



An Bille Airgeadais, 2015
Finance Bill 2015

Meabhrán Mínitheach
Explanatory Memorandum



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FINANCE BILL 2015

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EXPLANATORY MEMORANDUM

PART 1

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

Chapter 1

Interpretation

Section 1 contains a definition of “Principal Act” (i.e. the Taxes Consolidation Act 1997) for the purposes of Part 1 of the Bill.

Chapter 2

Universal Social Charge

Section 2 gives effect to the Budget announcement by amending the bands and rates at which Universal Social Charge (USC) is applied.

The two lower rates are being reduced from 1.5 per cent and 3.5 per cent to 1 per cent and 3 per cent respectively. The 7 per cent rate is being reduced by 1.5 percentage points to 5.5 per cent. The threshold at which total income is exempt from USC is being increased from €12,012 to €13,000.

The band of income that will be liable at 3 per cent from 2016 is being increased by €1,092 and will now apply from €12,013 to €18,668.

In addition, employer contributions to a Personal Retirement Savings Accounts (PRSA) in respect of an employee will no longer attract a USC liability for the employee.

Chapter 3

Income Tax

Section 3 introduces a new earned income tax credit. The tax credit is capped at €550 and applies to an individual’s earned income other than earned income which qualifies for the employee (PAYE) tax credit. Where an individual has income that qualifies for both the employee (PAYE) tax credit and this new earned income tax credit, the aggregate tax credits are capped at €1,650.

Section 4 amends the Home Carer Tax Credit by increasing the value of the credit from €810 to €1,000.

In addition, where the Home Carer has income in his or her own right, the threshold at which the tax credit reduces is being increased from €5,080 to €7,200.

Section 5 amends the definition of relevant authority within section 192A of the Taxes Consolidation Act to reflect the changes made by the introduction of the Workplace Relations Act 2015.

The section has the effect of correcting the name of the Director of the Equality Tribunal. It also has the effect of adding the following to the definition:

- An adjudication officer of the Workplace Relations Commission,
- The Workplace Relations Commission,
- The District Court.

Section 6 inserts a new section 195B into the Taxes Consolidation Act 1997 and provides for an exemption from income tax and USC of certain vouched expenses of travel and subsistence of a non-resident non-executive director of a company. Such expenses must be incurred solely for the purpose of attendance by such a director, in his or her capacity as a director, at a relevant meeting.

Section 7 amends the definition of child in section 470 of the Taxes Consolidation Act to reflect the changes made to section 7(5) of the Health Insurance Act 1994 by the Health Insurance (Amendment) Act 2014.

As a result of the change to the Health Insurance Act, persons aged between 21 and 25 can avail of reduced premium rates on a sliding scale below the full adult price, and it is no longer necessary for a person aged between 18 and 22 to be in full-time education in order to be eligible for a child-rate premium, where offered by the insurer.

The purpose of this section is to amend the definition of “child” for the purposes of the reduced €500 tax relief ceiling, to refer to an individual under the age of 21 years availing of a child-rate premium. The full ceiling of €1,000 will apply for all adults aged 21 and older, regardless of whether they are availing of a reduced premium.

The amendment also stipulates that this provision is effective in respect of policies entered into or renewed on or after 1 May 2015.

Section 8 amends section 477B of the Taxes Consolidation Act 1997 which provides for the Home Renovation Incentive. The scheme is being extended for a further year, to end 31 December 2016.

Section 9 amends the definition of “professional services” in section 520 of the Taxes Consolidation Act 1997, by deleting training services provided on behalf of FÁS. It also amends Schedule 13 of the Taxes Consolidation Act, by removing from the list nine entities that are no longer accountable persons required to operate Professional Services Withholding Tax, by adding five entities that are now accountable persons and by amending the names of four entities.

Section 10 provides an exemption from Income Tax, PRSI and USC in circumstances where employers give a qualifying voucher to an employee in a year of assessment. That voucher cannot exceed €500 in value, nor may it be exchanged in part or in full for cash or be part of any salary sacrifice arrangement between the employee and employer.

Furthermore only one voucher may be given in any one year.

This provision coppers fastens in law an existing Revenue administrative concession whereby employees may receive a voucher to the value of €250.

Section 11 makes an amendment to the interaction between the restriction of capital gains tax loss relief and section 23 property relief to ensure that a capital gains tax loss incurred on the disposal of a section 23 property will not be unintentionally restricted.

Section 12 amends section 959B of the Taxes Consolidation Act 1997 which is concerned, inter alia, with excluding certain PAYE taxpayers from being treated as chargeable persons for the purposes of self-assessment. One of the conditions for exclusion is that net non PAYE income in the year cannot exceed €3,174. With effect from 1 January 2016, this limit is being increased to €5,000.

Section 13 amends Schedule 25B to the Taxes Consolidation Act 1997 by removing the reference to the relief from income tax for profits from the management of woodlands in the State (section 232). This relief will not be treated as a “specified relief” for the purposes of the high earner’s restriction from 1 January 2016.

