for which that person is jointly and severally liable by virtue of section 91J(10).
- (17) A disclosure in relation to a person shall not be a qualifying disclosure where—
 - (a) before the disclosure is made, a Revenue officer had started an inquiry or investigation into any matter contained in that disclosure and had contacted or notified that person, or a person representing that person, in this regard, or
 - (b) matters contained in the disclosure are matters—
 - (i) that have become known, or are about to become known, to the Revenue Commissioners through their own investigations or through an investigation conducted by a statutory body or agency,
 - (ii) that are within the scope of an inquiry being carried out wholly or partly in public, or
 - (iii) to which the person who made the disclosure is linked, or about

to be linked, publicly.

- (18) For the purposes of this section, any return, claim or declaration submitted on behalf of a person shall be deemed to have been submitted by that person unless that person proves that it was submitted without that person's consent or knowledge.
- (19) Where a person referred to in subsection (2) or (4), as the case may be, is a body of persons, the secretary shall be liable to a separate penalty of €1,500 or, in the case of deliberate behaviour, €3,000.
- (20) Where a person, in a case in which the person represents that he or she is a registered person or that goods imported by him or her were so imported for the purposes of a business carried on by him or her, improperly procures the importation of goods without payment of tax in circumstances in which tax is chargeable, then he or she shall be liable to a penalty of €4,000 and, in addition, he or she shall be liable to pay to the Revenue Commissioners the amount of any tax that should have been paid on the importation.
- (21) Where a person acquires goods without payment of value-added tax (as referred to in the VAT Directive) in another Member State as a result of the declaration of an incorrect registration number, the person shall be liable to a penalty of €4,000 and, in addition, he or she shall be liable to pay to the Revenue Commissioners an amount equal to the amount of tax which would have been chargeable on an intra-Community acquisition of those goods if that declaration had been the declaration of a correct registration number.
- (22) (a) Where, in pursuance of regulations made for the purposes of section 57(1), tax on the supply of any goods has been remitted or repaid and—
 - (i) either—
 - (I) those goods are found in the State after the date on which they were alleged to have been or were to be exported, or
 - (II) any condition specified in the regulations or imposed by the Revenue Commissioners is not complied with,
 - and
 - (ii) the presence of the goods in the State after that date or the non-compliance with the condition has not been authorised for the purposes of this subsection by the Revenue Commissioners,then—
 - (A) the goods shall be liable to forfeiture, and
 - (B) subject to paragraph (b), the tax which was remitted or repaid shall be charged upon and become payable forthwith by the

person to whom the goods were supplied or any person in whose possession the goods are found in the State and sections 960I(1), 960J, 960L and 960N of the Taxes Consolidation Act 1997 shall apply accordingly.

- (b) The Revenue Commissioners may, if they think fit, waive payment of the whole or part of the tax referred to in subclause (B) of paragraph (a).
- (23) (a) For the purposes of this section ‘the declaration of an incorrect registration number’ means—
- (i) the declaration by a person of another person’s registration number,
 - (ii) the declaration by a person of a number which is not an actual registration number which the person purports to be his or her registration number,
 - (iii) the declaration by a person of a registration number which is cancelled,
 - (iv) the declaration by a person of a registration number which was obtained from the Revenue Commissioners by supplying incorrect information, or
 - (v) the declaration by a person of a registration number which was obtained from the Revenue Commissioners for the purposes of acquiring goods without payment of value-added tax (as referred to in the VAT Directive), and not for any *bona fide* business purpose.
- (b) Where goods—
- (i) were supplied at the rate of zero per cent subject to the condition that they were to be dispatched or transported outside the State in accordance with paragraph 1(1) or (2), 3(1) or 7(3) of Schedule 2 and the goods were not so dispatched or transported,
 - (ii) were acquired without payment of value-added tax (as referred to in the VAT Directive) in another Member State as a result of the declaration of an incorrect registration number,
 - (iii) were acquired in another Member State and those goods are new means of transport in respect of which the acquirer—
 - (I) makes an intra-Community acquisition in the State,
 - (II) is not entitled to a deduction under Chapter 1 of Part 8 in respect of the tax chargeable on that acquisition, and
 - (III) fails to account for the tax due on that acquisition in accordance with Chapter 3 of Part 9,

or

- (iv) are being supplied by an accountable person who has not complied with section 65(3),

then those goods shall be liable to forfeiture.

- (c) Where an officer authorised by the Revenue Commissioners reasonably suspects that goods are liable to forfeiture in accordance with paragraph (b), then those goods may be detained by that officer until such examination, inquiries or investigations as may be deemed necessary by that officer, or by another authorised officer of the Revenue Commissioners, have been made for the purpose of determining to the satisfaction of either officer whether or not those goods were so supplied or acquired.
 - (d) Where a determination referred to in paragraph (c) has been made in respect of any goods, or upon the expiry of a period of 2 months from the date on which the goods were detained under that paragraph, whichever is the earlier, those goods shall be seized as liable to forfeiture or released.
- (24) The provisions of the Customs Acts relating to forfeiture and condemnation of goods shall apply to goods liable to forfeiture under subsection (22) or (23) as if they had become liable to forfeiture under those Acts and all powers which may be exercised by an officer of customs under those Acts may be exercised by officers of the Revenue Commissioners authorised to exercise those powers for the purposes of those subsections and any provisions in relation to offences under those Acts shall apply, with any necessary modifications, in relation to those subsections.
- (25) Where an officer authorised by the Revenue Commissioners for the purposes of this subsection or a member of An Garda Síochána has reasonable grounds for suspecting that a criminal offence has been committed under section 1078 of the Taxes Consolidation Act 1997 in relation to tax, by a person who is not established in the State, or whom that officer believes is likely to leave the State, that officer may arrest the person.”.

(3) Section 134A of the Stamp Duties Consolidation Act 1999 is amended—

- (a) in subsection (1), in the definition of “qualifying disclosure”, by the substitution of the following for paragraph (a):

“(a) in relation to a penalty referred to in subsection (3), a disclosure that the Commissioners are satisfied is a disclosure of complete information in relation to, and full particulars of, all matters occasioning a liability to duty that gives rise to a penalty referred to in subsection (3), and full particulars of all matters occasioning any liability to tax that gives rise to a penalty referred to in sections

1077E(4) and 1077F(6) of the Taxes Consolidation Act 1997 (including those provisions as applied to the Capital Acquisitions Tax Consolidation Act 2003 by section 58(9)(b) of that Act) and sections 116(4) and 116A(6) of the Value-Added Tax Consolidation Act 2010, and”,

(b) by the deletion of subsection (13), and

(c) by the insertion of the following subsection after subsection (14):

“(15) (a) For the purposes of this subsection, the liability to duty shall include the amount calculated in accordance with subsection (9A).

(b) Where—

(i) the aggregate amount of—

(I) the liability to duty,

(II) the liability to tax (within the meaning of section 1077F(1) of the Taxes Consolidation Act 1997),

(III) the liability to tax (within the meaning of section 116A(1) of the Value-Added Tax Consolidation Act 2010), and

(IV) the differences specified in subsections (5) and (5A), as appropriate, of section 58 of the Capital Acquisitions Tax Consolidation Act 2003,

does not exceed €6,000, and

(ii) but for this subsection, the penalty would be reduced in accordance with subsection (5)(b) or (5A)(b) of this section, subsection (7) or (8) of section 1077F of the Taxes Consolidation Act 1997 or subsection (7) or (8) of section 116A of the Value-Added Tax Consolidation Act 2010, as the case may be,

then, notwithstanding subsection (4), the person shall not be liable to a penalty under this section.”.

(4) Section 58 of the Capital Acquisitions Tax Consolidation Act 2003 is amended—

(a) by the substitution of the following subsection for subsection (5A):

“(5A) In relation to any matter that would have been included in a return or additional return if the return or additional return had been delivered by a person and had been correct, the difference referred to in paragraph (b) of subsection (1A) is the difference between—

(a) the amount of tax paid by that person in respect of the taxable gift or inheritance to which the return or additional return relates before—

(i) unless subparagraph (ii) applies, the date of the notice in writing

from the Revenue Commissioners to the person concerned of an inquiry or investigation by the Revenue Commissioners or a Revenue officer into the matter, or

- (ii) where the Revenue Commissioners had announced publicly that they had started an inquiry or investigation into the matter, the date of that public announcement,

and

- (b) the amount of tax that would have been payable if the return or additional return had been delivered by that person and that return or additional return had been correct.”,

and

- (b) in subsection (9)(b), by the substitution of “section 1077E or 1077F, as appropriate” for “section 1077E (inserted by the Finance (No. 2) Act 2008)”.
- (5) (a) The Principal Act is amended in the manner and to the extent specified in *Part 1* of the *Schedule*.
- (b) The Value-Added Tax Consolidation Act 2010 is amended in the manner and to the extent specified in *Part 2* of the *Schedule*.
- (c) The Finance Act 2001 is amended in the manner and to the extent specified in *Part 3* of the *Schedule*.

Amendment of section 116 of Value-Added Tax Consolidation Act 2010 (penalty for deliberately or carelessly making incorrect returns, etc.)

76. Section 116 of the Value-Added Tax Consolidation Act 2010 is amended by the insertion of the following subsection after subsection (23):

“(24) This section shall not apply in respect of any disclosure made, act done or omission made after the date of the passing of the *Finance Act 2021*.”.

Amendment of section 1086 of Principal Act (publication of names of tax defaulters)

77. Section 1086 of the Principal Act is amended, in subsection (2), by the insertion of “and ending with the period ending on the 31st day of December 2021” after “the 30th day of September, 1997”.

Publication of names and details of tax defaulters

78. The Principal Act is amended by the insertion of the following section after section 1086:

“1086A. (1) In this section—

‘the Acts’ means—

- (a) the Tax Acts,

- (b) Parts 18A, 18B, 18C, 18D and 22A of this Act,
- (c) the Capital Gains Tax Acts,
- (d) the Value-Added Tax Consolidation Act 2010, and the enactments amending or extending that Act,
- (e) the Capital Acquisitions Tax Consolidation Act 2003, and the enactments amending or extending that Act,
- (f) the Stamp Duties Consolidation Act 1999, and the enactments amending or extending that Act,
- (g) Part VI of the Finance Act 1983,
- (h) the Customs Acts,
- (i) the statutes relating to the duties of excise and to the management of those duties,
- (j) the Finance (Local Property Tax) Act 2012, and the enactments amending or extending that Act,

and any instruments made thereunder;

‘publication amount’ has the meaning given to it by subsection (6);

‘qualifying disclosure’ has the meaning given to it by, as the case may be, section 1077E or 1077F, as appropriate, section 116 or 116A, as appropriate, of the Value-Added Tax Consolidation Act 2010, section 99B of the Finance Act 2001 or section 134A of the Stamp Duties Consolidation Act 1999;

‘relevant period’ means the period beginning on 1 January 2022 and ending on 31 March 2022, and each subsequent period of 3 months beginning with the period ending on 30 June 2022;

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

‘tax’ means any tax, duty, levy or charge under the care and management of the Revenue Commissioners.

- (2) The Revenue Commissioners shall, as respects each relevant period, compile a list of every person—
 - (a) on whom a fine or other penalty was imposed or determined by a court under any of the Acts during that relevant period,
 - (b) on whom a fine or other penalty was otherwise imposed or determined by a court during that relevant period in respect of an act or omission by the person in relation to tax,
 - (c) in whose case the Revenue Commissioners, pursuant to an agreement made with the person in that relevant period, refrained from initiating proceedings for the recovery of any fine or penalty of the kind mentioned in paragraphs (a) and (b) and, in place of

initiating such proceedings, accepted or undertook to accept an amount (in this section referred to as a ‘settlement amount’) in settlement of any claim by the Revenue Commissioners in respect of any liability of the person under any of the Acts for—

- (i) payment of any tax or, in the case of a restriction of a repayment of any tax, so much of the repayment as is disallowed,
- (ii) any surcharge in respect of that tax, if applicable,
- (iii) interest on that tax and on that surcharge, if applicable, and
- (iv) a fine or other monetary penalty in respect of that tax, including penalties in respect of the failure to deliver or produce any return, statement, declaration, list or other document or in respect of the delivery or production of any false or incorrect return, statement, declaration, list or other document in connection with that tax,

or

- (d) in whose case the Revenue Commissioners, having initiated proceedings for the recovery of any fine or penalty of the kind mentioned in paragraphs (a) and (b), and whether or not a fine or penalty of the kind mentioned in those paragraphs has been imposed or determined by a court, accepted or undertook to accept, in that relevant period, a settlement amount in respect of any liability of the person under any of the Acts for—
 - (i) payment of any tax or, in the case of a restriction of a repayment of any tax, so much of the repayment as is disallowed,
 - (ii) any surcharge in respect of that tax, if applicable,
 - (iii) interest in respect of that tax and on that surcharge, if applicable, and
 - (iv) a fine or other monetary penalty in respect of that tax including penalties in respect of the failure to deliver or produce any return, statement, declaration, list or other document or in respect of the delivery or production of any false or incorrect return, statement, declaration, list or other document in connection with that tax.
- (3) Notwithstanding any obligation imposed on the Revenue Commissioners under section 851A or any other enactment in relation to the confidentiality of taxpayer information (within the meaning of that section)—
 - (a) the Revenue Commissioners shall, before the expiration of 3 months from the end of each relevant period, cause each such list referred to in subsection (2) in relation to that period to be published in *Iris Oifigiúil*, and

- (b) the Revenue Commissioners may, at any time after each such list referred to in subsection (2) has been published as provided for in paragraph (a), cause any such list to be publicised or reproduced, or both, in whole or in part, in such manner, form or format as they consider appropriate, including on a website maintained by the Revenue Commissioners.
- (4) Where the Revenue Commissioners accept or undertake to accept a settlement amount in respect of the liability of a person referred to in paragraph (c) or (d), as the case may be, of subsection (2), then—
 - (a) they shall be deemed to have done so pursuant to—
 - (i) an agreement made with the person referred to in paragraph (c), whereby they refrained from initiating proceedings for the recovery of any fine or penalty of the kind mentioned in paragraphs (a) and (b) of subsection (2), or
 - (ii) an agreement made with the person referred to in paragraph (d) of subsection (2) to accept a settlement amount,
 - and
 - (b) the agreement shall be deemed to have been made in the relevant period in which the Revenue Commissioners accepted or undertook to accept that full amount.
- (5) For the purposes of this section, where the Revenue Commissioners accepted or undertook to accept a settlement amount under paragraph (c) or (d), as the case may be, of subsection (2), including any amount in respect of a liability relating to a matter in respect of which a person had voluntarily furnished a qualifying disclosure before any investigation or inquiry had been started by the Revenue Commissioners or by any of their officers into any matter occasioning a liability referred to in paragraph (c) or (d) of subsection (2), and the person fails to pay the settlement amount within the relevant period, the person shall nevertheless be included on the list referred to in subsection (2).
- (6) (a) In this section, ‘publication amount’ means the settlement amount reduced by—
 - (i) any amount of the claim by the Revenue Commissioners in respect of a liability relating to a matter in respect of which the Revenue Commissioners are satisfied that, before any inquiry or investigation had been started by them or by any of their officers into any matter occasioning a liability referred to in paragraph (c) or (d) of subsection (2), as the case may be, a person had voluntarily furnished a qualifying disclosure, and
 - (ii) any amount of the claim by the Revenue Commissioners in respect of a liability to tax, including a repayment of tax, and

any surcharge or interest in respect of that amount of tax or repayment of tax, where that amount of tax does not attract a fine or other monetary penalty, including a fixed penalty,

with the tax, surcharge, interest and fine or penalty amounts all rounded down to the nearest €1.

