FINANCE BILL 2012

DRAFT LIST OF ITEMS

List of Possible Items being considered for the Finance Bill

Part 1 - Confirmation of Budget Related Items

Income Tax

1. Mortgage Interest Relief
The Bill will make provision for the changes to mortgage interest relief announced in the Budget 2012. The Bill provides for an increase to 30% in mortgage interest relief for first time buyers who took out their first mortgage in the period 2004-2008. The Bill clarifies that first-time buyers will qualify for the increased relief if they drew down their first mortgage in the period or paid their first mortgage interest payment in the period.

The Bill will also make provision for the Budget announcement that mortgage interest relief will be available at 25% for first-time buyers who purchase in 2012 and at 15% for non-first-time buyers who purchase in 2012.

2. Universal Social Charge
The Bill will make provision for the Budget announcement to increase the exemption threshold for the Universal Social Charge from €4,004 to €10,036. This measure will remove approximately 330,000 people from the liability to the Universal Social Charge. The Bill also provides for a number of minor technical amendments to the USC.

3. Illness Benefit
The Bill will make provision for the Budget announcement that the 36 day (6 week) tax exemption for Illness Benefit and Occupational Injury Benefit will be abolished.

4. Special Assignee Relief Programme (SARP)
A Special Assignee Relief Programme (SARP) is being introduced to reduce the cost to employers of assigning skilled individuals from abroad to take up positions in the Irish based operations of their employer. An exemption from income tax on 30% of salary between €75,000 and €500,000 will be provided for employees that are assigned for a minimum of 1 year and a maximum of 5 years. No exemption from the USC or Social Insurance will be allowed. The scheme will be introduced for a three-year period ending on 31 December 2014. Any assignee that avails of the scheme during this time will have access to the relief for the full duration of their assignment.

5. Foreign Earnings Deduction (FED)
A Foreign Earnings Deduction (FED) is being introduced to assist companies seeking to expand into emerging markets in Brazil, Russia, India, China and South Africa. The maximum amount of income that can be deducted under the scheme will be €35,000 per annum. The deduction will operate for three years (ending in the 2014 tax year). Until the scheme has been operating for some time extension to other emerging countries would not be favoured.

6. Farmer Double Deduction for Carbon Tax
The Bill will make provision for the Budget announcement that farmers will be allowed a double income tax deduction for increased costs arising from the Budget 2012 change in carbon tax.

Other Income Tax

7. Employment and Investment Incentive (EII)

Approval for the Employment and Investment Incentive (EII) was received from the European Commission in November last year. This approval was subject to a number of conditions and a small number of amendments to the legislative provisions governing the schemes were necessary. These changes were introduced by Financial Resolution on Budget day and are now being reflected in primary legislation.

TAX ON SAVINGS

8. DEPOSIT INTEREST RETENTION TAX (DIRT) RATE

The DIRT rate has been increased by 3 percentage points to 30% and the rate for certain longer term savings products has also been increased by 3 percentage points to 33%. The increased rate applies to interest paid or credited on or after 1 January 2012.

9. TAXES ON LIFE ASSURANCE POLICIES AND INVESTMENT FUNDS

The Bill gives effect to a change in the rates of tax that apply to profits or gains from life assurance policies and investment funds. These rates have been increased by 3 percentage points to either 30% or 33%, as appropriate. The increased rates apply to payments, including deemed payments, made from 1 January 2012. The tax rates on profits and gains from investments in personal portfolio life policies and personal portfolio investment undertakings are also being increased by 3 percentage points.

CAPITAL GAINS TAX

10. CAPITAL GAINS TAX RATE

The Bill gives effect to the Budget Day announcement that the Capital Gains Tax (CGT) rate was increased from 25% to 30% in respect of disposals made from midnight on 7 December 2011.

11. CAPITAL GAINS TAX RETIREMENT RELIEF

Retirement relief will be modified as announced in the Budget. An upper limit of €3m on retirement relief for business and farming assets disposed of within the family is introduced where the individual transferring the assets is aged over 66 years. This will incentivise earlier transfer of farms. The current unlimited amount applies for a transitional period of two years for individuals currently aged 66 or who reach that age before 31 December 2013.