Chapter 4

Income Tax, Corporation Tax and Capital Gains Tax

Section 14 amends section 256(1) of the Taxes Consolidation Act to grant the Minister for Social Protection an exemption from Deposit Interest Retention Tax (DIRT) in respect of deposit interest derived from accounts held under section 9 (as amended) of the Social Welfare Consolidation Act 2005.

Section 15 makes a number of amendments to the film tax credit. The definition of a broadcaster is clarified and the cap on qualifying eligible expenditure is increased to €70 million.

The information disclosable in relation to films qualifying for the credit is also being amended to bring our disclosure obligations in line with that specified in the relevant EU guidelines.

Section 16 makes a number of amendments to the Employment and Investment Incentive (EII).

Firstly, it makes certain changes to the terms of the EII in order to ensure that it complies with the General Block Exemption Regulations (GBER), from a State Aid perspective.

Secondly, it provides that companies who already own and operate nursing homes can raise EII funding in order to extend the nursing home or residential care units associated with that nursing home.

Thirdly, it amends the additional employment requirement on which the applications for additional EII relief are considered.

Section 17 makes a number of amendments in relation to certain tax reliefs for farmers.

Firstly, it extends the period for which stock relief is available until 31 December 2018. This includes standard stock relief, stock relief for young trained farmers and stock relief for Registered Farm Partnerships.

Secondly, it makes a number of amendments to the Registered Farm Partnership regime. This clarifies certain conditions and introduces a requirement that all participants in the partnership are active farmers. It also allows the Minister for Agriculture, Food and the Marine to appoint

Inspectors to determine if Registered Farm Partnerships are operating as required.

Thirdly, it introduces an annual €5,000 tax credit for Succession Farm Partnerships, a succession planning model that encourages older farmers to form partnerships with young trained farmers and to transfer ownership of the farm, within a specified period, to that young trained farmer.

Section 18 amends Part 24 of the Taxes Consolidation Act 1997 by inserting a new Chapter (Chapter 4) to introduce a new tax called the Petroleum Production Tax (PPT). The PPT will apply in the case of any oil and gas exploration authorisations first awarded after 18 June 2014 and replaces the Profit Resource Rent Tax. The PPT will apply on a field by field basis, calculated on a field's net income at a rate that is determined by reference to the profit ratio of the oil or gas field having regard to the cumulative gross revenues and field costs.

The legislation provides that:

- The PPT will be payable in addition to the existing 25% rate of corporation tax that applies to the profits from oil and gas production
- The PPT payments will be deductible for the purposes of calculating the amount of corporation tax due.
- The operation of the PPT regime will result in a maximum marginal tax take on a producing field (combining the corporation tax and petroleum production tax) of 55%.
- Once a field starts producing oil or gas, a minimum PPT payment of 5% will be payable in each year of production on the gross revenue (net of transportation costs) of a field.
- The ultimate PPT amount due on each field will be determined on a sliding scale depending on the profitability ("R Factor") of the field.

The PPT rates are based on the R Factor to be calculated as follows:

R factor	PPT rate
	THE GREATER OF
Any	5% of gross revenue less transport costs
	OR
= 1.5	10% of net income
>1.5 to 4.5	$10\% + \{(R-1.5) / (4.5-1.5) * (40\%-10\%)\}$ of net income
≥ 4.5	40% of net income

The "R factor" referred to above is the cumulative gross revenue of each field divided by the cumulative costs of the same field, calculated for each taxable period.

The details are as follows:

Section 696G is the interpretation and application section and contains the key definitions used in the new Chapter 4. The section provides that the existing interpretation used in section 684 of Chapter 2 of Part 24 of the Taxes Consolidation Act 1997 can be applied in the new Chapter, with any necessary modifications. This allows for the use of terms like "abandonment expenditure", "development expenditure", "exploration expenditure", "petroleum activities" etc. without having to redefine them in the new Chapter.

Section 696H contains the detailed rules of the charge to the PPT. This section provides that the PPT is an additional duty which applies at the greater of either:

- 5% of gross revenue less transportation costs; or
- a rate (between 10% and 40% of net income) that operates on a sliding scale basis (depending on the profitability of a field).

This section also provides that market value rules apply in relation to the disposal and acquisition of petroleum or a petroleum related asset between parties.

Section 696I provides that petroleum production tax paid in respect of a field is deductible for corporation tax purposes.

Section 696J provides for the calculation of the PPT in respect of group companies, which is only allowed where such companies are 100% related (either as a subsidiary or parent).

Section 696K provides for the submission of returns by companies in respect of the PPT. The returns are required to be submitted with the annual corporation tax return.

Section 696L provides that PPT for a relevant period is payable on or before the day on which the return for that relevant period is due.

Section 696M contains the collection provisions in respect of the PPT. The corporation tax provisions for assessments and recovery also apply to PPT. Interest charges also apply in the case of late payment of the tax. A company may appeal an assessment to the Appeal Commissioners, in accordance with section 949I, within 30 days after the date of notice of the assessment. No appeal may be made against an assessment until the company concerned makes the return and pays or has paid the amount of PPT payable on the basis of the return made to the Collector-General.