(b) Any list referred to in subsection (2) shall specify in respect of each person included in the list:

(i) the name (including, where applicable, any trading name or previous name), address and occupation or description of that person;

(ii) the amount of tax, surcharge, interest in respect of that tax or that surcharge and fine or other monetary penalty included in the publication amount;

(iii) such particulars as the Revenue Commissioners think fit—

(I) of the matter occasioning the fine or penalty of the kind referred to in subsection (2) imposed on or determined in relation to the person or, as the case may be, the liability of that kind to which the person was subject, which may include—

(A) in a case to which paragraph (a) or (b) of subsection (2) applies, a description, in such summary form as the Revenue Commissioners may think fit, of the act, omission or offence (which may also include the circumstances in which the act or omission arose or the offence was committed) in respect of which the fine or penalty referred to in those paragraphs was imposed or determined, and

(B) in a case to which paragraph (c) or (d) of subsection (2) applies, a description, in such summary form as the Revenue Commissioners may think fit, of the matter occasioning the liability (which may also include the circumstances in which that liability arose) in respect of which the Revenue Commissioners accepted, or undertook to accept, a settlement in accordance with those paragraphs,

(II) of any interest, fine or other monetary penalty, and of any other penalty or sanction, to which that person was liable, or which was imposed on or determined in relation to that person by a court, and which was occasioned by the matter referred to in clause (I), and

(III) of any amount of tax determined under the Acts, whether paid or not, by reference to which a penalty was determined

by a court in accordance with section 1077B.

- (7) Any list referred to in subsection (2), in a case to which subsection (5) applies, shall specify in such manner as the Revenue Commissioners think fit, that the person has, failed to pay the settlement amount or the publication amount, as the case may be, within the relevant period.
- (8) Paragraphs (a) and (b) of subsection (2) shall not apply in relation to a person in whose case—
 - (a) the amount of a penalty determined by a court does not exceed 15 per cent of, as appropriate—
 - (i) the amount of the difference referred to in subsection (11) or (12), as the case may be, of section 1077E, or subsection (3) or (5), as the case may be, of section 1077F,
 - (ii) the amount of the difference referred to in subsection (11) or (12), as the case may be, of section 116 or subsection (3) or (5), as the case may be, of section 116A, of the Value-Added Tax Consolidation Act 2010,
 - (iii) the amount of the difference referred to in subsection (11) or (12), as the case may be, of section 99B of the Finance Act 2001, or
 - (iv) the amount of the difference referred to in subsection (7), (8) or (9), as the case may be, or the amount referred to in subsection (9A), of section 134A of the Stamp Duties Consolidation Act 1999,
 - (b) the tax due in respect of which the penalty is computed does not exceed the relevant amount within the meaning of paragraph (a) of subsection (10) or, where an order has been made under paragraph (b) of that subsection, the amount specified in the last such order made, or
 - (c) there has been a qualifying disclosure in relation to the matter in respect of which the fine or other penalty was imposed.
- (9) Paragraphs (c) and (d) of subsection (2) shall not apply in relation to a person in whose case—
 - (a) the amount of tax forming part of the publication amount does not exceed the relevant amount within the meaning of paragraph (a) of subsection (10) or, where an order has been made under paragraph (b) of that subsection, the amount specified in the last such order made, or
 - (b) the amount of fine or other penalty included in the publication amount does not exceed 15 per cent of the amount of tax included in that publication amount.

(10) (a) In this subsection—

‘consumer price index number’ means the All Items Consumer Price Index Number compiled by the Central Statistics Office;

‘consumer price index number relevant to a year’ means the consumer price index number at the mid-December before the commencement of that year expressed on the basis that the consumer price index at mid-December 2016 was 100;

‘Minister’ means the Minister for Finance;

‘relevant amount’ means €50,000.

- (b) The Minister may, from time to time, by order provide, in accordance with paragraph (c), an amount in lieu of the relevant amount, or where an order has been made previously under this paragraph, in lieu of the amount specified in the last order so made.
- (c) For the purposes of paragraph (b) the relevant amount or the amount referred to in the last previous order made under the said paragraph (b), as the case may be, shall be adjusted by—
- (i) multiplying that amount by the consumer price index number relevant to the year in which the adjustment is made and dividing the product by the consumer price index number relevant to the year in which the amount was previously provided for, and
 - (ii) rounding the resulting amount up to the next €1,000.
- (d) An order made under this subsection shall specify that the amount provided for by the order—
- (i) takes effect from a specified date, being 1 January in the year in which the order is made, and
 - (ii) does not apply to any case in which—
 - (I) the liability referred to in paragraphs (c) and (d) of subsection (2), or
 - (II) the tax referred to in subsection (7)(b) in respect of paragraphs (a) and (b) of subsection (2),includes tax, the liability in respect of which arose before, or which relates to periods which commenced before, that specified date.
- (e) An order under this subsection shall be laid before Dáil Éireann as soon as may be after it has been made and, if a resolution annulling the order is passed by Dáil Éireann within the next 21 days on which Dáil Éireann has sat after the order is laid before it, the order shall be annulled accordingly, but without prejudice to the validity

of anything previously done thereunder.

- (11) Any list referred to in subsection (2) shall be retained on the website maintained by the Revenue Commissioners for not more than 2 years from the date of its publication as provided for in subsection (3)(a).”.

Amendment of Part 3 of Schedule 26A to Principal Act (donations to approved bodies, etc.)

79. Part 3 of Schedule 26A to the Principal Act is amended by the insertion of the following paragraph after paragraph 3A:

“3B. Where a body (referred to in this paragraph as a ‘restructured body’) has been the subject of any process of re-organisation (whether under Part 9 of the Companies Act 2014 or otherwise), other than amalgamation, such that the body has changed its legal form (referred to in this paragraph as the ‘successor body’) and—

- (a) the restructured body has held an authorisation for not less than 2 years prior to the date of the initiation of the process of re-organisation, and
- (b) the winding up and distribution of all of the assets of the restructured body has been completed,

then the successor body shall be deemed to comply with paragraph 3(c).”.

Residential zoned land tax

80. (1) The Principal Act is amended—

- (a) by the insertion of the following Part after Part 22:

“PART 22A

RESIDENTIAL ZONED LAND TAX

Chapter 1

Interpretation

Interpretation

- 653A. (1) In this Part—

‘Act of 1990’ means the Building Control Act 1990;

‘Act of 2000’ means the Planning and Development Act 2000;

‘building’ has the same meaning as it has in the Act of 1990;

‘certificate of compliance on completion’ means a certificate of compliance provided for under section 6(2)(a)(i) of the Act of 1990 relating to the completion of a building;

‘commencement notice’ means a notice referred to in section 6(2)(k) of the Act of 1990;

‘designated liable person’ shall be construed in accordance with section 653V;

‘development’ has the same meaning as it has in Chapter 1 of Part 22;

‘draft map’ has the meaning assigned to it by section 653C(1);

‘final map’ has the meaning assigned to it by section 653K;

‘gross floor space’, in relation to a building, means the area ascertained by the internal measurement of the floor space on each floor of the building, including internal walls and partitions;

‘land which satisfies the relevant criteria’ shall be construed in accordance with section 653B;

‘liability date’, in respect of a year, means 1 February in that year;

‘liable person’ has the meaning assigned to it by section 653P;

‘local authority’ means a local authority for the purposes of the Local Government Act 2001;

‘local authority consent’ means—

- (a) a notice sent in accordance with the procedure outlined in article 84(1) of the Planning and Development Regulations 2001 (S.I. No. 600 of 2001) in respect of local authority own development, as prescribed under section 179 of the Act of 2000 and article 80(1) of those Regulations, to indicate that, as the case may be, the local authority will carry out the proposed development or carry out the proposed development subject to variations or modifications, or
- (b) where paragraph (d) or (e) of section 179(6) of the Act of 2000 applies, an approval granted by An Bord Pleanála in accordance with section 175 or 177AE, as the case may be, of that Act;

‘market value’ has the same meaning as it has in the Capital Gains Tax Acts;

‘Minister’ means the Minister for Finance;

‘permission regulations’ means regulations made under section 33, 37I, 43, 172(2), 174, 177N or 177AD of the Act of 2000;

‘personal data’ has the same meaning as it has in Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016⁴⁰;

‘planning application’ means an application for permission for the development of land made in accordance with, and required by,

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permission regulations;

‘planning permission’ means a permission granted under section 34, 37, 37G, 170, or 177K of the Act of 2000;

‘planning permission period’, in relation to a grant of planning permission, means the appropriate period (within the meaning of section 40 of the Act of 2000), including that period as extended in accordance with section 42 of the Act of 2000 (or that section as modified in accordance with section 42B of the Act of 2000);

‘residential property’ has the same meaning as it has in the Finance (Local Property Tax) Act 2012;

‘relevant site’ has the meaning assigned to it by section 653O;

‘residential development’ has the same meaning as it has in section 644A;

‘residential zoned land tax’ has the meaning assigned to it by section 653Q;

‘return date’, in respect of a year, means 23 May in that year;

‘revised map’ has the meaning assigned to it by section 653M;

‘self-assessment’ means an assessment by a liable person, or by a person acting under the authority of a liable person, of the amount of residential zoned land tax payable by the liable person in respect of a relevant site in relation to a liability date;

‘site’ means any area of land identified on a map by a local authority;

‘supplemental map’ has the meaning assigned to it by section 653F;

‘TIN’ means a tax reference number (within the meaning of section 891B) or a TIN (within the meaning of section 891F);

‘vacant or idle land’ means land which, having regard only to development (within the meaning of the Act of 2000) which is not unauthorised development (within the meaning of the Act of 2000), is not required for, or integral to, the operation of a trade or profession being carried out on, or adjacent to, the land;

‘valuation date’ shall be construed in accordance with section 653R.

- (2) In this Part, other than in subsection (1) and section 653AF(1)(a), a reference to a planning permission shall be construed as including a reference to a local authority consent.

Chapter 2

*Zoned serviced residential development land***Criteria for inclusion in map**

653B. In this Part, a reference to land which satisfies the relevant criteria is a reference to land that—

- (a) is included in a development plan, in accordance with section 10(2) (a) of the Act of 2000, or local area plan, in accordance with section 19(2)(a) of the Act of 2000, zoned—
 - (i) solely or primarily for residential use, or
 - (ii) for a mixture of uses, including residential use,
- (b) it is reasonable to consider may have access, or be connected, to public infrastructure and facilities, including roads and footpaths, public lighting, foul sewer drainage, surface water drainage and water supply, necessary for dwellings to be developed and with sufficient service capacity available for such development, and
- (c) it is reasonable to consider is not affected, in terms of its physical condition, by matters to a sufficient extent to preclude the provision of dwellings, including contamination or the presence of known archaeological or historic remains,

but which is not land—

- (i) that is referred to in paragraph (a)(i) and, having regard only to development (within the meaning of the Act of 2000) which is not unauthorised development (within the meaning of the Act of 2000), is in use as premises, in which a trade or profession is being carried on, that is liable to commercial rates, that it is reasonable to consider is being used to provides services to residents of adjacent residential areas,
- (ii) that is referred to in paragraph (a)(ii), unless it is reasonable to consider that the land is vacant or idle,
- (iii) that it is reasonable to consider is required for, or is integral to, occupation by—
 - (I) social, community or governmental infrastructure and facilities, including infrastructure and facilities used for the purposes of public administration or the provision of education or healthcare,
 - (II) transport facilities and infrastructure,
 - (III) energy infrastructure and facilities,
 - (IV) telecommunications infrastructure and facilities,

- (V) water and wastewater infrastructure and facilities,
- (VI) waste management and disposal infrastructure, or
- (VII) recreational infrastructure, including sports facilities and playgrounds,
- (iv) that is subject to a statutory designation that may preclude development, or
- (v) on which the derelict sites levy is payable in accordance with the Derelict Sites Act 1990.

Draft map - preparation

653C.(1) A local authority shall prepare, in respect of its functional area, a map in draft form (in this Part referred to as a ‘draft map’)—

- (a) indicating land that, based on the information available to it, it considers to be land satisfying the relevant criteria one month prior to the date specified in subsection (2), and
- (b) specifying—
 - (i) the date on which, based on the information available to it, it considers that land referred to in paragraph (a) first satisfied the relevant criteria, where that date is after 1 January 2022, and
 - (ii) the total area, in hectares, of land referred to in paragraph (a).
- (2) A local authority shall, not later than 1 November 2022—
 - (a) publish a draft map on the website maintained by it, and
 - (b) make a copy of the draft map available for inspection at its offices.
- (3) A local authority shall publish, not later than 1 November 2022, a notice in accordance with subsection (4) in one or more newspapers circulating in its functional area.
- (4) The notice referred to in subsection (3) shall include the following:
 - (a) a statement that a draft map, prepared under this section, has been published on the website maintained by the local authority and is available for inspection at its offices;
 - (b) a statement that the map has been prepared under this section for the purposes of identifying land that is to be subject to the residential zoned land tax;
 - (c) the text of section 653B;
 - (d) a statement that residential properties, notwithstanding that they may be included on the draft map, shall not be chargeable to the residential zoned land tax;
 - (e) a statement that—

- (i) submissions on the draft map may be made in writing to the local authority concerned not later than 1 January 2023, regarding—
 - (I) either the inclusion in or exclusion from the final map of specific sites, or
 - (II) the date on which a site first satisfied the relevant criteria, and
 - (ii) any such written submissions received by the date referred to in subparagraph (i), other than such elements of a submission which may constitute personal data, shall be published on the website maintained by the local authority concerned not later than 11 January 2023;
- (f) where land is included in a development plan or local area plan in accordance with section 10(2)(a) or 19(2)(a) of the Act of 2000 zoned—
- (i) solely or primarily for residential use, or
 - (ii) for a mixture of uses, including residential use,
- a statement that a person may, in respect of land that such a person owns, make a submission to the local authority requesting a variation of the zoning of that land.
- (5) The form of the notice referred to in subsection (3) shall be prepared by the Minister for Housing, Local Government and Heritage in consultation with the Minister for Finance.

Draft map - submissions

- 653D.** (1) A person may, not later than 1 January 2023, make a submission in writing, on a draft map published in accordance with section 653C(2), regarding—
- (a) the inclusion in, or exclusion from, the final map of a site, or
 - (b) the date on which a site first satisfied the relevant criteria,
- by sending the submission, together with the person's name and address, to the local authority concerned.
- (2) A local authority shall publish, not later than 11 January 2023, on the website maintained by it, the submissions (other than such elements of a submission which may constitute personal data), if any, received by it in accordance with subsection (1).
- (3) Where a submission under subsection (1) is made by the owner of a site, the submission shall be accompanied by a map prepared by Ordnance Survey Ireland at a scale at which the site can be accurately identified.

- (4) Where a submission under subsection (1) is made by the owner of the site, that person shall have available such evidence as is necessary to prove their ownership of the site, and in determining whether section 653E applies to a submission, the local authority may request that such evidence is provided to the local authority.