The current upper limit of €750,000 for assets transferred outside the family for individuals aged between 55 and 66 years will be maintained. The upper limit for retirement relief for business and farming assets transferred outside the family is reduced from €750,000 to €500,000 for individuals aged over 66 years. The current upper limit of €750,000 applies for a transitional period of two years for individuals currently aged 66 or who reach that age before 31 December 2013.

12. CAPITAL GAINS TAX PROPERTY INCENTIVE

A new incentive relief from CGT is being introduced for properties bought between Budget night and the end of 2013. Where such property is held for more than seven years the gains attributed to that seven year period in that period will be relieved from CGT.

CAPITAL ACQUISITIONS TAX

13. CAPITAL ACQUISITIONS TAX RATE

The Bill gives effect to the Budget Day announcement that the Capital Acquisitions Tax (CAT) rate was increased from 25% to 30% in respect of gifts and inheritances taken on or after 7 December 2011.

14. Capital Acquisitions Tax Group A Tax-Free Threshold

The Bill makes provision for Budget reduction in the CAT Group A tax-free threshold, for gifts and inheritances from parents to children. The previous Group A threshold of €332,084 was reduced to €250,000 for gifts and inheritances taken on or after 7 December 2011.

Stamp Duty

15. Rate for transfers of non-residential property

The Bill gives effect to the Budget announcement that the rate of Stamp Duty on transfers of non-residential property is 2% for transfers on or after 7 December 2011. In addition, the exemption for properties valued under €10,000 is abolished and consanguinity relief, which reduces by half the Stamp Duty charge on transfers of property within families, will be abolished with effect from 1 January 2015.

Domicile Levy

16. Abolition of Irish citizenship condition

The Irish citizenship condition for the payment of the levy will be abolished for tax years from 2012 onwards. This means it will not be possible for an individual to avoid the levy by renouncing Irish citizenship, if s/he meets the other criteria for paying the levy

Pension Taxation

17. Approved Retirement Funds (ARFs)

The annual imputed distribution which applies to the value of assets in an ARF each year is being increased from 5% to 6% in respect of ARFs with asset values in excess of €2 million.

18. Transfer of assets on death of ARF owner

The transfer of ARF assets on the death of an ARF owner to a child of the owner aged over 21 is subject to a final liability tax the rate of which is being increased from 20% to 30%.

19. Personal Retirement Savings Accounts (PRSAs)

The annual imputed distribution provisions which apply to ARFs will also apply on the same basis to "vested" PRSAs, where the assets are retained in the PRSA rather than being transferred to an ARF. "Vested" PRSAs are PRSAs from which retirement benefits have commenced to be taken, usually in the form of the "tax-free" retirement lump sum. The provisions will include an increased deemed distribution percentage of 6% for "vested" PRSAs with assets in excess of €2 million or, where individuals own both "vested" PRSAs and ARFS, where the combined value of assets in "vested" PRSAs and ARFs exceed €2 million.

Corporation Tax

20. Three Year Tax Relief for Start-up Companies

The scheme which provides relief from corporation tax on the trading income and certain gains of new start-up companies in the first 3 years of trading is being extended to include start-up companies which commence a new trade in 2012, 2013 or 2014.

21. Research and Development (R&D) tax credit

The following changes to the R&D tax credit scheme were announced in Budget 2012 and are being given effect to in the Finance Bill:

- The first €100,000 of qualifying R&D expenditure will benefit from the 25% R&D tax credit. The tax credit will continue to apply only to incremental or additional R&D expenditure (in excess of €100,000) as compared with such expenditure in the base year 2003.

- Sub-contracted R&D expenditure is eligible for the tax credit where such expenditure does not exceed 10% of total R&D expenditure or 5% in the case of sub-contracting to third level institutions. The outsourcing limits for sub-contracted R&D costs are being increased to the greater of 5 or 10%, as appropriate, or up to €100,000.

- Companies who are in a position to offset their R&D credit against corporation tax liabilities will have the option to surrender a portion of the credit to reward key employees who have been involved in the development of R&D.

Capital Allowances

22. Tax relief for corporate investment in renewable energy generation

The qualifying period for the scheme of tax relief for corporate investment in certain renewable energy projects is being extended from 31 December 2011 to 31 December 2014.