Section 19 amends the provisions in relation to the “transfer of assets abroad” legislation. This legislation is an anti-avoidance provision which was introduced in 1974. It provides, inter alia, that if arrangements are put in place such that income arises to a non-resident but a resident individual has the power to enjoy that income, then that resident individual is chargeable to income tax in respect of that income. The first amendment in this section is to ensure that the provision is compatible with the Treaty on the Functioning of the European Union. The second amendment this section makes is to provide that a non-domiciled individual, who is chargeable to income tax on the remittance basis, will be subject to this anti-avoidance provision.

Section 20 amends Schedule 2 to the Taxes Consolidation Act 1997 in relation to the due date for the filing of the annual encashment tax return and the payment of encashment tax due. This due date is amended from “within 20 days after the year of assessment” to “within 46 days after the year of assessment” (i.e. the 15th February).

Section 21 amends section 730E(2) of the Taxes Consolidation Act 1997 to remove the requirement that a declaration of non-residence must be completed at or about the time of the inception of a life policy. This means that a gain will not be treated as arising on a chargeable event in relation to a life policy provided the relevant declaration has been made prior to the chargeable event.

Section 22 inserts a new section 207A into Part 7 of the Taxes Consolidation Act (TCA) 1997. This new section provides an exemption from tax, similar to that which currently applies to charities under section

207 TCA 1997, for the Charities Regulatory Authority in respect of the income from its Common Investment Fund (in which it invests funds on behalf of charities). The Fund, which had been established by the Commissioners of Charitable Donations and Bequests for Ireland, vested in the Authority on its establishment on 16 October 2014 when it took over the functions of the Commissioners on their dissolution.

As the Commissioners had been granted charitable tax exemption under section 207, the income of the Fund was not subject to tax in their hands. This new section ensures the continuation of this tax-exempt treatment of the income of the Fund in the hands of the Charities Regulatory Authority. The new section has effect from 16 October 2014.

Section 23 amends section 530 of the Taxes Consolidation Act 1997, to extend the scope of Relevant Contracts Tax to relevant contracts carried out in areas designated by order under section 2 of the Continental Shelf Act 1968.

Section 24 amends section 734 of the Taxes Consolidation Act 1997 in the definition of “collective investment undertaking” to include an authorised Irish Collective Asset-management Vehicle (within the meaning of the Irish Collective Asset-management Vehicles Act 2015 (No. 2 of 2015)). Although this definition refers to investment funds established prior to the introduction of the gross roll-up regime for investment funds on 1 April 2000, the definition continues to have relevance to all regulated funds, including those established after 1 April 2000, in the context of the Double Taxation Agreement between Ireland and the United States of America (the DTA). This amendment is for the avoidance of any uncertainty in the application of the DTA.

Section 25 amends sections 268, 272 and 274 of the Taxes Consolidation Act 1997, in respect of capital allowances for certain aviation services facilities. The scheme is being amended in order to comply with EU State Aid de minimis guidelines.

Section 26 amends section 1035A of the Taxes Consolidation Act 1997 to reflect the introduction of the Alternative Investment Fund Managers Directive (AIFMD). The purpose of the amendment is to clarify that a non-resident investor in an alternative investment fund (AIF) will not be brought within the charge to Irish tax in respect of income or gains from the fund solely as a result of the AIF being managed by an independent Irish AIF Manager (AIFM).

Section 27 provides for the tax treatment of Additional Tier 1 (AT1) capital instruments issued by banks in order to meet their Tier 1 capital requirements. As AT1 instruments share features of both debt and equity it is necessary to provide that, from a tax perspective, they will be treated as debt instruments.

Chapter 5

Corporation Tax

Section 28 extends the 3 year tax relief for start-up companies under section 486C of the Taxes Consolidation Act 1997 to start-up companies which commence a new trade in 2016, 2017 or 2018.

Section 29 amends section 765 of the Taxes Consolidation Act 1997. That section relates to capital expenditure on items such as equipment which are used for scientific research activities. Two technical amendments will be made to the section to ensure that eligibility for capital allowances under the section is confined to circumstances where the asset in question is actually brought into use by the beneficiary (in line with the general

rules for capital allowances), and that there is a prohibition on beneficiaries claiming capital allowances in respect of the same expenditure under any other provision of the Taxes Act.

Section 30 introduces a corporation tax relief known as the Knowledge Development Box, in line with the OECD's modified nexus approach to preferential tax regimes. The Knowledge Development Box provides that profits from patented inventions and copyrighted software (qualifying assets) earned by an Irish company can, to the extent it relates to Research and Development (R&D) undertaken by that company, be effectively taxed at a rate of 6.25 per cent.

The relief is available to companies for accounting periods beginning on or after 1 January 2016 and before 31 December 2020.