Draft map – determinations on exclusions and date

653E. (1) Where a submission is made in accordance with section 653D by the owner of a site seeking—

- (a) the exclusion of a site from a final map, on the basis that the land constituting the site does not satisfy the relevant criteria, or
- (b) a change to the date specified in the map as the date on which land constituting a site first satisfied the relevant criteria,

the local authority shall—

- (i) evaluate the submission,
 - (ii) determine whether or not—
 - (I) the site constitutes land satisfying the relevant criteria, or
 - (II) the date specified in the map as the date on which the land constituting the site first satisfied the relevant criteria should be changed,
- and
- (iii) not later than 1 April 2023, notify the owner concerned in writing of its determination.

- (2) Before making a determination under subsection (1), a local authority may, where it considers it to be necessary for the purposes of making the determination, within 21 days from the date referred to in 653D(1), request further information from the owner of the site, Irish Water, the National Roads Authority or from a person referred to in article 28 of the Planning and Development Regulations 2001.
- (3) Where a local authority requests information under subsection (2), the person requested shall provide that information to the local authority within 21 days of receipt of the request.
- (4) Submissions may be made in writing to a local authority after 1 January 2023 in respect of a draft map, where exceptional circumstances arise and the local authority consents to the submission after that date.
- (5) A notification referred to in subsection (1) shall—
 - (a) include the reasons for the determination made under that subsection, and
 - (b) state that the owner may, within one month of receipt of the

notification, appeal the determination under section 653J, by notice in writing, specifying the grounds for the appeal, to An Bord Pleanála.

Supplemental map - preparation

653F. (1) Where a submission is made in accordance with section 653D by a person seeking the inclusion of a site on a final map, on the basis that the site constitutes land satisfying the relevant criteria, the local authority shall evaluate the submission.

(2) Where a local authority considers that—

- (a) sites in respect of which submissions referred to in subsection (1) have been made, or
- (b) based on the information available to it one month prior to the date referred to in subsection (3), other sites not included in the draft map previously published by the local authority,

constitute lands satisfying the relevant criteria, the local authority shall prepare, in respect of its functional area, a further map in draft form (in this Part referred to as a ‘supplemental map’)—

- (i) indicating that, based on the information available to the local authority, the lands constituting such sites are considered by the local authority to be lands satisfying the relevant criteria, and
- (ii) specifying—
 - (I) the date on which, based on the information available to it, it considers that land referred to in paragraph (i) first satisfied the relevant criteria, where that date is after 1 January 2022, and
 - (II) the total area, in hectares, of land referred to in paragraph (i).

(3) A local authority shall, not later than 1 May 2023—

- (a) publish a supplemental map on the website maintained by it, and
- (b) make a copy of the supplemental map available for inspection at its offices.

(4) A local authority shall publish, not later than 1 May 2023, a notice in accordance with subsection (5) in one or more newspapers circulating in its functional area.

(5) The notice referred to in subsection (4) shall include the following:

- (a) a statement that a supplemental map, prepared under this section, identifying additions to the draft map previously published by the local authority, has been published on the website maintained by the local authority and is available for inspection at its offices;
- (b) a statement that the map has been prepared under this section for the purposes of identifying land that is to be subject to the

residential zoned land tax;

- (c) the text of section 653B;
- (d) a statement that residential properties, notwithstanding that they may be included on the supplemental map, shall not be chargeable to the residential zoned land tax;
- (e) a statement that—
 - (i) submissions on the supplemental map, regarding—
 - (I) the exclusion from the final map of specific sites, or
 - (II) the date on which land constituting a site first satisfied the relevant criteria,

may be made in writing to the local authority concerned not later than 1 June 2023, and
 - (ii) any such written submissions received by the date referred to in subparagraph (i) shall, other than such elements of a submission which may constitute personal data be published on the website maintained by the local authority concerned not later than 11 June 2023.
- (6) The form of the notice referred to in subsection (5) shall be prepared by the Minister for Housing, Local Government and Heritage in consultation with the Minister for Finance.

Supplemental map - submissions

653G. (1) A person may, not later than 1 June 2023, make a submission on a supplemental map published in accordance with section 653F regarding—

- (a) the exclusion from the final map of a site, or
 - (b) the date on which the land constituting a site first satisfied the relevant criteria,
- by sending the submission, together with the person's name and address, to the local authority in writing.
- (2) A local authority shall publish, not later than 11 June 2023, on the website maintained by it, the written submissions (other than such elements of a submission which may constitute personal data), if any, received by it in accordance with subsection (1).
 - (3) Where a submission under subsection (1) is made by the owner of a site, the submission shall be accompanied by a map prepared by Ordnance Survey Ireland at a scale at which the site can be accurately identified.
 - (4) Where a submission under subsection (1) is made by the owner of the site, that person shall have available such evidence as is necessary to

prove their ownership of the site, and in determining whether section 653H applies to a submission, the local authority may request that such evidence is provided to the local authority.

Supplemental map – determinations on exclusions and date

653H.(1) Where a submission is made in accordance with section 653G by the owner of a site seeking—

- (a) the exclusion of a site from a final map, on the basis that the land constituting the site does not satisfy the relevant criteria, or
- (b) a change to the date specified in the map as the date on which the land constituting a site first satisfied the relevant criteria,

the local authority shall—

- (i) evaluate the submission,
- (ii) determine whether or not—
 - (I) the site constitutes land satisfying the relevant criteria, or
 - (II) the date specified in the map as the date on which the land constituting a site first satisfied the relevant criteria should be changed,

and

- (iii) not later than 1 August 2023, notify the owner concerned, in writing, of its determination.

(2) Before making a determination under subsection (1), a local authority may, where the local authority considers it to be necessary for the purposes of making the determination, within 21 days of receipt of the submission concerned, request further information from the owner of the site, Irish Water, the National Roads Authority or from a person referred to in article 28 of the Planning and Development Regulations 2001.

(3) Where a local authority requests information under subsection (2), the person requested shall provide that information to the local authority within 21 days of receipt of the request.

(4) Submissions may be made in writing to a local authority after 1 June 2023 in respect of a supplemental map, where exceptional circumstances arise and the local authority consents to the submission after that date.

(5) A notification referred to in subsection (1) shall—

- (a) include the reasons for the determination made under that subsection, and
- (b) state that the owner may, within one month of receipt of the notification, appeal the determination under section 653J, by notice

in writing, specifying the grounds for the appeal, to An Bord Pleanála.

Zoning submissions

653I. (1) A person, who is the owner of such lands, may make a submission in writing—

- (a) before 1 January 2023, to a local authority on a draft map published in accordance with section 653C, or
- (b) before 1 June 2023, to a local authority on a supplemental map published in accordance with section 653F,

requesting a change to the zoning of lands included in the draft map or supplemental map, as the case may be.

- (2) Subject to subsection (3), a local authority shall publish, on a website maintained by it, the written submissions if any, received by it in accordance with subsection (1).
- (3) Subsection (3A) of section 13 of the Act of 2000 shall apply in respect of the publication of a submission under subsection (2) as if the submission were a submission received by a local authority under that section.
- (4) Where a submission is made in accordance with subsection (1), the local authority shall—
 - (a) evaluate the submission, and
 - (b) consider whether to propose to make a variation under section 13 of the Act of 2000.

Appeal

653J. (1) An owner who is aggrieved with the determination of a local authority under section 653E may, not later than 1 May 2023, appeal that determination, by notice in writing, specifying the grounds for the appeal, to An Bord Pleanála.

- (2) An owner who is aggrieved with the determination of a local authority under section 653H may, not later than 1 September 2023, appeal that determination, by notice in writing, specifying the grounds for the appeal, to An Bord Pleanála.
- (3) In considering an appeal of a determination referred to in subsection (1) or (2), An Bord Pleanála—
 - (a) shall consider the determination concerned,
 - (b) shall consider the grounds for appeal set out in the notice of appeal, and
 - (c) may, within 21 days of receipt of the appeal, where An Bord Pleanála considers it to be necessary for the purposes of making a

decision, request further information from the owner of the site, the local authority, Irish Water, the National Roads Authority or from a person referred to in article 28 of the Planning and Development Regulations 2001.

- (4) Where An Bord Pleanála requests information under subsection (3)(c), the person requested shall provide that information to An Bord Pleanála within 21 days of receipt of the request.
- (5) On completion of its considerations of the matters referred to in paragraphs (a) and (b) of subsection (3) and the information, if any, provided pursuant to a request under paragraph (c) of that subsection, An Bord Pleanála shall make a decision on the appeal as soon as practicable in all the circumstances of the case, and in any case—
 - (a) where the appeal is an appeal referred to in subsection (1), not later than 16 weeks from the date of the notice of appeal, or
 - (b) where the appeal is an appeal referred to in subsection (2), not later than 8 weeks from the date of the notice of appeal,which may be a decision to—
 - (i) confirm the determination of the local authority,
 - (ii) set aside the determination of the local authority and allow the appeal, or
 - (iii) confirm the determination of the local authority in part and set aside the determination of the local authority and allow the appeal in part.
- (6) An Bord Pleanála shall notify the appellant and the local authority concerned of the decision under subsection (5) as soon as practicable after it is made.

Final map

653K. A local authority shall—

- (a) taking into account the inclusion of sites in the supplemental map prepared by it,
- (b) having given due consideration to the submissions, if any, received by it in accordance with sections 653D and 653G,
- (c) reflecting the determinations, if any, made under section 653E and 653H or, where any such determination has been appealed under section 653J, the decision in the appeal relating to that determination,
- (d) reflecting changes to the zoning of land as a result of—
 - (i) a review of the development plan concerned carried out under section 11 of the Act of 2000,

- (ii) the variations, if any, made to the development plan concerned under section 13 of the Act of 2000, or
- (iii) the making or amendment of a local area plan under section 20 of the Act of 2000,

since the publication by the local authority of a draft map in accordance with section 653C, as a result of which the land is no longer land which satisfies the relevant criteria,

make such revisions to the draft map as it considers appropriate and publish, no later than 1 December 2023, a map (in this Part referred to as a ‘final map’)—

- (I) identifying the land satisfying the relevant criteria within its functional area, and
- (II) specifying—
 - (A) the date on which land identified on the map first satisfied the relevant criteria, where that date is after 1 January 2022, and
 - (B) the total area, in hectares, of land identified on the map.

Effect of appeal or judicial review

653L. Where—

- (a) an appeal made under section 653J, or
- (b) a judicial review of a determination made by a local authority under section 653E or 653H or a decision of An Bord Pleanála under section 653J,

is not determined on the date that is 30 days prior to the date on which the final map is required to be published under this Chapter, the area of land to which the appeal or judicial review, as the case may be, relates shall be included on the final map.

Revision of final maps

653M. (1) Each local authority shall, by 31 January in each year, commencing in 2025, revise the final map previously published by it under this Chapter and publish that final map as so revised (in this Part referred to as a ‘revised map’).

- (2) Sections 653C to 653E and sections 653J to 653L shall apply for the purposes of the revision of a final map under subsection (1), subject to the following modifications:
 - (a) the references in subsections (2) and (3) of section 653C to 1 November 2022 shall be construed as references to 1 February in the year immediately prior to the year concerned;
 - (b) the notice published under section 653C(4) shall include a statement that the proposed inclusions and proposed exclusions are

subject to submissions received, and that owners who support the proposed exclusion of their land should make a submission in support of such exclusion;

- (c) the reference in section 653C(4)(e)(i) to 1 January 2023 shall be construed as a reference to 1 April in the year immediately prior to the year concerned;
- (d) the reference in section 653C(4)(e)(ii) to 11 January 2023 shall be construed as a reference to 11 April in the year immediately prior to the year concerned;
- (e) section 653C(4)(f) shall not apply;
- (f) the reference in section 653D(1) to 1 January 2023 shall be construed as a reference to 1 April in the year immediately prior to the year concerned;
- (g) the reference in section 653D(2) to 11 January 2023 shall be construed as a reference to 11 April in the year immediately prior to the year concerned;
- (h) the draft map shall identify any land which was on the final map previously published by the local authority under this Chapter that it is proposed to include or exclude from the revised map;
- (i) the reference in section 653E(1)(iii) to 1 April 2023 shall be construed as a reference to 1 July in the year immediately prior to the year concerned;
- (j) the reference in section 653J(1) to 1 May 2023 shall be construed as a reference to 1 August in the year immediately prior to the year concerned.

Receipt of information by Revenue Commissioners

653N. Where it comes to the attention of the Revenue Commissioners that land—

- (a) within the functional area of a local authority, and
- (b) which the Revenue Commissioners consider satisfies the relevant criteria,

is not included in the map most recently published by the local authority under this Chapter—

- (i) the Revenue Commissioners shall notify the local authority that such land has come to its attention, and
- (ii) the local authority shall take the information notified to it under paragraph (i) into account when preparing a revision of its final map in accordance with section 653M.

Relevant site

653O. (1) In this Part, subject to subsection (2), ‘relevant site’ means a site which—

- (a) is not a residential property, and
 - (b) is included in the final map most recently published under section 653K or 653M, as the case may be, by the local authority in whose functional area the site is situated.
- (2) So much of a site as does not form part of a residential property, within the meaning of the Finance (Local Property Tax) Act 2012, by virtue only of section 2A(4) of that Act, shall not be a relevant site.
- (3) Where, subsequent to it becoming a relevant site, planning permission is granted in respect of a portion of the site, that portion of the site (referred to in this section as a ‘new relevant site’) shall, from the date on which planning permission is granted, for the purposes of this Part, be treated as a separate relevant site to the remainder of the site of which it forms a portion.
- (4) Where subsection (3) applies, subject to sections 653AG and 653AH, a new relevant site shall have the same liability date and valuation date as the relevant site of which it forms a portion (in this subsection referred to as the ‘original site’), but the market value of that original site and any amount charged on that original site under section 653Q(4) shall be apportioned between the original site and the new relevant site or if there is more than one new relevant site, each new relevant site, on a just and reasonable basis.
- (5) Where in relation to a relevant site to which section 653AH applies, a certificate of compliance on completion is lodged with a local authority in respect of the completion of residential development on the relevant site and that certificate is in respect of—
- (a) the completion of development of the whole of a relevant site, that site shall cease, on the lodging of the certificate of compliance on completion, to be a relevant site, or
 - (b) the completion of development of part of the relevant site, then subsections (3) and (4) shall apply such that that part of the site shall immediately prior to the lodging of the certificate of compliance on completion be treated as a new relevant site, and that new relevant site shall cease, on the lodging of the certificate of compliance on completion, to be a relevant site.

Liable persons

653P. (1) For the purposes of this Part—

‘liable person’, in respect of a relevant site, is, subject to section 653V and 653AI, the owner of that site on the liability date;

‘owner’, in relation to land, means—

- (a) in relation to land that is registered land within the meaning of the Registration of Title Act 1964, the person registered as, or deemed to be registered as, the owner of the land under that Act,
 - (b) in relation to all other land, a person, other than a mortgagee not in possession, who, whether in his or her own right or as trustee or agent for any other person, is entitled to receive the rack rent of the land or, where the land is not let at a rack rent, would be so entitled if it were so let, or
 - (c) a person who holds any estate, interest or right in accordance with which that person may carry out development on or to the land.
- (2) The absence of documentary evidence, or the disputing by or on behalf of a person (in this subsection referred to as the ‘disputant’) of the existence of documentary evidence, of title to a relevant site shall, not of itself preclude—
- (a) the making of an assessment to residential zoned land tax in relation to the relevant site or, as the case may be, the making of an assessment to such tax on the disputant in relation to the relevant site, or
 - (b) the making of a finding that a person or, as the case may be, the disputant is, for the purposes of this Part, a liable person in relation to the relevant site.