Stock Relief

23. Stock Relief For Registered Farm Partnerships

The Bill introduces an enhanced 50% stock relief (100% for certain young trained farmers) for registered farm partnerships to run until 31 December 2015 subject to EU State Aid clearance.

PROPERTY-BASED CAPITAL ALLOWANCES AND SECTION 23-TYPE RELIEFS

24. Universal social charge surcharge on the use of property incentives

A surcharge will be introduced effective from 1 January 2012 on individuals with gross incomes over €100,000. The surcharge will apply at a rate of 5% on the amount of income sheltered by property reliefs in a given year. This surcharge (essentially a higher rate of USC) will apply to all investors regardless of whether they invested in Section 23 or accelerated capital allowance schemes with this level of gross income.

25. Property-based Capital Allowances

With effect from 1 January 2015, investors in accelerated capital allowance schemes will no longer be able to use any capital allowances beyond the tax life of the particular scheme where that tax life ends after 1 January 2015. Where the tax life of a scheme has ended before that date no carry forward of allowances into 2015 will be allowed. Provision is also made to delete the measures relating to capital allowances provided for in Section 23 of Finance Act 2011, which were subject to a Commencement Order.

INDIRECT TAXES

VALUE-ADDED TAX

26. INCREASE IN STANDARD VAT RATE FROM 21 PER CENT TO 23 PER CENT

The standard rate of VAT was increased from 21 per cent to 23 per cent with effect from 1 January 2012. This increase applies to all goods and services which had been subject to VAT at 21 per cent.

27. VAT RATE ON DISTRICT HEATING REDUCED FROM 21% TO 13.5%

The VAT rate applicable to district heating was reduced from 21% to 13.5% with effect from 1 March 2012. This brings district heating in line with the majority of energy supplies which are subject to the 13.5% rate.

28. ADMISSIONS TO OPEN FARMS TO APPLY AT THE 9% REDUCED RATE

Following changes at EU level, admissions to open farms became liable to VAT from 1 January 2012. Consistent with the application of a 9% reduced VAT rate in respect of the tourist industry last year, the rate of VAT on admissions to open farms is being amended to apply at the 9% rate.

EXCISE

29. TOBACCO EXCISE

The Excise Duty on a packet of 20 cigarettes was increased by 25 cent (including VAT) with a pro-rata increase on other tobacco products, with effect from midnight on 6 December 2011.

30. VRT EXPORT REFUND SCHEME

Provision is being made for the introduction of an export refund scheme in 2013 (or earlier), which will allow for the refund of the residual VRT in a vehicle on its permanent export to another state.

31. CARBON TAX

Provision is made to allow for the increase in the rate of Carbon Tax from €15 to €20 with effect from 6 December 2011 in respect of petrol and auto diesel and 1 May 2012 in respect of the other mineral oils and natural gas.

MOTOR TAX

32. MOTOR TAX INCREASE

Provision is being made to allow for the payment of the budget 2012 increase in motor tax from the Local Government Fund to the Exchequer.

PART 2 - FURTHER MEASURES NOT YET ANNOUNCED

INCOME TAX

33. CIVIL PARTNERSHIP

The Bill will make provision for two amendments to the taxation for civil partnerships. The first provides recognition in tax law of legally binding maintenance agreements made on the breakup of a civil partnership to put them on the same footing as married couples. The second amendment ensures that civil partners whose partnership has broken down and have a legally binding agreement, but who are still living under the same roof, may also obtain the same tax treatment as formerly married couples in similar circumstances. The Bill also provides for a number of minor technical amendments dealing with the taxation of civil partnerships.

34. REVENUE JOB ASSIST

The Revenue Job Assist scheme provides a deduction from the total income of a qualifying individual in each of the 3 tax years after he/she takes up employment having been unemployed for at least 12 months. Currently, the applicant must have been in receipt of certain payments from the Department of Social Protection. This scheme is being amended such that individuals who are signing for PRSI credits will also qualify.