The amount of the profits arising from the qualifying assets that can avail of the relief will be determined by the proportion that the Irish company's R&D costs (qualifying expenditure) bear to the total R&D costs (overall expenditure) incurred on the qualifying assets. The overall expenditure could also include expenditure on R&D performed by other group companies (related parties) or amounts paid to acquire intellectual property.

The qualifying expenditure includes the cost of R&D that is outsourced to unrelated parties but excludes expenditure on R&D performed by related parties and the cost of acquired intellectual property. To take account of this excluded expenditure, an additional "uplift" provides that qualifying expenditure may be increased by the lower of either 30 per cent of qualifying expenditure or the aggregate of amounts paid to related parties and to acquire intellectual property.

After 1 January 2016, detailed records are required to be maintained to verify a company's entitlement to the relief, and transitional arrangements are in place for qualifying expenditure incurred before 1 January 2016.

This section also provides that:

Each qualifying asset is to be treated separately for the purposes of the Knowledge Development Box. However, if a number of qualifying assets are so interlinked that it would be impossible to apply the relief on that basis, provision is made for using a "family of assets".

Provision is made to ensure that a company which claims the payable R&D tax credit will not receive a larger payable tax credit because of the operation of the relief in this section.

Large companies must apply transfer pricing rules from Part 35A to determine the overall income that qualifies, to any inter-company transactions that are relevant to the relief and also to any apportionments required between that company's normal trading activities and the activities which qualify for the relief rate. Smaller companies that are not subject to Part 35A must apportion income, where required, on a "just and reasonable" basis.

Where a company incurs a loss on the activities that qualify for the relief, these losses are available for relief on a value basis against other profits.

Power is given to the Revenue Commissioners to consult with experts in relation to specific aspects of the regime. A right of appeal has been provided if disclosure to an expert would be prejudicial to a company's trade or business.

Section 31 inserts a new section 891H into Part 38 of the Taxes Consolidation Act 1997. This new section requires an Irish resident parent

company of large Multinational (MNE) groups to provide annually, and for each tax jurisdiction in which they do business, a country-by-country report to the Revenue Commissioners. The requirement begins for fiscal years commencing on or after 1 January 2016.

The report is required to contain details of the MNE group's revenue, profit before income tax and income tax paid and accrued. It also requires MNEs to report their number of employees, stated capital, retained earnings and tangible assets in each tax jurisdiction. Finally, it requires MNEs to identify each entity within the group doing business in a particular tax jurisdiction and to provide an indication of the business activities each entity engages in.

The country-by-country report is based on guidance published by the Organisation for Economic Co-operation and Development (OECD)/G20 Action Plan on Base Erosion and Profit Shifting (BEPS) on 5 October 2015. BEPS Action 13 recognised that improved and better-coordinated transfer pricing documentation will increase the quality of information provided to tax administrations and limit the compliance burden on businesses. The report will be filed in the ultimate parent entity's jurisdiction and shared with other tax administrations automatically through government-to-government exchange of information.

The section enables the Revenue Commissioners to make regulations to give effect to the manner and form in which a country-by-country report is to be provided. The section also enables the Revenue Commissioners to make regulations providing for an MNE to nominate an Irish group entity as a surrogate parent entity to file the report. The Revenue Commissioners will also be able to make regulations to require a constituent entity of an MNE Group, other than the ultimate parent entity, to file the report. In such circumstances the Revenue Commissioners may amend the information to be included in the country-by-country report.

Section 32 amends section 831 which implements Council Directive No. 90/435/EEC as recast by Council Directive 2011/96/EU concerning the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States (commonly known as the Parent-Subsidiary Directive (PSD)). The new section, inter alia, transposes Council Directive No. 2015/121 which amended the PSD to include a general anti-avoidance rule. This new rule requires Member States to refrain from granting the benefits of the PSD to arrangements that are not genuine, i.e. that have been put in place to obtain a tax advantage without reflecting economic reality, and defeat the object or purpose of the Directive.

Chapter 6

Capital Gains Tax

Section 33 revises the provisions for Capital Gains Tax (CGT) entrepreneur relief which were originally introduced in Finance (No 2) Act 2013. The revisions provide, among other things, that a reduced rate of CGT of 20% will apply in respect of a chargeable gain or chargeable gains in the case of a disposal or disposals of chargeable business assets made by an individual on or after 1 January 2016 up to a lifetime limit of €1m. The chargeable business assets must have been owned by that individual for a minimum period of 3 years prior to the disposal of those assets.

The relief will not apply to disposals of chargeable business assets by companies or to disposals of development land or a business consisting of dealing in or developing land, a business consisting of the letting of land or buildings or holding investments. Where the business is carried on by a private company, individuals seeking to qualify for the relief must own not

less than 15% of the shares in the company or at least 15% of the shares in a holding company which owns 100% of the company. The shareholder must have been a full-time working director of the company for a minimum period of 3 years prior to the disposal of the chargeable business assets.