Chapter 3

Residential zoned land tax

Charge to residential zoned land tax

- 653Q.** (1) Subject to the provisions of this Part, there shall be charged and levied annually on the liability date a tax to be known as the ‘residential zoned land tax’—
- (a) in respect of a relevant site which constitutes land satisfying the relevant criteria on 1 January 2022, for each year commencing with the year 2024, and
 - (b) in respect of a relevant site which constitutes land first satisfying the relevant criteria after 1 January 2022, for each year commencing with the third year following the year in which the land satisfies the relevant criteria.
- (2) The residential zoned land tax shall be payable in relation to a relevant site on or before the return date in the year in respect of which the tax is charged and shall, where there is a liable person in respect of the relevant site, be so payable by the liable person.
- (3) Where more than one person is a liable person in relation to a relevant

site on or before the return date, those persons shall be jointly and severally liable for the residential zoned land tax payable in respect of the relevant site.

- (4) Any residential zoned land tax or interest referred to in section 653Y which is due and owing shall be and remain a charge on the land to which it relates.

Amount of residential zoned land tax

653R. (1) The valuation date in relation to a relevant site shall, subject to sections 653AG and 653AH be—

- (a) in respect of the year in which the residential zoned land tax first applies to a liable person in respect of the relevant site, the liability date, and
- (b) for each successive 3-year period thereafter, 1 February in the year following the third year of the 3-year period.
- (2) The amount of residential zoned land tax to be charged in respect of a relevant site shall be the amount represented by A in the formula—

$$A = B \times C$$

where—

B is the market value of a relevant site on the valuation date, and

C is the rate of 3 per cent.

Chapter 4

Pay and file obligations

Obligation to register

653S. (1) Where a site in respect of which a person is an owner is—

- (a) a relevant site, or
- (b) a site that would be a relevant site but for section 653O(2),
- the person shall register as the owner of the site and, for this purpose, shall—
- (i) send to the Revenue Commissioners a statement, in the form specified by the Revenue Commissioners, of particulars relating to the person and the site, or
- (ii) include the particulars specified in the form referred to in paragraph (i) in a return made under this Part.
- (2) The Revenue Commissioners shall establish and maintain a register of the information provided to them under subsection (1).
- (3) The Revenue Commissioners may assign a unique identification

number to each site on the register referred to in subsection (2).

- (4) Where the Revenue Commissioners assign a unique identification number to a site under subsection (3), they shall notify the liable person in respect of the site.

Obligation on liable person to prepare and deliver return

653T. (1) A liable person shall prepare and deliver to the Revenue Commissioners, on or before the return date, a return and self-assessment in the form prescribed by the Revenue Commissioners for that purpose.

- (2) Without prejudice to the generality of subsection (1), the Revenue Commissioners may prescribe the following information to be included in a return referred to in that subsection:

- (a) in respect of a relevant site—
- (i) the address,
 - (ii) the unique identifier, or identifiers, allocated to the site under the Registration of Title Act 1964,
 - (iii) the market value,
 - (iv) the valuation date relevant to the return, and
 - (v) the area, in hectares;
- (b) the name of the local authority in whose functional area a site is situated;
- (c) in respect of a liable person or designated liable person, as the case may be—
- (i) the person's name,
 - (ii) the person's TIN,
 - (iii) the nature of the person's ownership interest in the site,
 - (iv) the person's address for correspondence, and
 - (v) where there is more than one owner in relation to a relevant site, the information referred to in paragraphs (i) to (iv) in respect of each owner;
- (d) the unique identification number issued by the Revenue Commissioners under section 653S(3), where such a number has been issued;
- (e) details of any exemption from, abatement or deferral of, or repayment of residential zoned land tax, including of any claims made in accordance with section 653AD, 653AE, 653AF, 653AH or 653AI.

- (3) Notwithstanding section 851A, the Revenue Commissioners shall publish the information referred to in paragraphs (a) and (b) of subsection (2) on the website maintained by them.

One return in respect of jointly owned relevant site

653U. (1) Where 2 or more persons are liable persons in relation to a relevant site, the designated liable person in relation to the site shall prepare and deliver the return referred to in section 653T(1).

- (2) The preparation and delivery of a return referred to in subsection (1)—

(a) shall operate to satisfy the obligation of the other liable person, or liable persons, as the case may be, under section 653T, and

(b) shall bind the other liable person, or liable persons.

- (3) Where—

(a) more than one return is delivered in respect of a relevant site, and

(b) one of the returns is delivered by the designated liable person,

the Revenue Commissioners shall notify the person who is not the designated liable person that a return has been delivered by the designated liable person.

- (4) Where—

(a) more than one return is prepared and delivered in respect of a relevant site, and

(b) there is no designated liable person in relation to the relevant site,

the Revenue Commissioners shall designate a person to be the designated liable person in accordance with section 653V and subsection (2) shall apply accordingly.

Designated liable person

653V. (1) In this section ‘specified class of person’ means a class of person specified in the Table to this section.

- (2) This section has effect for the purpose of determining who shall be the designated liable person for the purposes of section 653U(1).

- (3) Subject to subsections (4) and (5), for the purposes of section 653U(1), the designated liable person shall be—

(a) if only one of the specified classes of person is applicable in the circumstances concerned, the person who falls within that specified class, or

(b) if more than one of the specified classes of person are applicable in the circumstances concerned, the person who falls within whichever of those applicable classes is the class that appears, in the Table to this section, before the other applicable class or

classes.

- (4) Notwithstanding subsection (3), for the purposes of section 653U(1) the designated liable person shall, if the Revenue Commissioners exercise the power under subsection (5), be the person specified by them in the exercise of that power.
- (5) The Revenue Commissioners may specify in writing that one of the liable persons, referred to in section 653U(1), in relation to a relevant site shall be the designated liable person if either—
 - (a) they are of the opinion that it would be more appropriate that that person be the designated liable person than the person who would otherwise fall to be treated as the designated liable person by virtue of the operation of subsection (3), or
 - (b) the application of subsection (3) does not, in the circumstances concerned, result in the determination of a designated liable person.

Table 1

Classes of person

1. The liable person who is nominated by joint election of all the other persons who are liable persons in relation to the relevant site, being a person whose name, address and TIN are notified in writing to the Revenue Commissioners.
2. If the relevant site is jointly owned and the joint owners are married to each other or civil partners of each other, as the case may be, the assessable spouse or civil partner where an election under section 1018 or 1031D has effect.
3. If the relevant site is jointly owned and the joint owners are partners in a partnership, the precedent partner (within the meaning of section 1007).
4. The liable person with the highest total income (within the meaning of section 3(1)).
5. If the relevant site is jointly owned and any of the joint owners are not resident or not ordinarily resident in the State, as the case may be, a liable person who is resident or ordinarily resident in the State.

Preparation and delivery of return by person acting under authority

- 653W.** (1) Notwithstanding section 653T, a return may be prepared and delivered by a person acting under the authority of a liable person.
- (2) Where a return is prepared and delivered by a person acting under the authority of a liable person, this Chapter shall apply as if the return had been prepared and delivered by the liable person.
 - (3) Anything required or allowed to be done by a liable person under this Chapter may be done by a person acting under a liable person's

authority.

Assessments, enquiries and appeals

653X. (1) Sections 959Y, 959Z, 959AA, 959AC, 959AD and 959AE shall apply to residential zoned land tax, subject to the following modifications:

- (a) a reference to a ‘person’ or a ‘chargeable person’ shall be construed as a reference to a ‘liable person’;
 - (b) a reference to a ‘chargeable period’ shall be construed as a reference to a ‘year’;
 - (c) a reference to ‘amount of income, profits or gains, or, as the case may be, chargeable gains’ shall be construed as including a reference to the market value of a relevant site;
 - (d) a reference to a ‘return’ shall be construed as including a return required under this Part;
 - (e) for the purposes of sections 653AG and 653AH, in section 959AA(1)(ii), ‘after the end of 4 years commencing at the end of the year in which a certificate of completion is lodged’ shall be substituted for ‘after the end of a period of 4 years commencing at the end of the chargeable period for which the return is delivered’.
- (2) A person aggrieved by an assessment or an amended assessment, as the case may be, made on that person pursuant to the provisions referred to in subsection (1), as applied subject to the modifications referred to in that subsection, may, within 30 days after the date of the notice of assessment—
- (a) in respect of matters relating to the market value of a relevant site, appeal the assessment or amended assessment in the manner prescribed by section 33 of the Finance (1909-1910) Act 1910, (as amended by the Property Values (Arbitration and Appeals) Act 1960), and so much of Part I of that Act as relates to appeals shall apply to an appeal under this subsection, or
 - (b) in respect of all other matters, appeal the assessment or the amended assessment to the Appeal Commissioners in accordance with section 949I.

Interest on overdue tax

653Y. (1) Any amount of residential zoned land tax shall carry interest from the date when the tax becomes due and payable until payment for any day or part of a day during which the amount remains unpaid, at a rate of 0.0219 per cent.

- (2) Subsections (3) to (5) of section 1080 shall apply in relation to interest payable under subsection (1) as they apply in relation to interest payable under section 1080.

Transfer of relevant site

653Z. (1) For the purpose of this Part, 'sale' includes, in relation to a relevant site, the transfer of the relevant site by a liable person to another person—

(a) in consequence of—

(i) the exercise of a power under any enactment to compulsorily acquire land, or

(ii) the giving of notice of intention to exercise the power referred to in subparagraph (i),

(b) for no consideration or consideration which is significantly less than the market value of the relevant site at the time of its transfer, or

(c) entering into a lease, or an agreement for lease, the term of which is indefinite or exceeds 35 years.

(2) A liable person who proposes to sell a relevant site shall, before the completion of the sale of the relevant site, pay to the Revenue Commissioners the residential zoned land tax and accrued interest, if any, which is due and payable in respect of that relevant site.

(3) A liable person who proposes to sell a relevant site shall—

(a) seek to agree any penalty due in respect of residential zoned land tax before the date of completion of the sale of the relevant site, and

(b) pay—

(i) a penalty determined in accordance with this Act before the date of completion of the sale of the relevant site, or

(ii) where a penalty has been agreed before that date, that penalty, before that date.

(4) The Revenue Commissioners shall provide a liable person, or a person acting on behalf of the liable person in connection with a sale of a relevant site, with—

(a) confirmation of any unpaid residential zoned land tax, penalties and accrued interest at the date of the sale of a relevant site, or

(b) confirmation that there are no outstanding amounts payable, as the case may be, in such form and manner as the Revenue Commissioners may decide.

(5) A liable person who proposes to sell a relevant site shall, before the completion of the sale of the relevant site, prepare and deliver to the Revenue Commissioners, or have prepared and delivered on behalf of

the liable person, a return in such form as the Revenue Commissioners may prescribe for that purpose.

- (6) Without prejudice to the generality of subsection (5), the Revenue Commissioners may prescribe the following information to be included in a return referred to in that subsection:
- (a) in respect of a relevant site—
 - (i) the date of acquisition,
 - (ii) the market value, at the date of acquisition,
 - (iii) the market value, at the most recent valuation date, if a valuation date has occurred since the date of acquisition,
 - (iv) the proposed date of sale, and
 - (v) the proposed consideration on the sale;
 - (b) in respect of a liable person or designated liable person (as determined in accordance with section 653V)—
 - (i) the person's name,
 - (ii) the person's TIN,
 - (iii) the nature of the person's ownership interest in the site,
 - (iv) the person's address for correspondence,
 - (v) confirmation as to whether that person and the purchaser are connected persons (within the meaning of section 10), and
 - (vi) where there is more than one owner in relation to a relevant site, the information referred to in subparagraphs (i) to (v) in respect of each owner;
 - (c) in respect of the purchaser of the relevant site—
 - (i) the person's name,
 - (ii) the person's TIN,
 - (iii) the person's address for correspondence, and
 - (iv) where there is more than one purchaser in relation to a relevant site, the information referred to in subparagraphs (i) to (iii) in respect of each purchaser;
 - (d) the unique identification number issued by the Revenue Commissioners under section 653S(3), where one has been issued.

Appointment of an expert

- 653AA.** (1) The Revenue Commissioners may, in relation to any amount of tax or exemption, deferral or abatement of residential zoned land tax included in a return required under section 653T, consult with any

person (in this section referred to as an ‘expert’) who, in their opinion, may be of assistance in ascertaining—

- (a) the market value of a relevant site,
 - (b) the suitability of any building for use as a dwelling,
 - (c) the yards, gardens and other lands, which are suitable for occupation and enjoyment with a dwelling,
 - (d) whether works on a relevant site, for which a commencement notice has been lodged, have permanently ceased,
 - (e) the area in square metres of the relevant site which is included within a planning permission and is being developed for dwellings and the total area of the relevant site in square metres,
 - (f) where a development on a relevant site is partially completed on the last day of the planning permission period relating to the development, the percentage of the development completed on that day, and
 - (g) the total gross floor space for all of the buildings comprised in the development to which a planning permission for a relevant site relates and the total gross floor space of the dwellings to which the planning permission relates.
- (2) The Revenue Commissioners may authorise in writing any of their officers to exercise any powers to perform any acts or discharge any functions conferred by this section.
- (3) In this section, ‘authorised officer’ means an officer of the Revenue Commissioners authorised under subsection (2).
- (4) Notwithstanding any obligation as to secrecy or other restriction on the disclosure of information imposed by, or under, the Tax Acts or any other statute or otherwise, but subject to subsection (5), an authorised officer may disclose to an expert any detail in a liable person’s return under this Part which they consider necessary for the purposes of such consultation.
- (5) Before disclosing information to an expert under subsection (4), an authorised officer shall give the liable person in relation to the relevant site concerned a notice in writing of—
- (a) the officer’s intention to disclose information to an expert,
 - (b) the information that the officer intends to disclose, and
 - (c) the identity of the expert with whom the officer intends to consult.
- (6) Where a liable person who has received a notice under subsection (5) shows to the authorised officer’s satisfaction, within 30 days from the date of the notice, that disclosure of such information to that expert

could prejudice the liable person's trade or business, the authorised officer shall not disclose the information.

- (7) Where, on the expiry of the period referred to in subsection (6), it is not shown to the satisfaction of an authorised officer that disclosure could prejudice the trade or business of the liable person concerned, the authorised officer may decide to disclose the information and may disclose the information on the expiry of a further period of 30 days after giving notice in writing of the authorised officer's decision to disclose the information.
- (8) A liable person aggrieved by an authorised officer's decision under subsection (7) may appeal the decision to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of that decision.
- (9) Section 911 shall apply for the purposes of this Part subject to the following modifications:
 - (a) a reference to an authorised person shall be construed as a reference to an expert or an authorised officer,
 - (b) a reference to ascertaining the value of an asset shall be construed as a reference to ascertaining the matters specified in subsection (1), and
 - (c) a reference to reporting the value of an asset shall be construed as a reference to reporting the matters specified in subsection (1).

Surcharge for undervaluation of the relevant site

653AB. (1) In this section 'ascertained value', in relation to a relevant site, means the market value.

(2) Where—

- (a) a return is received in respect of a relevant site, and
- (b) the estimate of the ratio of the market value of the relevant site, as stated in the return, to the ascertained value of the relevant site expressed as a percentage, is within any of the percentage bands specified in column (1) of the Table to this section,

the amount of residential zoned land tax payable in relation to the relevant site shall be increased by an amount (in this section referred to as the 'surcharge') equal to the corresponding percentage, set out in column (2) of that Table opposite the relevant percentage band in column (1), of that amount of tax.