35. UNDERWATER SHARES

Section 128A of the Taxes Consolidation Act 1997 allowed employees to elect to defer their tax liability upon selling shares which were worth less than they originally paid for them. The legislation currently provides that any outstanding tax liability is to be paid from the after tax gains of any future dealing in shares or share options. As a result, certain affected employees are not engaging in employee financial participation schemes, given that potentially all of the gain will go to the Revenue Commissioners. The legislation is being amended such that for those affected, 50% of future after tax gains from dealing in shares will be used to pay the outstanding liability until settled, thereby providing some return to the State and some incentive to the individuals concerned. The alternative is that the liability will not be settled and no tax will accrue.

36. FORFEITABLE SHARES

Income tax is charged on the market value of shares that are awarded to an employee. Shares may be awarded on the condition that they will be forfeited if certain conditions are not subsequently met. Where shares are forfeited, any Income Tax already paid is refunded. Universal Social Charge is also chargeable on the award of shares since 1 January 2011. The Finance Bill will amend Section 128E of the Taxes Consolidation Act 1997 to provide for a refund of Universal Social Charge where shares are forfeited.

37. PAYMENT OF INCOME TAX BY EMPLOYERS ON EMPLOYEE SHARE AWARDS

An amendment to section 985A of the Taxes Consolidation Act 1997 in Finance Act 2011 brought share awards made to employees into the PAYE system, thereby obliging the employer to deduct and pay over any Income Tax due to the Revenue Commissioners. In cases where the employer does not have access to the necessary money to pay the tax liability, this amendment will allow employers to withhold or sell sufficient shares to fund the liability before transferring the balance of the shares to the employee.

38. TAX RELIEF ON THIRD LEVEL FEES

In line with the increase in the Student Contribution Charge announced in the Budget, the scheme of tax relief on third level tuition fees is being amended to provide that the first €2,250 in fees per claim will be ineligible for tax relief for students in full-time education. For students in part-time education, the first €1,125 in fees will be ineligible.

39. ARTISTS EXEMPTION

The quarterly publication of the names (and associated work) of successful applicants for the artists exemption is a well established practice. In order to provide formal statutory protection for this practice, specific legislation for this purpose is being included in Section 195 of the Taxes Consolidation Act 1997.

40. SIGNIFICANT BUILDINGS AND GARDENS

The scheme of tax relief for expenditure on the maintenance and restoration of significant buildings and gardens is being amended such that it will be mandatory for the relevant building or garden to be open to the public during National Heritage Week each year.

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42. DEPOSIT INTEREST RETENTION TAX (DIRT) – TECHNICAL AMENDMENTS

A technical amendment is required to ensure DIRT payments to the Exchequer by credit unions are paid to the Exchequer under the new quarterly payment arrangements. An amendment is also required to correct the definition of “relevant Deposits” related to Personal Retirement Savings Accounts (PRSAs).

43. FOREIGN DEPOSIT INTEREST – TAX RATE ANOMALIES

The taxation of foreign interest is being amended to ensure that it is not taxed at a lower rate than Irish deposit interest. EU deposit interest will be taxed at 41% in cases where it is not correctly included on a tax return. Non-EU deposit interest will be taxed at 30% for standard rate income tax payers and 41% for higher rate tax payers.

44. ENCASHMENT TAX MODERNISATION

Encashment tax is a withholding tax which applies to certain Irish public Revenue and certain foreign dividends and interest paid via an Irish paying agent. It is proposed to modernise the tax by providing for an annual due date for payment, abolishing the remuneration of paying agents for collecting the tax, and deleting a provision that the board of the Bank of Ireland are “Revenue Commissioners” for the purposes of the tax. These provisions will be made subject to a commencement order to allow for consultation.

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46. HEALTH INSURANCE AGE RELATED INCOME TAX CREDIT

The Bill provides for the changes to the age related income tax credit for 2012 announced by the Minister for Health in late 2011. The credits will be in five year bands for individuals aged between 60 and 84 and a final band for individuals aged 85 and over. This is the final year of the “interim” tax based scheme. The support for older persons in the health insurance market will not be delivered via the tax system for subsequent years.

RETIREMENT RELIEF FOR SPORTSPERSONS

47. RELIEF ON RETIREMENT FOR CERTAIN INCOME OF CERTAIN SPORTSPERSONS

Professional cricket players will be able to avail of the relief on the retirement for certain income of certain sportspersons and consequently be eligible for a higher rate of relief on pension contributions made under Section 787 (8A) of the TCA 1997.