Section 34 amends section 29 of the Taxes Consolidation Act 1997 which sets out the persons who are chargeable to CGT. The amendment counters a scheme whereby cash is transferred to a non-resident company prior to a disposal of shares by that company so that at the time when the shares are disposed of, the value of those shares is derived mainly from cash rather than land or buildings situated in this country. The amendment applies to disposals made on or after the date of publication of the Finance Bill.

Section 35 amends section 541B of the Taxes Consolidation Act 1997. That section ensures that any amount paid to a person or another person in consideration of that person giving or fulfilling an undertaking which restricts the person or that other person as to the conduct of their activities will, if not chargeable as income or included as consideration for the disposal of an asset, be treated as an amount liable to CGT. The amendment counters a loophole in section 541B whereby CGT could be avoided if the payment is made to a non-resident person. The amendment applies to disposals made on or after the date of publication of the Finance Bill.

Section 36 amends section 590 of the Taxes Consolidation Act 1997. That section prevents persons avoiding CGT by transferring assets to controlled companies abroad. It enables Revenue to look through the non-resident company to its resident participators and, subject to exceptions, to assess them to CGT on their share of the gains made by the company. The amendment deals with concerns that have been raised as to whether the section is compatible with EU law. It provides that the section will not apply to a gain accruing on the disposal of assets where it is shown to the satisfaction of the Revenue Commissioners that the disposal was made for bona fide commercial reasons and did not form part of an arrangement of which the main purpose or one of the main purposes was the avoidance of liability to capital gains tax or corporation tax.

Section 37 amends sections 615 and 617 of the Taxes Consolidation Act 1997. Those sections provide for a deferral of capital gains tax on gains arising from the transfer of assets between different companies as part of a scheme of reconstruction or amalgamation or within a group. An anti-avoidance provision was introduced in Finance Act 2008 to prevent the deferral of capital gains tax by the use of the “gross roll-up” regime. Under the “gross roll-up” regime funds held by certain investment companies can “roll-up” without any charge to tax which is instead levied at investor level.

This section extends these anti-avoidance provisions so that the capital gains tax deferral rules do not apply where assets are transferred to an authorised ICAV (within the meaning of the Irish Collective Asset-management Vehicles Act 2015 (No. 2 of 2015)) which is covered by the “gross roll-up” regime.

Section 38 amends section 615 of the Taxes Consolidation Act 1997 which provides relief from CGT for any scheme of reconstruction or amalgamation involving the transfer of the whole or part of a company’s business to another company. The amendment counters arrangements where the section is used as part of a scheme to avoid CGT on the ultimate disposal of assets in respect of which relief had been granted. The amendment applies to disposals made on or after the date of the publication of the Finance Bill.

Section 39 amends section 980 of the Taxes Consolidation Act 1997. That section provides for a deduction of 15% from the purchase price of certain specified assets by the purchaser to be paid over to the Revenue Commissioners, where a tax clearance certificate is not provided by the person disposing of those assets. The section does not apply where the value of the asset disposed of does not exceed €500,000. The amendment increases the threshold from €500,000 to €1million in the case of houses or apartments.

PART 2

EXCISE

Section 40 amends sections 73 and 78A of Chapter 1 of Part 2 of the Finance Act 2003. Paragraph 1(a) updates the definition of “counterfeit goods” to reflect the new definition in EU legislation. Subsection 1(b) provides that the reduced rate of Alcohol Product Tax available for beer brewed in small breweries may be claimed by remission or by repayment. This is subject to a commencement order.

Section 41 amends sections 133, 135 and 136 of Chapter 4 of Part 2 of Finance Act 2001 to clarify and extend the powers of Revenue Officers to search premises, vehicles and computers, including mobile phones, for information which may be of value in the investigation of excise offences.

Paragraph (a) inserts new definitions including, *inter alia*, a definition of “computer” to encompass mobile phones and a definition of “premises or place”.

Paragraph (b) amends section 135 to extend the power to search a vehicle to include the power to remove, retain and examine any record or computer found in the vehicle for information that may be of value in the investigation of excise offences.

Paragraph (c) amends section 136 to clarify and extend provisions relating to the powers to search a premises or place and remove and retain records, including computers. Search warrant provisions are extended to provide for the retention and interrogation of computers and mobile phones for information which may be of value in the investigation of excise offences or the assessment of taxes.

Section 42 confirms the Budget increases in the rates of Tobacco Products Tax which, when Value-Added Tax is included, amount to 50 cent on a pack of 20 cigarettes in the most popular price category with pro-rata increases on other tobacco products.

Section 43 amends section 99 of Chapter 1 of Part 2 of Finance Act 2001 to provide for electronic transmission of returns, claims and declarations required under excise law. This is subject to a commencement order.

Section 44 amends section 109 of Chapter 1 of Part 2 of the Finance Act 2001 to clarify the requirements for authorisation to operate a tax warehouse for excisable products. The amendment provides that, to apply for or hold an authorisation, the applicant or holder must be in compliance with excise law.

The section also strengthens the power of the Revenue Commissioners to refuse or revoke authorisation where certain requirements are not met.