- (3) Interest is payable under section 653Y on any surcharge as if the surcharge were residential zoned land tax, and the surcharge and any interest on that surcharge is chargeable and recoverable as if the surcharge and that interest were part of the residential zoned land tax.

- (4) Where the amount of residential zoned land tax payable in relation to the relevant site is increased in accordance with subsection (2), the Revenue Commissioners shall issue a notice in writing of the amount of the surcharge to the liable person concerned.
- (5) Any person aggrieved by the imposition on that person of a surcharge under this section in respect of a relevant site may appeal to the Appeal Commissioners, in accordance with section 653X, within the period of 30 days after the date of the notice, referred to in subsection (4), of the amount of that surcharge, against the imposition of such surcharge on the grounds that, having regard to all the circumstances, there were sufficient grounds on which that person might reasonably have based that person's estimate of the market value of the asset.

Table

Estimate of the ratio of the market value of the relevant site, as stated in the return, to the ascertained value of the relevant site expressed as a percentage (1)	Surcharge (2)
Equal to or greater than 0 per cent but less than 40 per cent	30 per cent
Equal to or greater than 40 per cent but less than 50 per cent	20 per cent
Equal to or greater than 50 per cent but less than 67 per cent	10 per cent

Surcharge for late return of the relevant site

- 653AC.** (1) Where a liable person fails to deliver a return in respect of a relevant site on or before the return date in a year, the amount of residential zoned land tax which would have been payable if such a return had been delivered on or before the return date shall be increased by an amount (in this section referred to as the 'surcharge'), equal to the percentage, specified in column (2) of the Table, opposite the timing of the delivery of the return relative to the return date, specified in column (1) of the Table.
- (2) Interest is payable under section 653Y on any surcharge as if the surcharge were residential zoned land tax, and the surcharge and any interest on that surcharge is chargeable and recoverable as if the surcharge and that interest were residential zoned land tax.

Table

Timing of delivery of return relative to return date (1)	Surcharge (2)
return not delivered within 6 months from the return date	30 per cent
return delivered between 4 and 6 months from the return date	20 per cent
return delivered between 0 and 3 months from the return date	10 per cent

Chapter 5

*Abatements***Repayment of tax on site not suitable for development**

- 653AD.** (1) This section applies in respect of a site where, subsequent to the publication of a final map, a local authority, following consultation with any person referred to in article 28 of the Planning and Development Regulations 2001, determines that, on the basis of information available at that time to the local authority, the site or part of the site is affected, in terms of its physical condition, by matters to a sufficient extent to preclude the provision of dwellings, including contamination or the presence of archaeological or historic remains.
- (2) Where a local authority makes a determination under subsection (1), it shall notify, in writing, the liable person in respect of the site as soon as practicable of its determination.
- (3) A notification under subsection (2) shall specify the date from which the site or part of the site concerned is determined by the local authority concerned to have been affected in the manner referred to in subsection (1).
- (4) Where this section applies in respect of a site, the site (or where only part of the site is affected in the manner described in subsection (1), the part of the site so affected), shall, notwithstanding the inclusion of the site in a final map, not be a relevant site from the date specified in accordance with subsection (3).
- (5) Subject to subsection (6), where a person has paid residential zoned land tax in respect of a site in respect of which this section applies, the person may make a claim for repayment of the tax.
- (6) Where a person has paid residential zoned land tax in respect of a site in respect of which this section applies and part only of the site is affected in the manner described in subsection (1), the person may make a claim for repayment of that part of that tax which was attributable to the part of the site so affected, and the amount of that

tax which can be claimed shall be determined by the following formula:

$$C = T \times (A_{\text{part}}/A_{\text{total}})$$

where—

C is the amount of tax which can be claimed in accordance with this subsection,

T is the total amount of residential zoned land tax paid in respect of the site,

A_{part} is the area, in square metres, of the part of the site affected in the manner described in subsection (1), and

A_{total} is the total area, in square metres, of the site.

Deferral of tax on appeals under section 653J

653AE. (1) This section applies where, in relation to a site—

- (a) an appeal under section 653J has been made but not been determined,
- (b) an application for judicial review of—
 - (i) a determination made by a local authority under section 653E or 653H, or
 - (ii) a decision of An Bord Pleanála under section 653J,
 has been made but not determined, or
- (c) a submission has been made under section 653I, but no variation has been made to the development plan as a consequence of that submission,

one month prior to the publication of a final map under section 653K or a revised map under section 653M, as the case may be, in which the site is included.

(2) Where—

- (a) this section applies, and
- (b) either—
 - (i) the appeal referred to in paragraph (a) of subsection (1) or the judicial review referred to in paragraph (b) of that subsection is determined in favour of the owner of the site by the liability date in the year of publication of the final map or revised map, as the case may be, or
 - (ii) the development plan is varied by the liability date in the year of publication of the map or revised map, as the case may be, such that the site no longer satisfies the relevant criteria,

the site shall be treated for the purposes of this Part as not being a relevant site from the date of the making of the appeal, the date of the application for judicial review or the date of the submission under section 653I, as the case may be.

- (3) Where a site ceases to be a relevant site in accordance with subsection (2), the liable person in relation to the site may make a claim for the repayment of all residential zoned land tax paid by that liable person in respect of the land that arose from the date of the making of the appeal, of the application for judicial review or of the submission under section 653I, as the case may be.

- (4) Where—

(a) this section applies, and

(b) either—

(i) the appeal referred to in paragraph (a) of subsection (1) or the judicial review referred to in paragraph (b) of that subsection has not been determined by a return date, or

(ii) a process has commenced under section 13 of the Act of 2000 in relation to a variation of the development plan concerned, which would, if made, affect the zoning of the site, but that process has not concluded by a return date,

a liable person in relation to the site may, in a return made under this Part, make a claim to defer payment of the residential zoned land tax payable in respect of the site until such time as the appeal or judicial review is determined or the process concluded, as the case may be.

- (5) Where a liable person makes a claim under subsection (4) and the appeal is determined in favour of the person, or the development plan is varied such that the site is not a relevant site, as the case may be, residential zoned land tax deferred pursuant to the claim shall not be due and payable.
- (6) Where a liable person makes a claim under subsection (4) and the appeal or judicial review, as the case may be, is not determined in favour of the liable person or the development plan is not varied such that the site is a relevant site, as the case may be, the liable person shall amend each return in which such a claim was made, and pay any tax and interest due accordingly.
- (7) Where a liable person makes a claim under subsection (4) and sells their interest in the relevant site before the appeal or judicial review, as the case may be, is determined or the process under section 13 of the Act of 2000 in relation to the variation of the development plan concerned has concluded, the liable person shall amend each return in which such claim was made, and pay any tax and interest due accordingly.

Deferral of tax during appeals

653AF. (1) In this section ‘relevant appeal’ means—

- (a) an appeal to An Bord Pleanála in respect of a grant of planning permission,
- (b) an application for judicial review of a decision of a local authority or An Bord Pleanála in respect of a planning permission, or
- (c) an appeal of a determination of a judicial review referred to in paragraph (b),

where the appeal or application, as the case may be, has not been made by—

- (i) the applicant or the owner of the land on which the development to which the planning permission relates is to be carried out, or
 - (ii) a person connected (within the meaning of section 10) with the applicant or the owner.
- (2) This section applies where a planning permission has been granted, but the development concerned cannot commence because the decision to grant the planning permission is subject to a relevant appeal which has not been determined at a liability date.
- (3) Where this section applies and the relevant appeal concerned is subsequently determined such that the grant of planning permission is upheld, the liable person may make a claim for the repayment of all residential zoned land tax paid by that liable person in respect of the site to which the planning permission relates that arose from the date on which the relevant appeal was first made until the date on which the grant of planning permission was upheld.
- (4) At a return date after the date on which a relevant appeal was made but before the relevant appeal has been determined, a liable person may make a claim to defer payment of the residential zoned land tax in respect of the site to which the planning permission relates until such time as the relevant appeal is determined, and—
 - (a) where the relevant appeal is determined such that the grant of planning permission is upheld, the tax so deferred shall no longer be due and payable,
 - (b) where the relevant appeal is determined such that the grant of planning permission is overturned, the liable person shall amend each return in which such a claim was made, and pay any tax and interest due accordingly, or
 - (c) where the owner sells the property before the relevant appeal is determined, the liable person shall amend each return in which such claim was made, and pay any tax and interest due accordingly.

Sites developed wholly or partly for purpose other than residential development**653AG.** (1) This section applies to a relevant site—

- (a) which comprises land included in a development plan, in accordance with section 10(2)(a) of the Act of 2000, or local area plan, in accordance with section 19(2)(a) of the Act of 2000, zoned for a mixture of uses, including residential use, and
 - (b) in respect of development on which planning permission has been granted, where that development consists either wholly or partly of development for a purpose other than residential development.
- (2) Subject to subsection (6), where, in respect of a relevant site to which this section applies, a commencement notice has been lodged with a local authority in respect of development under the planning permission concerned, so much of the site as is being developed for a purpose other than residential development shall, from the date of the commencement notice, or where more than one commencement notice is lodged, from the date of the first commencement notice in respect of which works comprising substantial activity commence within the timeframe specified in the notice, cease to be treated as a relevant site.
- (3) Where the development to which the planning permission referred to in subsection (1) relates consists of both residential development and other development—
- (a) the market value of the relevant site concerned shall be apportioned, in accordance with subsection (4), between the portion of the site that is allocable to the residential development (in this section referred to as the ‘liable part of the relevant site’) and the portion allocable to the other development, and
 - (b) the market value of the liable part of the relevant site so apportioned shall, for the purposes of section 653R, be treated as the market value of the relevant site on the liability date immediately following the date on which the commencement notice, or the first such notice, as the case may be, referred to in subsection (2) is lodged.
- (4) The market value of the liable part of the relevant site shall be determined by the formula—

$$A \times (B/C)$$

where—

- A is the market value of the relevant site on the day before the date on which the commencement notice, or the first such notice, as the case may be, referred to in subsection (2) is lodged,
- B is, in accordance with the planning permission, the portion of

the gross floor space for all of the development, to which the planning permission referred to in subsection (1) relates, which comprises dwellings, and

C is the total gross floor space for all of the development to which the planning permission referred to in subsection (1) relates.

- (5) Where the market value of the liable part of a relevant site is determined in accordance with subsection (4) then, for the purposes of section 653R, at the liability date immediately following the submission of the commencement notice concerned, the liable part of the relevant site shall be treated as having a valuation date falling on the same day as that liability date.
- (6) Where there is no substantial activity in relation to that part of a relevant site to which this section applies which is being developed for a purpose other than residential development within a reasonable period of time from the date of the commencement notice, or the first commencement notice in respect of which works comprising substantial activity commence within the timeframe specified in the notice, as the case may be, referred to in subsection (2) that is lodged with the local authority, that part of the site which is being developed for a purpose other than residential development shall not, subject to this Part, cease to be treated as a relevant site until such time as works comprising substantial activity on that part of the site are commenced.
- (7) A liable person in relation to a relevant site to which this section applies shall—
 - (a) within 30 days of the date on which the commencement notice, or the first such notice, as the case may be, referred to in subsection (2) is lodged, make a declaration to the Revenue Commissioners, in such form and containing such information as they may prescribe, that this section applies to the relevant site, and
 - (b) maintain and have available such records as may reasonably be required for the purposes of determining whether the requirements of this section are met.

Deferral of residential zoned land tax in certain circumstances

653AH. (1) This section applies where—

- (a) a planning permission has been granted in respect of development on a relevant site,
- (b) all or part of the development consists of residential development (and such portion of the development as consists of residential development on the relevant site shall be referred to in this section as ‘relevant residential development’), and
- (c) a commencement notice, in respect of the development, has been lodged with the local authority in whose functional area the

relevant site is situated.

- (2) Where more than one commencement notice is lodged with a local authority in respect of a development, the reference in subsection (1)(c) to a commencement notice shall be construed as a reference to the first commencement notice lodged with the local authority in whose functional area the relevant site is situated that is in respect of the commencement of substantial activity in relation to the development.
- (3) Subject to subsections (5) and (7), where this section applies, so much of any residential zoned land tax arising in respect of a liability date in relation to a relevant site after the submission of the commencement notice referred to in subsection (1)(c) which relates to relevant residential development shall, notwithstanding section 653Q(2), not be due and payable until the earliest to occur of—
 - (a) the date on which the works (within the meaning of the Act of 2000) on the relevant site permanently cease where, on that date, certificates of compliance on completion in respect of all of the relevant residential development have not been lodged with the local authority concerned,
 - (b) the date on which there is a change in the ownership of the relevant site, where such a change occurs prior to certificates of compliance on completion having been lodged with the local authority concerned in respect of all of the relevant residential development, and
 - (c) the date of expiry of the planning permission period for the planning permission, where, on that date, certificates of compliance on completion in respect of all of the relevant residential development to which the planning permission relates have not been lodged with the local authority concerned.
- (4) Residential zoned land tax which, by virtue of subsection (3), is not due and payable until the earliest to occur of the events referred to in paragraphs (a), (b) and (c) of that subsection, shall, in relation to the relevant site, be referred to in this section as ‘deferred residential zoned land tax’.
- (5) The amount of residential zoned land tax which—
 - (a) arises in respect of a liability date that falls after the lodgement of a commencement notice and up to the earliest to occur of the events referred to in paragraphs (a), (b) and (c) of subsection (3), and
 - (b) relates to a relevant residential development,shall be—
 - (i) where the development referred to in subsection (1)(a) consists of residential development only, the amount of all residential zoned

land tax arising in respect of the relevant site, or

- (ii) where the development referred to in subsection (1)(a) consists of residential development and development other than residential development, the amount represented by A in the formula—

$$A = B \times C$$

where—

B is, on the valuation date applicable to the liability date, the market value of that part of the relevant site which, having regard to the planning permission referred to in subsection (1), is being used for residential development (referred to in this section as the ‘qualifying part of the relevant site’) and subsection (6)(a) shall apply for the purpose of determining the market value of the qualifying part of the relevant site on the first liability date after the date on which the commencement notice referred to in subsection (1)(c) is lodged, and

C is the rate of 3 per cent.

- (6) Where subsection (5)(ii) applies—

(a) the market value of the qualifying part of a relevant site on the first liability date after the commencement notice referred to in subsection (1)(c) is lodged, (represented by ‘B’ in the formula contained in subsection (5)(ii)), shall be computed in the same manner as the market value of the ‘liable part of the relevant site’ (within the meaning of section 653AG) is computed under section 653AG(4), and

- (b) for the purposes of section 653R—

(i) so much of the relevant site to which residential zoned land tax continues to apply shall be treated as having a valuation date falling on the same day as the first liability date after the commencement notice referred to in subsection (1)(c) is lodged and, where section 653AG(2) applies in relation to that portion of the site which is being developed for a purpose other than residential development, the market value on that valuation date shall be the market value determined in accordance with paragraph (a), and

(ii) the valuation date referred to in subparagraph (i) shall continue to apply until 1 February in the year immediately following the earliest to occur of the events referred to in paragraphs (a), (b) and (c) of subsection (3).