STOCK RELIEF

48. ADDITIONAL QUALIFYING COURSE FOR STOCK RELIEF FOR YOUNG TRAINED FARMERS

Provision is being made to add a new course to the list of qualifications required by those applying to avail of the enhanced scheme of stock relief for Young Trained Farmers.

SECTION 23 AND ACCELERATED CAPITAL ALLOWANCES

49. HIGH EARNERS INTERACTION WITH SECTION 23 AND ACCELERATED CAPITAL ALLOWANCES

Provisions are also included in the Bill for a series of technical amendments to address an unexpected interaction between the High Earners' Restriction and the "clawback" provisions under the Section 23-type reliefs as well as the balancing charge/allowance provisions under the property-based Accelerated Capital Allowances schemes. Provision is also made to remove the proposals relating to Section 23-type reliefs provided for in Section 24 of Finance Act 2011, which were subject to a Commencement Order.

EXIT TAX

50. LIFE ASSURANCE EXEMPTION FOR PENSION FUNDS AND PRSAS

It is proposed to exempt approved pension funds and PRSAs from Life Assurance Exit Tax. A similar exemption already applies to Exit Tax on Investment Funds.

51. COLLECTIVE INVESTMENT UNDERTAKINGS – RATE ALIGNMENT

This section aligns the rates of exit tax on collective investment undertakings with the rate applying to entities subject to the "gross roll up" regime (30%).

EU SAVINGS DIRECTIVE

52. ENDING OF REPORTING EXEMPTION FOR CERTAIN INTEREST PAYMENTS

The EU Savings Directive provides for the reporting by Member States of "interest payments" (as defined) made to residents of other Member States. An exemption from this reporting requirement applied to interest on certain domestic and international bonds and other securities. This section provides for the updating of the domestic transposition of the Directive to ensure the exemption from reporting ends xxxxxxxxxxxxxxxxxxxxxxxxxxxxxx.

Capital Gains Tax

53. Grangegorman Development Agency – exemption

The Bill will make provision to ensure disposals of assets to the Grangegorman Development Agency by the Dublin Institute of Technology and disposals by the Agency itself are not subject to CGT.

54. Exemptions for Certain State Bodies

The sections providing for exemptions for transfers to or by State bodies will be amended to provide that disposals by Teagasc are exempt from CGT, and disposals not at full market value to local government corporate services bodies do not attract a CGT charge.

55. Exemption for Compensation Payments to Turf Cutters

Compensation payments to turf cutters for giving up the right to cut turf in Special Areas of Conservation will be exempted from CGT.

56. Contingent Liabilities

The provision allowing a deduction for contingent liabilities (one that only falls due in certain circumstances) is being amended to ensure such liabilities will not give rise to a repayment of CGT unless the liability has been paid.

57. Anti-avoidance – offshore trusts

Amendments are being made to close off two avoidance schemes in cases where individuals have become temporarily non-resident and temporarily removed and subsequently re-appointed as beneficiaries of an offshore trust to avoid a CGT liability.

58. Anti-avoidance – bearer shares

The Bill will provide that "bearer" shares (which give the holder of the share title to ownership) in an Irish incorporated company will be treated as located in Ireland for CGT purposes to ensure they are within the charge to Irish tax.

59. Treatment of foreign currency as an asset

The treatment of foreign currency as an asset will be modified in the case of holding companies to facilitate transactions in non-Euro currencies.

Capital Acquisitions Tax

60. Group Tax-Free Thresholds

The link between the Group Tax-Free Thresholds and the Consumer Price Index is to be broken; the Group B threshold is rounded up to €33,500 and the Group C threshold to €16,750 with effect from 7 December 2011 (the same date as the changes announced in the Budget).

61. CAT pay and file date

The date will be moved back from 30 September to 31 October in response to practitioner concerns.

62. Agricultural relief – residence condition

The condition that an individual must be resident in the State for three years to qualify for agricultural relief is being removed, in response to EU Commission infringement proceedings and to comply with the EU Treaties.

63. ANTI-AVOIDANCE – AGRICULTURAL RELIEF

This section provides that a loan against a principal private residence will only be allowed as a deduction for CAT agricultural relief purposes where the loan is used to purchase, repair or improve that residence.