Section 45 amends section 130 of the Finance Act 1992 by amending the definition of “motor caravan” to allow the Revenue Commissioners to specify additional qualifying criteria in Secondary Legislation.

Section 46 amends section 135D (1)(d)(ii) of the Finance Act 1992 by replacing reference to Statutory Instrument No. 405 of 2003, which has been revoked and replaced by Statutory Instrument No. 322 of 2014. This section also amends section 135D (4)(b) of the Finance Act 1992 by providing for a reduction in the administrative charge from €500 to €100 from 1 January 2016.

Section 47 amends section 141 of the Finance Act 1992 by providing the Revenue Commissioners with powers to specify additional vehicle dimensions for a vehicle to be classified as a motor caravan for Vehicle Registration Tax (VRT) purposes in Secondary Legislation.

PART 3

VALUE-ADDED TAX

Section 48 is a definitions section.

Section 49 amends sections 16, 59 and 66 of the VAT Consolidation Act 2010 to extend the VAT reverse charge mechanism to certain supplies in the wholesale gas and electricity sector and to gas and electricity certificates. The amendments apply to a taxable person carrying on a business in the State who:–

- makes a supply of gas or of electricity to a taxable dealer who carries on a business in the State;
- makes a supply of a gas or an electricity certificate to another taxable person who carries on a business in the State.

In such instances, the recipient, rather than the supplier, will account for VAT on a reverse charge basis. This provision will be effective from 1 January 2016.

Section 50 inserts a new section, section 77A, into the VAT Consolidation Act 2010. This is an avoidance of doubt provision which clarifies that any adjustment to a return is subject to the same provisions as the original return.

Section 51 amends the VAT Consolidation Act 2010 in relation to educational activities.

Schedule 1, which deals with exempt activities, is updated to provide for the continued exemption of children's or young people's education, school or university education and vocational training or re-training. The exemption includes education, vocational training or re-training where it is provided by a recognised body. Provision is also made for the continued exemption of tuition given privately by teachers covering school or university education.

An associated amendment is made to section 18 to allow the Revenue Commissioners to make a determination that a specified educational activity is subject to VAT where its exemption creates a distortion of competition.

Section 52 amends section 64 of the VAT Consolidation Act 2010 which deals with the capital goods scheme. It extends anti-avoidance rules to supplies of incomplete properties between connected persons.

Section 53 amends section 65 of the VAT Consolidation Act 2010 which deals with registration. This is an avoidance of doubt provision which provides explicitly for the cancellation of a VAT registration number.

Section 54 amends section 87 of the VAT Consolidation Act 2010 which deals with the margin scheme for taxable dealers. This is an avoidance of

doubt provision which clarifies that the margin scheme for dealers cannot be applied to cross-border supplies of new means of transport.

Section 55 inserts a new section, section 108D, into the VAT Consolidation Act 2010. Section 108D provides that, following the cancellation of a VAT number, where the Revenue Commissioners consider it necessary for the protection of the revenue, they may notify a person's suppliers and publish details of the cancellation of that person's VAT number.

Section 56 amends section 110 of the VAT Consolidation Act 2010 which deals with estimation of tax due. The amendment provides that where, following the furnishing of a return, an accountable person seeks a refund of an excess of tax paid on foot of an estimated demand, that accountable person must make a claim for a refund of that excess of tax.

Section 57 amends Schedule 1 to the VAT Consolidation Act 2010 which deals with exempt activities. This provision extends the VAT exemption for betting and betting exchange services to such services when provided to customers located outside the State.

PART 4

STAMP DUTIES

Section 58 is an interpretation section.

Section 59 adds an additional qualification for the purposes of the Young Trained Farmer relief in section 81AA of the Stamp Duties Consolidation Act 1999, to the list of qualifications in Paragraph 3 of Schedule 2B to the Stamp Duties Consolidation Act 1999. The new qualification is the Bachelor of Science (Honours) in Agriculture awarded by the Dundalk Institute of Technology.

Section 60 amends section 81AA of the Stamp Duties Consolidation Act 1999 to extend the relief from stamp duty on transfers of agricultural land (including farm houses and buildings) to young trained farmers until 31 December 2018.

Section 61 amends section 123B of the Stamp Duties Consolidation Act 1999 which provides for the stamp duty charge on cash cards, combined cards and debit cards. The current position is that stamp duty is charged annually at the rate of €2.50 for each cash and debit card and €5.00 for each combined card, subject to certain exemptions which are to remain unchanged. This flat rate charge is being replaced with a charge on withdrawals of cash from ATM machines using these cards. The rate of charge is to be €0.12 for each such cash withdrawal; but the annual charge is to be capped at €2.50 in the case of cash and debit card withdrawals and €5.00 in the case of combined card withdrawals. The new basis of charge and the revised reporting requirements for issuers of cards are to come into effect for the chargeable period 2016 and subsequent years.