- (7) Notwithstanding subsection (3), where, in relation to a relevant site referred to in subsection (1)—

- (a) one or more certificates of compliance on completion are lodged with a local authority in respect of all of the relevant residential development in advance of the expiry of the planning permission period relating to that site, then, on the making of a claim by the liable person, the amount of the deferred residential zoned land tax shall no longer be due and payable, or
 - (b) on the expiry of the planning permission period, one or more certificates of compliance on completion are lodged with a local authority in respect of part only of the relevant residential development and the percentage of completion, calculated in accordance with subsection (8), is within any of the percentages specified in column (1) of the Table to this section, then, on the making of a claim by the liable person, the percentage of the deferred residential zoned land tax relating to the relevant site which is due and payable shall be the percentage, set out in column (2) of that Table, opposite the relevant percentage of completion in column (1).
- (8) For the purposes of subsection (7)(b) and column (1) of the Table to this section, the percentage of completion of relevant residential development on a relevant site at the expiry of a planning permission period shall be the amount, expressed as a percentage, represented by A in the formula—

$$A = (B/C) \times 100$$

where—

- B is the total gross floor space of the relevant residential development which is completed at the expiry of the planning permission period, and
 - C is, in accordance with the planning permission, the total gross floor space of the relevant residential development.
- (9) A claim referred to in subsection (7) shall be made in such form and contain such particulars as the Revenue Commissioners may prescribe.
- (10) This section only applies if a return referred to in section 653T is delivered to the Revenue Commissioners in respect of each liability date to which this section refers notwithstanding the application of subsection (2).

Table

Percentage of completion calculated in accordance with subsection (8) (1)	Percentage of residential zoned land tax due and payable (2)
Equal to or greater than 55 per cent but less than 65 per cent	35 per cent
Equal to or greater than 65 per cent but less than 75 per cent	25 per cent
Equal to or greater than 75 per cent but less than 85 per cent	15 per cent
Equal to or greater than 85 per cent	0 per cent

Chapter 6

*Death cases***Death**

- 653AI.** (1) For the purposes of this Part, ‘personal representative’ has the same meaning as in Chapter 1 of Part 32 and personal representatives shall be treated as being a single continuing body of persons (distinct from the persons who may from time to time be the personal representatives).
- (2) Sections 1047(1) and 1048 shall apply in respect of residential zoned land tax as they apply in respect of income tax, subject to the following modifications:
- (a) a reference to ‘income tax’ shall be construed as a reference to ‘residential zoned land tax’;
 - (b) a reference to ‘profits or gains’ shall be construed as including a reference to the market value of a relevant site;
 - (c) a reference to ‘Income Tax Acts’ shall be construed as a reference to ‘Part 22A’.
- (3) On the death of a liable person in relation to a site (referred to in this section as the ‘deceased person’), a personal representative shall, for the purposes of this Part, be deemed to be the liable person in relation to the site immediately after the death of the deceased person and until such time as—
- (a) the administration of the estate of the deceased person is completed (and the period between the date of the death of the deceased person and the date on which the administration of the estate of the deceased person is completed shall be referred to in this section as ‘the administration period’), and
 - (b) another person becomes the liable person in respect of the site in

accordance with section 653P.

- (4) Subject to subsections (6) and (7), the personal representatives of the deceased person shall be responsible for all obligations under this Part as if—
 - (a) the site concerned was acquired by the personal representatives at the time it was acquired by the deceased person,
 - (b) the transfer of the site concerned to the personal representative does not give rise to a change of ownership of the site for the purposes of Chapter 5, and
 - (c) to the extent that a provision of this Part applied to the site concerned in accordance with the conditions specified in that provision prior to the death of the deceased person, that provision continues to apply after that death.
- (5) Notwithstanding section 653Q, and subject to subsections (6) and (7), so much of any residential zoned land tax as arises in respect of a relevant site and a liability date that occurs on or after the date of death of a deceased person and prior to the end of the administration period (in subsection (6) referred to as the ‘post-death tax’) shall not be due and payable until the earlier of—
 - (a) 12 months from the date of the—
 - (i) grant of probate, or
 - (ii) grant of letters of administration,with respect to the deceased person’s estate, and
 - (b) 24 months from the date of death of the deceased person.
- (6) Subject to subsection (7), where the administration period ends prior to any tax becoming due and payable under subsection (5), then the post-death tax shall no longer be due and payable.
- (7) Subsections (5) and (6) shall not apply unless a return in respect of each relevant site that forms part of the estate of the deceased person, is made in accordance with section 653U for each return date that arises during the period from the death of the deceased person to the earlier to expire of the periods referred to in paragraphs (a) and (b) of subsection (5).
- (8) Where, during the administration period, section 653AD applies to a site in respect of which the deceased person was the owner immediately prior to their death, the personal representatives may, during the administration period, make any claim for the repayment of residential zoned land tax under section 653AD(5), that the deceased person would have been entitled to make.
- (9) Where, on the date of death of a deceased person, section 653AE

applies to a site in respect of which the deceased person was the owner immediately prior to their death—

- (a) the personal representatives may, during the administration period, make any claim for the repayment of residential zoned land tax under section 653AE(3) that the deceased person would have been entitled to make, or
 - (b) the personal representative may, during the administration period, make any claim to defer residential zoned land tax, under section 653AE(4) that the deceased person would have been entitled to make and any tax so deferred by the personal representative that becomes due and payable in accordance with section 653AE(6) or (7) prior to the end of the administration period shall become a charge on the land concerned under section 653Q(4).
- (10) Where, on the date of death of a deceased person, section 653AF applies to a relevant site in respect of which the deceased person was the liable person immediately prior to their death—
- (a) the personal representatives may, during the administration period, make any claim for the repayment of residential zoned land tax under section 653AF that the deceased person would have been entitled to make, or
 - (b) the personal representative may, during the administration period, make a claim to defer any residential zoned land tax, under section 653AF(3), that the deceased person would have been entitled to make and any tax so deferred by the personal representative that becomes due and payable under paragraph (b) or (c) of section 653AF(4) prior to the end of the administration period shall become a charge on the land concerned under section 653Q(4).
- (11) If on the date of death of a deceased person, section 653AH applies with respect to a relevant site to which the deceased person was the liable person of prior to their death—
- (a) that section shall apply to the personal representatives as if they were the liable person of the relevant site at the date of death of the deceased person, and
 - (b) at the completion of the administration period any residential zoned land tax deferred at that time under section 653AH(4) shall become a charge on the land concerned under section 653Q(4).
- (12) Notwithstanding subsection (9)(b), (10)(b) or (11)(b), sections 653AE(4), 653AF(3) and 653AH(4) shall continue to apply to a beneficiary or beneficiaries, as the case may be, of a site to which section 653AE(4), or a relevant site to which section 653AF(3) or 653AH(4), was applicable at the end of the administration period, as if the beneficiary or beneficiaries were the liable person of that relevant

site at the date of death of the deceased person.

- (13) Any charge on the land arising under subsections (9)(b), (10)(b) or (11)(b) shall cease to apply where the residential zoned land tax to which the charge relates would not be payable by a beneficiary or beneficiaries, as the case may be, of the relevant site to which the charge relates, under section 653AE(2), 653AF(4)(a) or 653AH(5), as the case may be, had they been the liable person with respect to that relevant site at the date of death of the deceased person.

Chapter 7

Miscellaneous

Obligation to keep certain records

653AJ. (1) A liable person shall retain, or cause to be retained on behalf of the liable person, such records as are required to enable a full and true return to be made for the purposes of this Part.

- (2) Without prejudice to the generality of subsection (1), the records required to be retained under that subsection shall include, but are not limited to, books, accounts, documents, and any other data maintained manually or by any electronic, photographic or other process, relating to—

- (a) a commencement notice, certificate of compliance on completion, planning application and planning permission, where applicable in relation to a relevant site of the liable person,
- (b) the valuation, on the valuation date or other specified date, of a relevant site of the liable person, or part thereof under any provision of this Part,
- (c) any claim to an exemption, abatement or deferral claimed under any provision of this Part,
- (d) the purchase or sale of a relevant site of the liable person, and
- (e) evidence of title to a relevant site of the liable person.

- (3) Records required to be retained by virtue of this section shall be retained—

- (a) in written form in an official language of the State, or
- (b) subject to section 887(2), by means of any electronic, photographic or other process.

- (4) Notwithstanding any other law, records to be retained under this section shall be retained by the person required to retain the records, where the requirements of section 653T regarding the delivery of a return on or before the relevant return date are met, for the period of 6 years commencing from the end of the year in which a return has been

delivered.

- (5) For the purposes of this section, where the liable person is a company and the company—
 - (a) is wound up, the liquidator, or
 - (b) is dissolved without the appointment of a liquidator, the last directors, including any person occupying the position of director by whatever name called, of the company,
 shall retain the records required to be retained under this section for a period of 5 years from the date from which the company is wound up or dissolved.
- (6) For the purposes of this section, where a liable person dies, the executor or administrator of that deceased person shall retain the records required to be retained under this section for a period of 5 years from the date of death of the liable person.
- (7) A person who fails to comply with this section in respect of the retention of any records relating to residential zoned land tax is liable to a penalty of €3,000.

Restriction of deduction

653AK. Notwithstanding anything in the Tax Acts or Capital Gains Tax Acts, in computing the amount of profits or gains to be charged to income tax, corporation tax or capital gains tax, no sum shall be deducted in respect of any amount of residential zoned land tax.

Care and management of residential zoned land tax

- 653AL.** (1) Residential zoned land tax is under the care and management of the Revenue Commissioners.
- (2) Part 37 shall apply to residential zoned land tax as it applies to income tax, corporation tax and capital gains tax.

Where no owner registered

- 653AM.** (1) This section shall apply to a relevant site where no person has registered as the owner in respect of the site under section 653S and an amount of residential zoned land tax and interest has been charged on the land to which the tax relates under section 653Q(4).
- (2) Where—
 - (a) this section applies to a relevant site, and
 - (b) the amount of residential zoned land tax and interest charged on the land under section 653Q(4) exceeds an amount, calculated as 110 per cent of the market value of the relevant site on a valuation date,
 the Revenue Commissioners may publish a notice in *Iris Oifigiúil* in accordance with subsection (3).

- (3) The notice referred to in subsection (2) shall state—
- (a) that the issue of the notice is the first step in a process that may result in the relevant site concerned becoming the property of the State,
 - (b) the address of the relevant site,
 - (c) the unique identifier, or identifiers, allocated to the relevant site under the Registration of Title Act 1964, if available,
 - (d) the name of the local authority in whose functional area the relevant site is situated, and
 - (e) that the Minister for Public Expenditure and Reform may, after 6 months has elapsed from the date of the publication of the notice, apply to the High Court for an order that the relevant site is the property of the State.
- (4) Where the Revenue Commissioners have published a notice in relation to a relevant site in accordance with subsection (3), the Minister for Public Expenditure and Reform may make an application referred to in subsection (5).
- (5) An application referred to in this subsection is an application by the Minister for Public Expenditure and Reform to the High Court for an order that the relevant site is the property of the State.
- (6) An application to the High Court under subsection (4) shall in the first instance be made *ex parte* and the High Court shall thereupon give such directions as it thinks proper in regard to service or publication of notice of such application and shall not finally determine such application unless or until the directions so given have been complied with and such time as the Court shall consider reasonable in the circumstances has elapsed since such compliance.
- (7) Where it is shown to the satisfaction of the High Court on application to it under subsection (4) that, in respect of a site—
- (a) the site is a relevant site,
 - (b) no person has registered as the owner in respect of the relevant site under section 653S, and
 - (c) the amount of residential zoned land tax and interest charged on the relevant site under section 653Q(4) exceeds an amount, calculated as 110 per cent of the market value of the relevant site on a valuation date,
- the Court may order that the relevant site is the property of the State from the date of the order.
- (8) An order made by the High Court on an application under this section that a relevant site is the property of the State in accordance with this

section shall (subject to appeal to the Court of Appeal) be conclusive evidence binding on all persons whatsoever (whether they had or had not notice of such application) that the said site is the property of the State from the date of the order.

- (9) Where any relevant site becomes the property of the State in accordance with this section, such land shall, upon so becoming the property of the State, vest in the Minister for Public Expenditure and Reform.
- (10) The Registrar of Titles shall cause the Minister for Public Expenditure and Reform to be registered as the owner of the land under the Registration of Title Act 1964.”,
- (b) in section 865(1)(a)—
 - (i) in the definition of “Acts”, by the substitution of “Part 18C, Part 18D and Part 22A” for “Part 18C and Part 18D”, and
 - (ii) in the definition of “tax”, by the substitution of “domicile levy, universal social charge or residential zoned land tax” for “domicile levy or universal social charge”,
- (c) in section 949A, in the definition of “Acts”, by the insertion of the following paragraph after paragraph (c):

“(ca) Part 22A,”,
- (d) in section 960A, in the definition of “Acts”, by the insertion of the following paragraph after paragraph (g):

“(ga) Part 22A,”,
- (e) in section 1002(1)(a), in the definition of “the Acts”, by the insertion of the following subparagraph after subparagraph (iiia):

“(iiib) Part 22A,”,
- (f) in section 1006(1), in the definition of “the Acts”, by the insertion of the following paragraph after paragraph (aa):

“(ab) Part 22A,”,
- (g) in section 1077A, in the definition of “the Acts”, by the insertion of the following paragraph after paragraph (c):

“(ca) Part 22A,”,
- (h) in section 1078(1), in the definition of “the Acts”, by the insertion of the following after paragraph (ca):

“(cb) Part 22A,”,
- (i) in section 1079(1), in the definition of “the Acts”, by the insertion of the following paragraph after paragraph (ca):

“(cb) Part 22A,”,

- (j) in section 1094(1), in the definition of “the Acts”, by the insertion of the following paragraph after paragraph (ca):

“(cb) Part 22A,”,

- (k) in section 1095(1), in the definition of “the Acts”, by the insertion of the following paragraph after paragraph (ca):

“(cb) Part 22A,”,

and

- (l) in Schedule 29, by the insertion of “section 653T” after “section 508C” in column 1.

- (2) The Ministers and Secretaries (Amendment) Act 2011 is amended, in section 101(3), in the definition of “relevant enactment”, by the insertion of the following paragraph after paragraph (e):

“(ea) Part 22A of the Taxes Consolidation Act 1997,”.

- (3) The Provisional Collection of Taxes Act 1927 is amended, in section 1, in the definition of “tax”, by the substitution of “local property tax, residential zoned land tax or any other levy” for “local property tax or any other levy”.
- (4) *Subsection (1)(a)*, in so far as it relates to the insertion of section 653T(3) in the Principal Act, shall come into operation on such day as the Minister for Finance may appoint by order.

Mandatory disclosure of certain transactions

81. Chapter 3A of Part 33 of the Principal Act is amended—

- (a) in section 817RA(1), by the insertion of the following definitions:

“ ‘authorised officer’ means an officer of the Revenue Commissioners authorised under section 817RE;

‘authorised DAC officer’ means an authorised officer whose authorisation under section 817RE includes authorisation for the purpose of exercising the powers set out in section 817REA(3);

‘AML Directive’ means Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015⁴¹ on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC as amended by Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May

41 OJ No. L141, 5.6.2015, p. 73

2018⁴²;

‘beneficial owner’ has the same meaning it has in the AML Directive;

‘designated person’ has the same meaning it has in Part 4 of the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010;”,

and

(b) by the insertion of the following section after section 817RE:

“Revenue powers

817REA.(1) Subject to subsections (2) and (3), an authorised officer may, at all reasonable times, enter any premises or place of business of an intermediary or relevant taxpayer, for the purposes of enquiring into, and determining, whether information—

(a) included in a return made in accordance with section 817RC or 817RD, as appropriate, was correct and complete, or

(b) not included in such a return was correctly not so included.