64. ANTI-AVOIDANCE – FOUNDATIONS, GENERAL POWERS OF APPOINTMENT, ADMINISTRATION OF AN ESTATE

The Discretionary Trust Tax is being extended to foundations, the "general powers of appointment" provisions are being amended to disallow transfers whose main aim is tax avoidance, and a charge to DTT will apply to discretionary trust established under a will during the administration of a deceased person's estate.

65. MODERNISATION – TECHNICAL CHANGES

Various technical changes consequential on the recent modernisation of CAT administration are being introduced, including abolishing apportionment of benefits taken on the same day and the current treatment of payments of account. Reference to the Adoption Acts are being updated to include the 2010 Act.

66. EXEMPTIONS FOR SALES OF HERITAGE PROPERTY TO STATE BODIES

An exemption from CAT on the gift or inheritance of heritage property continues to apply if the heritage property is sold to certain State bodies. The list is being update to cover cultural institutions funded by grant or grant-in-aid or funded directly by the Department of Arts, Heritage and the Gaeltacht

STAMP DUTY

67. SELF-ASSESSMENT AND MODERNISATION

Stamp Duty is to be put on a self-assessment footing, in common with other taxes. Instruments will be required to be stated within 30 days of a transaction, the adjudication procedure will be abolished, Revenue will have provisions to make assessments, audit and appeal procedures will be introduced, and other related changes will be made.

68. RELIEF FOR COMPANY MERGERS

A provision will be introduce to provide specific relief from Stamp Duty for cross-border company mergers and mergers of Irish public limited companies

69. TECHNICAL CHANGES

Transfers between recognised clearing houses or their nominees will qualify for Stamp Duty relief and technical changes will be made to definitions for Pension Fund Levy purposes.

70. YOUNG TRAINED FARMER RELIEF

An additional course (FETAC Level 6 Special Purpose Certificate in Farm Administration) will be added to the list of qualifying courses for the relief.

71. GRANGEGORMAN DEVELOPMENT AGENCY – EXEMPTION

The Bill amends the Stamp Duties Consolidation Act 1999 to provide that a Stamp Duty charge will not arise on any property transfer to the agency.

72. HEALTH INSURANCE LEVY
The Bill gives effect to the new rates of the Health Insurance Levy for 2012, as announced by the Minister for Health in late 2011 (€285 for individuals aged 18 years and over and €95 for individuals aged under 18 years).

73. NON-LIFE INSURANCE LEVY
The payment dates for the non-life insurance levy are being brought forward from the 30th to the 25th day of January, April, July, and October, to assist in tax forecasting and for cashflow reasons.

PENSION TAXATION

74. IMPACTS OF THE FINANCE ACT 2011 REDUCTION IN THE MAXIMUM ALLOWABLE PENSION FUND FOR TAX PURPOSES (THE STANDARD FUND THRESHOLD OR SFT)
A chargeable excess subject to penal taxation arises where the capital value of an individual's pension benefits at retirement exceed the reduced SFT of €2.3 million (or a higher Personal Fund Threshold –PFT – if applicable). Individuals in the private sector can ensure that they do not exceed the SFT by limiting the extent of their investment in tax relieved pension products or ceasing accrual of pension entitlements. However, a significant chargeable excess and tax liability can arise for certain individuals on retirement from public service pension schemes, including individuals with pension savings from a private sector career, because (unlike in the private sector) such individuals have no control over their accrual of public service pension entitlements which can give rise to the chargeable excess. The Finance Bill includes the following provisions to mitigate the harsher tax impacts where a chargeable excess arises and to allow a chargeable excess to be minimised or avoided in certain circumstances:

- No more than 50% of a retirement lump sum can be appropriated to pay the tax liability arising on a chargeable excess.

- Any remaining tax liability may be dealt with by (i) a distribution from an approved retirement fund (ARF) beneficially owned by the individual which distribution would not be chargeable to tax if used to discharge the tax liability on a chargeable excess or (ii) recovery of the tax by way of a reduction in the gross annual pension payable under the pension scheme over a maximum period of 10 years or a combination of (i) and (ii) above.

- Certain tax due or paid on the excess of retirement lump sums over €200,000 to be allowed as a credit against the tax due on a chargeable excess.