In addition, the definitions of "bank" and "building society" have been replaced with "credit institution" and "financial institution" as defined by the (Capital Requirements) Regulations 2014 (S.I. No. 158 of 2014). The definitions contained in the new regulations encompass the definition of "bank" and "building society".

Section 62 amends section 124 of the Stamp Duties Consolidations Act 1999 by replacing the definitions of "bank" and "building society" with "credit institution" and "financial institution" as defined by the (Capital Requirements) Regulations 2014 (S.I. No. 158 of 2014). The definitions contained in the new regulations encompass the definitions of "bank" and "building society".

PART 5

CAPITAL ACQUISITIONS TAX

Section 63 is an interpretation section. It provides that, in Part 5, the Principal Act means the Capital Acquisitions Tax Consolidation Act 2003.

Section 64 amends Schedule 2 to the Capital Acquisitions Tax Consolidation Act 2003. That Schedule deals with the computation of Capital Acquisitions Tax (CAT). The amendment gives effect to the proposal announced in the Budget statement to increase the Group A tax-free threshold from €225,000 to €280,000.

The amendment applies to gifts and inheritances taken on or after 14 October 2015.

PART 6

MISCELLANEOUS

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

Section 66 provides that Irish shareholders in Standard Life whose forms electing to take B shares in relation to a return of value by the company earlier this year were delayed in the post will be treated as having received a capital payment from the company for tax purposes. The effect of this provision is that Irish shareholders who had elected to take the return of value as a capital payment but who would have been liable to income tax on those payments as a result of postal delays will be liable to capital gains tax rather than income tax on those payments.

Section 67 inserts a new subsection 3B into section 2 of Part 1 of the Taxes Consolidation Act 1997 following the signing into law of the Marriage Act 2015, to provide for the tax assessment of same-sex married couples.

Section 68 makes minor amendments to the Mandatory Disclosure regime. Finance Act 2014 made significant amendments to the Mandatory Disclosure regime and this amendment clarifies the timing of certain obligations within that regime. It clarifies that a taxpayer who has not been given a transaction number in respect of a disclosable transaction can avoid a penalty by providing Revenue with certain information in relation to that disclosable transaction by the return filing date (e.g. 31 October 2015 for the Form 11 an individual must file in relation to the 2014 year of assessment). It also clarifies that the timeframe around the obligation which a marketer of a disclosable transaction has, which was expressed in days, should be calculated by reference to working days.

Section 69 amends section 886 of the Taxes Consolidation Act 1997, to require a person, who has an obligation, either on their own behalf or on behalf of another person, to maintain books or records in respect of a trade, profession or other activity, to retain such books or records for a period of five years after the date of cessation of the trade, profession or other activity.

Section 70 amends Part 38 of the Taxes Consolidation Act 1997 in relation to the automatic reporting and exchange of financial information. The section confirms the transposition of the revised Directive on Administrative Cooperation (known as “DAC 2”) into Irish law. DAC 2 implements the OECD’s Common Reporting Standard (the “CRS”) into European law and imposes an obligation on financial institutions to carry

out due diligence to identify non-resident account holders and report such data to the Revenue Commissioners.

The amendment also provides for the repeal of the provisions of the EU Savings Directive, as this will be replaced by the CRS and DAC 2, and for the related commencement provisions.

Section 71 makes a series of amendments to Chapter 4 of Part 38 of the Taxes Consolidation Act 1997, which is concerned with Revenue powers. In particular, this Chapter provides the Revenue Commissioners with the power to seek records and documents from taxpayers and other third parties, including financial institutions.

The specific changes provided for in this section are as follows:

Section 902, which enables the Revenue Commissioners to seek information from a third party (other than a financial institution) about a known taxpayer, is amended to also include a taxpayer whose identity is not known at that time, but who is capable of being identified by other means.

Section 902A, which enables the Revenue Commissioners to seek a High Court order requiring a third party (other than a financial institution) to provide information about a taxpayer, is amended to allow the Revenue Commissioners to request the Court to direct that the existence of the disclosure order is not made known to the taxpayer. Where such a request is made to the Court, the Revenue Commissioners must have reasonable grounds for suspecting that the disclosure of the order would lead to serious prejudice to the proper assessment or collection of the tax.

Section 906A, which enables the Revenue Commissioners to seek information from a financial institution about a known taxpayer, is amended to also include a taxpayer whose identity is not known at that time, but who is capable of being identified by other means. This is analogous to the amendment made to section 902 as respects other third parties.

Section 908, which enables the Revenue Commissioners to seek a High Court order requiring a financial institution to provide information about a taxpayer, is amended to allow the Revenue Commissioners to request the Court to direct that the existence of the disclosure order is not made known to the taxpayer. Where such a request is made to the Court, the Revenue Commissioners must have reasonable grounds for suspecting that the disclosure of the order would lead to serious prejudice to the proper assessment or collection of the tax. This is analogous to the amendment made to section 902A for other third parties.