(2) Where section 817RC(9)(b) applies to any information that was not included in a return made in accordance with section 817RC, any enquiry under subsection (1) shall be limited to the information relevant to the intermediary’s compliance with its obligations under section 817RC(10).

(3) Where an enquiry under subsection (1) is in respect of a cross-border arrangement that contains, or that an authorised DAC officer believes may contain, one or more specific hallmarks concerning automatic exchange of information and beneficial ownership, then such authorised DAC officer shall also have access to the mechanisms, procedures, documents and information referred to in—

(a) Articles 13, 30, 31 and 40 of the AML Directive, and

(b) any provisions of the law of the State transposing the said Articles 13, 30, 31 and 40.

(4) For the purposes of an enquiry referred to in subsection (3), an authorised DAC officer, in particular—

(a) shall have access to the Central Register of Beneficial Ownership of Companies and Industrial and Provident Societies, the Central Register of Beneficial Ownership of Irish Collective Asset-management Vehicles, Credit Unions and Unit Trusts and the Central Register of Beneficial Ownership of Trusts, and

(b) may, by notice in writing, require a designated person to deliver to the officer, within a period specified in the notice, such information (including copies of any relevant books, records or other

42 OJ No. L156, 19.6.2018, p. 43

documents) as is relevant to the compliance with any obligation imposed on the designated person by Chapter 3 of Part 4 of the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 and retained by that designated person under section 55 of that Act.

- (5) For the purposes of a notice served under subsection (4)(b) the period to be specified in it shall not be less than 14 days.
- (6) Where an authorised DAC officer—
 - (a) accesses any of the registers referred to in subsection (4)(a), the beneficial owner concerned shall be notified in writing by the authorised DAC officer of the access to the register—
 - (i) in a case where the identity of the beneficial owner concerned is known to the authorised DAC officer at the time the register is accessed, at that time or as soon as practicable thereafter, and
 - (ii) in any other case, as soon as practicable after the identity of the beneficial owner concerned becomes known to the authorised DAC officer,
 - or
 - (b) serves a notice under subsection (4)(b), the beneficial owner concerned shall be notified in writing by the authorised DAC officer of the service of the notice and of the name of the person upon whom it was served—
 - (i) in a case where the identity of the beneficial owner concerned is known to the authorised DAC officer at the time the notice is served, at that time or as soon as practicable thereafter, and
 - (ii) in any other case, as soon as practicable after the identity of the beneficial owner concerned becomes known to the authorised DAC officer.
- (7) The Data Protection Act 2018 shall apply to the access that this section affords to an authorised DAC officer in respect of the information in the registers referred to in subsection (4)(a) and the information referred to in subsection (4)(b).
- (8) On there being made of the Registrar of Beneficial Ownership of Companies and Industrial and Provident Societies, the Registrar of Beneficial Ownership of Irish Collective Asset-management Vehicles, Credit Unions and Unit Trusts or the Registrar of Beneficial Ownership of Trusts, as the case may be, by an authorised DAC officer, a request for access, in accordance with subsection (4)(a), to a register referred to in subsection (4)(a), the Registrar concerned shall afford the authorised DAC officer access, in a timely manner, to the register.

- (9) An authorised DAC officer may require a designated person to provide any such additional information, explanations and particulars and to give all assistance to him or her which the authorised DAC officer may reasonably require for the purpose of inspecting the information delivered to him or her under subsection (4)(b).”.

Amendment of Part 38 of Principal Act (returns of income and gains, other obligations and returns, and Revenue powers)

- 82.** (1) Part 38 of the Principal Act is amended by the insertion of the following section after section 891H:

“Implementation of Article 1(8) of Council Directive (EU) 2021/514 of 22 March 2021 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation in relation to platform operators

- 891I.** (1) This section provides for the collection and reporting of certain information by reportable platform operators in respect of relevant activities undertaken by reportable sellers on their platforms.

- (2) In this section—

‘business registration number’ means a unique business identification number issued by a Member State, or a functional equivalent in the absence of a business identification number;

‘consideration’, ‘entity’, ‘excluded platform operator’, ‘financial account identifier’, ‘goods’, ‘platform’, ‘platform operator’, ‘primary address’, ‘property listing’, ‘qualified non-union platform operator’, ‘relevant activity’, ‘reportable period’, ‘reportable seller’, ‘reporting platform operator’, ‘seller’, ‘TIN’, and ‘VAT identification number’ have the meanings respectively given to them by Section I of Annex V to the Directive;

‘Directive’ means Council Directive 2011/16/EU of 15 February 2011⁴³ as amended by Council Directive 2014/107/EU of 9 December 2014⁴⁴, Council Directive (EU) 2015/2376 of 8 December 2015⁴⁵, Council Directive (EU) 2016/881 of 25 May 2016⁴⁶, Council Directive (EU) 2016/2258 of 6 December 2016⁴⁷, Council Directive (EU) 2018/822 of 25 May 2018⁴⁸, Council Directive (EU) 2020/876 of 24 June 2020⁴⁹ and Council Directive (EU) 2021/514 of 22 March 2021⁵⁰;

‘Platform Operator ID’ means a unique individual identification number assigned to a platform operator by the Revenue

43 OJ No. L64, 11.3.2011, p. 1

44 OJ No. L359, 16.12.2014, p. 1

45 OJ No. L332, 18.12.2015, p. 1

46 OJ No. L146, 3.6.2016, p. 1

47 OJ No. L342, 16.12.2016, p. 1

48 OJ No. L139, 5.6.2011, p. 1

49 OJ No. L204, 26.6.2020, p. 1

50 OJ No. L104, 25.3.2021, p. 1

Commissioners;

‘relevant information’ has the meaning given to it by subsection (7)(a).

(3) (a) Subject to paragraph (b), a platform operator that—

- (i) is resident in the State for tax purposes,
- (ii) is incorporated in the State,
- (iii) has a place of management in the State, or
- (iv) has a permanent establishment in the State and is not a qualified non-union platform operator,

shall register with the Revenue Commissioners as a platform operator for the purposes of this section.

(b) A platform operator that meets one or more of the conditions in subparagraphs (i) to (iv) of paragraph (a) and also satisfies those conditions in respect of another Member State shall not register with the Revenue Commissioners if it elects to register as a platform operator for the purposes of the Directive in that other Member State and notifies that election in writing to the Revenue Commissioners.

(c) Subject to paragraph (d), a platform operator—

(i) other than one that is required to register with—

- (I) the Revenue Commissioners under paragraph (a), or
- (II) the competent authority of another Member State, under provisions similar to paragraph (a) in force in that Member State, as a platform operator for the purposes of the Directive,

and

(ii) that facilitates the carrying out of a relevant activity in a Member State, including the State—

- (I) by reportable sellers, or
- (II) involving the rental of immovable property,

shall register with the Revenue Commissioners as a platform operator for the purposes of this section and the Revenue Commissioners shall assign a Platform Operator ID to such platform operator.

(d) Paragraph (c) shall not apply to a platform operator that has registered with the competent authority of another Member State, under provisions similar to paragraph (c) in force in that Member State, as a platform operator for the purposes of the Directive and has been assigned the equivalent of a Platform Operator ID by that

competent authority and such Platform Operator ID has not been revoked.

- (e) Subject to paragraph (f), where a platform operator, registered under paragraph (c), does not comply with its obligations under this section or regulations made under this section, the Revenue Commissioners shall revoke that platform operator's Platform Operator ID.
 - (f) The Platform Operator ID shall not be revoked under paragraph (e) before—
 - (i) the Revenue Commissioners have issued 2 reminders in writing to the platform operator of the obligations imposed on that platform operator under this section, and
 - (ii) the expiration of 30 days from the date of the second such reminder referred to in subparagraph (i).
 - (g) An excluded platform operator registered in the State shall make a return, by 31 January of the year immediately following the end of the reportable period, to the Revenue Commissioners confirming that the excluded platform operator has not facilitated any relevant activity in the reportable period and provide such particulars as are necessary to demonstrate that the excluded platform operator is not a reportable platform operator to which subparagraphs (1) to (3) of paragraph A of Section III of Annex V to the Directive apply.
- (4) A reportable platform operator registered in the State for the purposes of this section shall, by 31 January of the year immediately following the end of the reportable period—
- (a) make a return under this section to the Revenue Commissioners, and
 - (b) provide to a reportable seller a copy of the information contained in that return in respect of such reportable seller.
- (5) A return made under subsection (4) shall contain—
- (a) the following details in respect of a reporting platform operator:
 - (i) the name of the reporting platform operator;
 - (ii) the registered office address of the reporting platform operator;
 - (iii) the TIN of the reporting platform operator;
 - (iv) the Platform Operator ID, where one has been assigned by the Revenue Commissioners;
 - (v) the business name of each platform in respect of which the reporting platform operator is reporting,
 - (b) the following details in respect of reportable sellers who are

individuals:

- (i) the first name and last name of each reportable seller;
 - (ii) the primary address of each reportable seller;
 - (iii) the TIN issued to each reportable seller, and where a reportable seller has a TIN issued by more than one Member State, the Member State of issuance of each TIN, or in the absence of a TIN the place of birth of such reportable seller;
 - (iv) the VAT identification number of each reportable seller, where available;
 - (v) the date of birth of each reportable seller,
- (c) the following details in respect of reportable sellers who are not individuals:
- (i) the legal name of each reportable seller;
 - (ii) the primary address of each reportable seller;
 - (iii) where relevant activities are carried on through a permanent establishment in any Member State, details for each reportable seller of each Member State where such a permanent establishment is located, where available;
 - (iv) any TIN issued to each reportable seller, and where a reportable seller has a TIN issued by more than one Member State, the Member State of issuance of each TIN;
 - (v) the VAT identification number of each reportable seller, where available;
 - (vi) the business registration number of each reportable seller,
- (d) the following details in respect of all reportable sellers:
- (i) the total consideration paid or credited to each reportable seller during each quarter of the reportable period and the number of relevant activities in respect of which the consideration was paid or credited;
 - (ii) any fees, commissions or taxes withheld or charged by the reporting platform operator with respect to each reportable seller during each quarter of the reportable period;
 - (iii) the financial account identifier of each reportable seller, if available;
 - (iv) where different from the name of a reportable seller, the name of the holder of the financial account to which the consideration is paid or credited, to the extent available to the reporting platform operator, as well as any other financial identification

information available to the reporting platform operator with respect to that account holder;

- (v) each Member State in which each reportable seller is resident, as determined pursuant to paragraph D of Section II of Annex V to the Directive,
- (e) where the relevant activity of a reportable seller involves the rental of immovable property, in addition to the information specified in paragraphs (b) to (d), the following information in respect of each reportable seller:
 - (i) the address of each property listing;
 - (ii) the unique identifier, or identifiers, allocated under the Registration of Title Act 1964 to the land of each property listing, if available, or its equivalent under the law of the Member State where it is located, where available;
 - (iii) the total consideration paid or credited during each quarter of the reportable period and the number of relevant activities provided with respect to each property listing;
 - (iv) where available, the number of days each property listing was rented during the reportable period and the type of each property listing,and
- (f) such other information as may be prescribed in regulations made by the Revenue Commissioners under subsection (9).
- (6) A reporting platform operator shall put in place such procedures as may be prescribed in regulations under subsection (10)(c) to identify when a seller becomes a reportable seller.
- (7) (a) A reportable seller shall provide to the reporting platform operator such information as is necessary for that reporting platform operator to comply with the reporting obligations imposed under subsection (5) (referred to in this subsection as the ‘relevant information’).
- (b) Where a reportable seller does not provide the relevant information to the reporting platform operator—
 - (i) the account of the reportable seller shall be closed by the reportable platform operator, and
 - (ii) the account of the reportable seller cannot be reopened, or a new account opened by the reportable seller, with the reportable platform operator until such time as the relevant information has been provided.
- (8) A reporting platform operator may, subject to such conditions relating

to the appointment of a third party as may be prescribed in regulations made under this section, appoint a third party to carry out the duties and obligations imposed on it by this section.

- (9) The Revenue Commissioners, with the consent of the Minister for Finance, may make regulations under this section with respect to the registration of platform operators with the Revenue Commissioners and the return by a reporting platform operator of information regarding relevant activities undertaken by reportable sellers on their platform.
- (10) Regulations made under this section may (without prejudice to the generality of subsection (9)), in particular, include provision for—
 - (a) in respect of the requirements imposed on platform operators by subsection (3), the period within which such requirements shall be satisfied,
 - (b) in respect of a return required to be made under subsection (4)—
 - (i) the manner in which returns are to be made,
 - (ii) the currency in which the reporting platform operator is required to report, and
 - (iii) the rules for conversion of amounts, denominated other than in the currency referred to in subparagraph (ii), into that currency, for the purposes of making a return under subsection (4),
 - (c) in respect of the requirement imposed on the platform operators by subsection (6), the procedures to be put in place by a reporting platform operator for the purposes of identifying when a seller becomes a reportable seller,
 - (d) in respect of the requirement imposed on the platform operators by subsection (7)(b)—
 - (i) the procedures to be followed by a platform operator in respect of closing an account of a reportable seller, and
 - (ii) the requirements to be satisfied before the platform operator can reopen an account, or open a new account, for a reportable seller whose account has previously been closed by the platform operator,
 - (e) the records and documents that are required to be provided by the reportable seller to the reporting platform operator to enable the reporting platform operator to comply with the obligations imposed by paragraph (b), (c), (d) or (e), as the case may be, of subsection (5),
 - (f) the records and documents provided by the reportable seller to the reporting platform operator to enable the reporting platform

- operator to comply with the obligations imposed by paragraph (b), (c), (d) or (e), as the case may be, of subsection (5) that are required to be retained by the reporting platform operator,
- (g) the appointment of a third party by a reporting platform operator to carry out the duties and obligations imposed on it by this section or regulations made under this section,
 - (h) in relation to any of the matters specified in paragraphs (a) to (g), the manner in which records shall be kept and the period for the retention of records so kept as provided for in subparagraph (1) of paragraph B of Section IV of Annex V to the Directive, and
 - (i) such supplemental and incidental matters as appear to the Revenue Commissioners to be necessary—
 - (i) to enable persons to fulfil their obligations under the regulations, or
 - (ii) for the general administration and implementation of the regulations.
- (11) Every regulation made under this section shall be laid before Dáil Éireann as soon as may be after it is made and, if a resolution annulling the regulation is passed by Dáil Éireann within the next 21 days on which Dáil Éireann has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.
- (12) The Revenue Commissioners may authorise in writing any of their officers to exercise any powers to perform any acts or discharge any functions conferred by this section or regulations made under this section.
- (13) Subject to subsection (14), a Revenue officer authorised under subsection (12) may at all reasonable times enter any premises or place of business of a reporting platform operator for the purposes of—
- (a) determining whether information regarding a relevant activity—
 - (i) included in a return made under subsection (4) or regulations made under this section by the reporting platform operator was correct and complete, or
 - (ii) not included in such a return was correctly not so included,or
 - (b) examining the procedures put in place by the reporting platform operator for the purposes of ensuring compliance with that platform operator's obligations under this section or regulations made under this section.

(14) An authorised officer shall not, other than with the consent of the occupier, enter a private dwelling without a warrant issued under subsection (15) authorising the entry.