Section 912A, which extends the Revenue Commissioners' powers to obtain taxpayer information from various sources where foreign tax is at issue, is amended to now include the powers provided in section 907A. This means that the power to apply to the Appeal Commissioners for their consent to seek taxpayer information from a third party (where that third party name was provided by a financial institution) is now extended to cover foreign tax. This situation may arise where such information is sought from the Revenue Commissioners by a foreign tax authority under existing legal arrangements, for example, a double taxation agreement.

These changes come into effect on the date of publication of the Finance Bill 2015.

Section 72 amends section 888 of the Taxes Consolidation Act 1997 (i) to require a property agent to include in a return of information the tax reference number of each property owner and the Local Property Tax (LPT) number in respect of each residential property, and (ii) to require

Government bodies paying rent or rent supplement to include in the return of information the LPT number in respect of each residential property.

Section 73 makes a minor amendment to section 960B of the Taxes Consolidation Act 1997 which is concerned with the nomination of officers to discharge certain functions authorised to be discharged by the Collector-General. The current amendment extends the power to nominate officers in circumstances where it is the Revenue Commissioners, rather than the Collector-General, who are authorised to discharge the functions.

Section 74 amends section 1077E of the Taxes Consolidation Act 1997, which is concerned with penalties for deliberately or carelessly making incorrect returns. Currently the penalty is computed as a percentage of the tax which has been saved because of the incorrect return. This change applies a similar computation where an excessive claim has been made by the taxpayer in such a return.

Section 75 amends section 826 of the Taxes Consolidation Act 1997 to enable arrangements to be entered into with a non-governmental representative authority for the purpose of preventing double taxation and providing for the exchange of information and, where necessary, for the recovery of tax. Such arrangements will have the force of law in Ireland once an Order approved by Dáil Éireann has been made and the Oireachtas enacts legislation that makes the Order part of Irish law.

Section 76 amends Part 1 and Part 3 of Schedule 24A to the Taxes Consolidation Act 1997. This Schedule lists all international tax agreements entered into by Ireland. Part 1 lists all the existing Double Taxation Agreements. Part 3 lists all the existing Tax Information Exchange Agreements.

Part 1 is amended by adding Ethiopia to the list of countries with which the State has entered into a Double Taxation Agreement. Part 1 is further amended by substituting the paragraphs in respect of Double Taxation Agreements with Pakistan, the Republic of Zambia and the Federal Republic of Germany in order to add new Double Taxation Agreements with Pakistan and the Republic of Zambia and a new Protocol which the State has entered into with the Federal Republic of Germany.

Part 3 is amended by adding the Argentine Republic, the Commonwealth of The Bahamas and Saint Christopher (Saint Kitts) and Nevis to the list of countries\territories with which the State has entered into a Tax Information Exchange Agreement.

The amendments to Schedule 24A will have effect from the passing of the Act and are the final step in the legislative and ratification procedure which will ensure that these Agreements will have the force of law.

Section 77 provides that the Minister for Finance may pay a grant in respect of fuel costs to beneficiaries of the Disabled Drivers and Disabled Passengers (Tax Concession) Scheme. It also provides that the Minister for Finance may make regulations to provide for the grant, and the principles and policies to which the Minister shall have regard when making regulations.

Section 78 provides for an offence and penalties for furnishing false or misleading information for the purpose of receiving the fuel grant.

Section 79 amends the Taxes Consolidation Act 1997 by inserting a section exempting the fuel grant from income tax, USC and PRSI.

Section 80 amends section 92 of the Finance Act 1989 to delete the reference to now defunct repayment of excise duty on hydrocarbon oil used

by persons who qualify for the Disabled Drivers and Disabled Passengers (Tax Concession) Scheme.

Section 81 inserts a new section 192E into the Taxes Consolidation Act 1997 and provides that the Water Conservation Grant will be exempt from Income Tax and USC.

Section 82 updates the Taxes Consolidation Act 1997 (TCA) to reflect the new authorisation regime for credit institutions under section 9A of the Central Bank Act 1971 (as inserted by the Central Bank (Supervision and Enforcement) Act 2013). The Central Bank Act 1971 provides the statutory basis for the licencing regime for credit institutions in Ireland. Section 9A of that Act provides an authorisation regime for credit institutions authorised outside the European Economic Area (EEA) to operate a branch in Ireland.

Section 82 also updates the relevant sections of the TCA to include credit institutions in EEA states which hold a similar authorisation or licence to a section 9 licence.

Section 83 relates to the National Treasury Management Agency's (NTMA) responsibilities for issuing and disposing of bonds and will improve operational efficiency by removing the requirement to use the Post Office Savings Bank Fund for the purchase and cancellation of bonds.

Section 84 provides for technical amendments to the Taxes Consolidation Act 1997. The amendments for the most part involve the correction (through deletion, amendment or insertion of text) of incorrect references and minor drafting errors. The amendments will have effect from the passing of the Finance Act 2015.

Section 85 deals with the "care and management" of taxes and duties.

Section 86 contains provisions relating to the short title, construction and commencement of the Bill.

An Roinn Airgeadais

Deireadh Fomhair, 2015.