(15) A judge of the District Court, if satisfied on the sworn evidence of an authorised officer that—

(a) there are reasonable grounds for suspecting that any information or records, as the authorised officer may reasonably require for the purposes of his or her functions under this section, is or are held on any premises or part of any premises, and

(b) an authorised officer, in the performance of his or her functions under this section has been prevented from entering the premises or any part thereof,

may issue a warrant authorising the authorised officer, accompanied if necessary by other persons, at any time or times within 30 days from the date of issue of the warrant and on production if so requested of the warrant, to enter, if need be by reasonable force, the premises or part of the premises concerned and perform all or any of the functions conferred on the authorised officer under this section.

(16) (a) Section 898O shall apply to—

(i) a failure by a reporting platform operator to make a return required under subsection (4) or regulations made under this section, and

(ii) the making of an incorrect or incomplete return under subsection (4) or regulations made under this section,

as it applies to a failure to deliver a return or to the making of an incorrect or incomplete return referred to in section 898O.

(b) A person who does not comply with—

(i) the requirements of a Revenue officer in the exercise or performance of the officer's powers or duties under this section or regulations made under this section, or

(ii) any requirement of such regulations,

shall be liable to a penalty of €1,265.

(17) Where arrangements are entered into by any person and the main purpose or one of the main purposes of the arrangements, or any part of them, is the avoidance of any of the obligations imposed under this section or regulations made under this section, then this section and those regulations shall apply as if the arrangements, or that part of them, had not been entered into.

(18) A word or expression which is used in this section or in regulations made under this section and which is also used in the Directive has,

unless the context otherwise requires, the same meaning in this section or in those regulations as it has in the Directive.

- (19) Sections 888 and 890 shall not apply to a reportable platform operator where that reportable platform operator has fulfilled the obligations imposed under this section and regulations made under this section.”.
- (2) *Subsection (1)* shall come into operation on such day or days as the Minister for Finance may by order or orders appoint and different days may be appointed for different purposes or different provisions.

Amendment of Schedule 24A to Principal Act (arrangements made by the Government with the government of any territory outside the State in relation to affording relief from double taxation and exchanging information in relation to tax)

83. Schedule 24A to the Principal Act is amended in Part 1—

- (a) by the substitution of the following paragraph for paragraph 14A:

“14A. The Double Taxation Relief (Taxes on Income and on Capital) (Federal Republic of Germany) Order 2012 (S.I. No. 22 of 2012), the Double Taxation Relief (Taxes on Income and on Capital) (Federal Republic of Germany) Order 2015 (S.I. No. 438 of 2015) and the Double Taxation Relief (Taxes on Income and on Capital) (Federal Republic of Germany) Order 2021 (S.I. No. 508 of 2021).”,

and

- (b) by the insertion of the following paragraph after paragraph 22:

“22AA. The Double Taxation Relief (Taxes on Income) (Republic of Kosovo) Order 2021 (S.I. No. 507 of 2021).”.

Amendment of Chapter 2 of Part 15 of Principal Act

84. Chapter 2 of Part 15 of the Principal Act is amended—

- (a) in section 484(2)(a)(ii), by the substitution of “such day as is later than 31 January 2022 (but not later than 30 April 2022)” for “such day as is later than 30 September 2021 (but not later than 31 December 2021)”, and
- (b) in section 485—
- (i) in subsection (1), by the substitution of the following definition for the definition of “specified period”:
- “ ‘specified period’ means the period commencing on 13 October 2020 and expiring on 31 January 2022;”,
- and
- (ii) in subsection (3), by the substitution of the following paragraph for paragraph (b):

- “(b) the specification of 31 January 2022 in the definition of ‘specified period’ in subsection (1) as the date on which the period there referred to shall expire;”.

Miscellaneous technical amendments in relation to tax**85.** (1) The Principal Act is amended—

- (a) in section 959K(b), by the deletion of “such” where it first occurs, and
 - (b) in Schedule 34, by the substitution of “trust scheme” for “Trust Scheme” in paragraph 5.
- (2) Section 109X(1) of the Finance Act 2001 is amended by the substitution of “simplified” for “simplifying”.
- (3) The Capital Acquisitions Tax Consolidation Act 2003 is amended in section 2(1), in the definition of “the Income Tax Acts”, by the substitution of “section 1(2)” for “section 2”.
- (4) This section shall have effect on and from the date of the passing of this Act.

Care and management of taxes and duties**86.** All taxes and duties imposed by this Act are placed under the care and management of the Revenue Commissioners.**Short title, construction and commencement****87.** (1) This Act may be cited as the Finance Act 2021.

- (2) *Part 1* shall be construed together with—
- (a) in so far as it relates to income tax, the Income Tax Acts,
 - (b) in so far as it relates to universal social charge, Part 18D of the Principal Act,
 - (c) in so far as it relates to corporation tax, the Corporation Tax Acts, and
 - (d) in so far as it relates to capital gains tax, the Capital Gains Tax Acts.
- (3) *Part 2*, in so far as it relates to duties of excise, shall be construed together with the statutes which relate to those duties and to the management of those duties.
- (4) *Part 3* shall be construed together with the Value-Added Tax Acts.
- (5) *Part 4* shall be construed together with the Stamp Duties Consolidation Act 1999 and the enactments amending or extending that Act.
- (6) *Part 5* shall be construed together with the Capital Acquisitions Tax Consolidation Act 2003 and the enactments amending or extending that Act.
- (7) *Part 6* in so far as it relates to—
- (a) income tax, shall be construed together with the Income Tax Acts,

- (b) universal social charge, shall be construed together with Part 18D of the Principal Act,
 - (c) corporation tax, shall be construed together with the Corporation Tax Acts,
 - (d) capital gains tax, shall be construed together with the Capital Gains Tax Acts,
 - (e) customs, shall be construed together with the Customs Acts,
 - (f) duties of excise, shall be construed together with the statutes which relate to duties of excise and the management of those duties,
 - (g) value-added tax, shall be construed together with the Value-Added Tax Acts,
 - (h) stamp duty, shall be construed together with the Stamp Duties Consolidation Act 1999 and the enactments amending or extending that Act,
 - (i) domicile levy, shall be construed together with Part 18C of the Principal Act,
 - (j) gift tax or inheritance tax, shall be construed together with the Capital Acquisitions Tax Consolidation Act 2003 and the enactments amending or extending that Act, and
 - (k) the temporary wage subsidy or the wage subsidy payment provided for by Part 7 of the next-mentioned Act, shall be construed together with Part 7 of the Emergency Measures in the Public Interest (Covid-19) Act 2020 and the enactments amending or extending that Act.
- (8) Except where otherwise expressly provided for in *Part I*, that Part shall come into operation on 1 January 2022.
- (9) Except where otherwise expressly provided for, where a provision of this Act is to come into operation on the making of an order by the Minister for Finance, that provision shall come into operation on such day or days as the Minister for Finance shall appoint either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.

SCHEDULE

Section 75

PART 1

AMENDMENT OF TAXES CONSOLIDATION ACT 1997

The Taxes Consolidation Act 1997 is amended—

- (a) in section 395B(6)—
 - (i) in paragraph (a)(ii), by the substitution of “section 1077E or 1077F, as appropriate” for “section 1077E”, and
 - (ii) in paragraph (c), by the substitution of “subsection (2) or (5), as the case may be, of section 1077E or subsection (2) of section 1077F, as appropriate,” for “subsection (2) or (5), as the case may be, of section 1077E”,
- (b) in section 396D(7)(b), by the substitution of “section 1077E or 1077F, as appropriate” for “section 1077E”,
- (c) in section 481(3A)(b)—
 - (i) by the substitution of “section 1077E or 1077F, as appropriate,” for “section 1077E”, and
 - (ii) by the substitution of “subsection (11) or (12), as the case may be, of section 1077E or subsection (3) or (5), as the case may be, of section 1077F, as appropriate” for “section 1077E(11) or section 1077E(12)”,
- (d) in section 485—
 - (i) in subsection (11)(b)(iv), by the substitution of “section 1077E or 1077F, as appropriate,” for “section 1077E”,
 - (ii) in subsection (17)(b)(ii), by the substitution of “section 1077E or 1077F, as appropriate” for “section 1077E”, and
 - (iii) in subsection (19)—
 - (I) by the substitution of “section 1077E or 1077F, as appropriate,” for “section 1077E”, and
 - (II) by the substitution of “subsection (11) or (12), as the case may be, of section 1077E or subsection (3) or (5), as the case may be, of section 1077F, as appropriate” for “section 1077E(11) or section 1077E(12)”,
- (e) in section 485A—
 - (i) in subsection (7)(b)(iv), by the substitution of “section 1077E or 1077F, as appropriate,” for “section 1077E”,
 - (ii) in subsection (13)(b)(ii), by the substitution of “section 1077E or 1077F, as appropriate” for “section 1077E”, and
 - (iii) in subsection (14)—

- (I) by the substitution of “section 1077E or 1077F, as appropriate,” for “section 1077E”, and
 - (II) by the substitution of “subsection (11) or (12), as the case may be, of section 1077E or subsection (3) or (5), as the case may be, of section 1077F, as appropriate” for “subsection (11) or (12) of that section”,
- (f) in section 508X—
- (i) in subsection (1)—
 - (I) by the substitution of “Section 1077E or 1077F, as appropriate” for “Section 1077E”,
 - (II) in paragraph (a), by the substitution of “subsections (2) and (5) of section 1077E or subsection (2) of section 1077F, as appropriate” for “subsections (2) and (5) of section 1077E”,
 - (III) in paragraph (b)—
 - (A) by the substitution of “subsections (4) and (7) of section 1077E or subsections (6) and (8) of section 1077F, as appropriate” for “subsections (4) and (7) of section 1077E”,
 - (B) in subparagraph (i), by the substitution of “section 1077E(11) or 1077F(3), as appropriate” for “section 1077E(11)”, and
 - (C) in subparagraph (ii), by the substitution of “section 1077E(11) or 1077F(3), as appropriate,” for “section 1077E(11)”,

and
 - (IV) in paragraph (c), by the substitution of “subsection (11) of section 1077E or subsection (3) of 1077F, as appropriate,” for “subsection (11) of section 1077E”,
- and
- (ii) in subsection (2), by the substitution of “section 1086 or 1086A, as appropriate,” for “section 1086”,
- (g) in section 530U(1), by the substitution of “, as appropriate, section 1077E or 1077F” for “or section 1077E”,
- (h) in section 696K(7), by the substitution of “Section 1077E or 1077F, as appropriate,” for “Section 1077E”,
- (i) in section 766(7B)(b)—
- (i) in subparagraph (i)—
 - (I) by the substitution of “section 1077E or 1077F, as appropriate,” for “section 1077E”, and
 - (II) by the substitution of “subsection (11) or (12), as the case may be, of section 1077E or subsection (3) or (5), as the case may be, of section

- 1077F, as appropriate” for “section 1077E(11) and section 1077E(12),”
and
- (ii) in subparagraph (ii)—
- (I) by the substitution of “section 1077E or 1077F, as appropriate,” for “section 1077E”, and
- (II) by the substitution of “subsection (11) or (12), as the case may be, of section 1077E or subsection (3) or (5), as the case may be, of section 1077F, as appropriate” for “section 1077E(11) and section 1077E(12),”
- (j) in section 811D(3)(b), by the substitution of “subsection (2) or (5), as the case may be, of section 1077E or subsection (2) of section 1077F, as appropriate, subsection (2) or (5), as the case may be, of section 116 or subsection (2) of section 116A of the Value-Added Tax Consolidation Act 2010, as appropriate,” for “section 1077E(2) or 1077E(5), section 116(2) or 116(5) of the Value-Added Tax Consolidation Act 2010”,
- (k) in section 835G(7)(b), by the substitution of “section 1077E(5) or 1077F(2)(d), as appropriate,” for “section 1077E(5)”,
- (l) in section 1052(4), by the substitution of “under this section, section 1053 or, as appropriate, section 1077E or 1077F” for “under this section, under section 1053 or under section 1077E”,
- (m) in section 1054(3), by the substitution of “or, as appropriate, section 1077E or 1077F” for “or section 1077E”,
- (n) in section 1075, by the substitution of the following for subsection (5):
- “(5) Subsection (3) of section 1053 and, as appropriate, subsection (9) of section 1077E or subsection (12) of section 1077F, shall apply for the purposes of this section as each of those subsections apply for the purposes of section 1053 and, as appropriate, section 1077E or 1077F”,
- (o) in section 1077(1), by the substitution of “sections 1052, 1053 and 1054 and, as appropriate, section 1077E or 1077F” for “sections 1052, 1053, 1054 and 1077E”,
- (p) in section 1077C(2)(b), by the insertion of “or accepted or undertook to accept a settlement amount (within the meaning of section 1086A) in the circumstances mentioned in paragraph (c) or (d) of section 1086A(2), as appropriate,” after “paragraph (c) or (d) of section 1086(2)”,
- (q) in section 1077D(1)(c), by the insertion of “or accepted or undertook to accept a settlement amount (within the meaning of section 1086A) in the circumstances mentioned in paragraph (c) or (d) of section 1086A(2), as appropriate,” after “paragraph (c) or (d) of section 1086(2)”,
- (r) in section 1078(9)—

- (i) by the insertion of “or subsections (12) and (16) of section 1077F, as appropriate,” after “section 1077E”, and
- (ii) by the substitution of “116(16) or 116A(16), as appropriate,” for “and 116(16)”,
- (s) in section 1084(1)(b), by the insertion of “or deliberately or carelessly delivers an incorrect return of income as set out in section 1077F(2), as appropriate,” after “section 1077E(5)”,
- (t) in section 1104—
 - (i) in subsection (3), by the insertion of “1086A,” after “1086,” and
 - (ii) in subsections (4), (5) and (6), by the insertion of “, 1086A” after “1086” in each place where it occurs,
- (u) in Schedule 29, by the substitution of the following title for the title to that Schedule:

“Provisions referred to in sections 1052, 1054, 1077E and 1077F”,

and
- (v) in Schedule 32, in paragraph (7)(3)(b), by the substitution of “sections 1052 and 1054 and, as appropriate, section 1077E or 1077F” for “sections 1052, 1054 and 1077E”.

PART 2

AMENDMENT OF VALUE-ADDED TAX CONSOLIDATION ACT 2010

The Value-Added Tax Consolidation Act 2010 is amended—

- (a) in section 101(11)(c), by the substitution of “section 116 or 116A, as appropriate” for “section 116”, and
- (b) in section 113(4), by the substitution of “section 116(10) or 116A(13), as appropriate” for “section 116”.

PART 3

AMENDMENT OF FINANCE ACT 2001

The Finance Act 2001 is amended, in section 99B(1), in paragraph (a) of the definition of “qualifying disclosure” by the substitution of the following subparagraph for subparagraph (ii):

- “(ii) full particulars of all matters occasioning any liability to tax or duty that gives rise to—
 - (I) a penalty referred to in section 1077E(4) or 1077F(6), as appropriate, of the Taxes Consolidation Act 1997,
 - (II) a penalty referred to in section 134A(2) of the Stamp Duties Consolidation Act 1999,

- (III) a penalty referred to in section 116(4) or 116A(6), as appropriate, of the Value-Added Tax Consolidation Act 2010, and
 - (IV) the application of section 1077E(4) or 1077F(6), as appropriate, of the Taxes Consolidation Act 1997, to the Capital Acquisitions Tax Consolidation Act 2003,
- and”.