- Individuals to be allowed a one –off opportunity to cash in their private pension savings, in whole or in part, with a view to avoiding a chargeable excess arising when the public service pension crystallises. The total amount of such savings realised on encashment would be subject to income tax at the higher rate and the universal social charge payable at the point of encashment.

CORPORATION TAX

75. R&D TAX CREDIT SCHEME
Apart from the changes announced in Budget 2012, the Bill provides for the following changes to the R&D tax credit scheme which are largely technical and administrative in nature:

- Expenditure which is met directly or indirectly by EU grant aid will not qualify for the R&D tax credit – domestic grant aid is already excluded.

- Any R&D tax credit paid as a payable credit will be deemed corporation tax for the relevant sections of tax legislation dealing with raising assessments, charging interest and imposing penalties.

- Claw-back of tax credits will not arise where a company which carried on an R&D activity is dissolved but the R&D activity continues to be carried on for the remainder of the 10 year period in the same building by another company within the group. This amendment also provides that unused R&D tax credits could be used by the successor company.

- The definition of "carrying on R&D activities" in the legislation is being amended to rule out a situation where a claimant company does not itself carry out the R&D activities but merely manages the R&D activities carried out by others.

76. TAX TREATMENT OF TRANSACTIONS INVOLVING CARBON EMISSION ALLOWANCES UNDER THE EU EMISSIONS TRADING SCHEME (ETS)

The Bill aims to provide clarity and certainty on two specific issues insofar as companies operating within the ETS are concerned. The provisions are to allow for (i) the deductibility of expenses incurred in the purchase of carbon emission allowances and (ii) for the capital gains tax treatment of sales of surplus allowances granted free of charge under the ETS under which such gains would be taxed at the CGT rate of 30%.

77. TAX TREATMENT OF CERTAIN FOREIGN SOURCED DIVIDENDS

The Bill provides for the taxation at 12.5% (instead of 25%) in the hands of an Irish resident company of foreign sourced dividends paid out of the trading profits of privately held companies in countries with which Ireland does not have a tax treaty and which have joined the OECD Convention on Mutual Administrative Assistance in Tax Matter. This will put the treatment of such dividends in line with the treatment of similar dividends received from publicly owned companies.

78. TAX EXEMPTION FOR CERTAIN STATE-SPONSORED NON-COMMERCIAL BODIES

A number of State-sponsored non-commercial bodies are exempt from taxation in order to avoid circular payments into and out of the Exchequer. The Bill adds the Sustainable Energy Authority of Ireland and the Food Safety Authority of Ireland to that number.

79. OTHER CORPORATION TAX CHANGES

The Bill includes a number of amendments of a more technical nature which are summarised hereunder:

- Amendments are being made to sections 238 and 241 of the Taxes Consolidation Act (TCA) in order to secure the payment of income tax due on yearly interest payments made by non-resident companies carrying on business in the State.
- As a result of the termination of manufacturing relief at end- 2010, references to the relief are being removed from the TCA.
- The definition of "transfer pricing guidelines" in section 835D TCA is being amended to reflect the latest (July 2010) modifications to the OECD Transfer Pricing Guidelines.
- A new section is being added to the TCA to bring Irish legislation into line with Article 7 of the Cross Border Mergers Directive. This would ensure that where a company is dissolved without going into liquidation and it transfers all of its assets and liabilities to its parent, the parent would not be deemed to have made a disposal of the share capital of the company.

TAX ADMINISTRATION

80. PROFESSIONAL SERVICES WITHHOLDING TAX

Schedule 13 of the Taxes Consolidated Act, 1997 is updated annually via the Finance Bill as the Revenue Commissioners become aware of new accountable persons or where existing accountable persons need to be amended or deleted to reflect name changes, amalgamation of agencies or dissolutions etc.

81. RELEVANT CONTRACTS TAX

This proposal introduces changes to the legislative framework underpinning the new modernised electronic Relevant Contract Tax (e-RCT) regime that came into effect on 1st January 2012. The legislative framework for the new regime was enacted in Finance Act 2011 and supplemented by Revenue Commissioners' Regulations made with Ministerial approval in December 2011.

REVENUE POWERS

82. RELIEF FOR INVESTMENT IN FILMS

The proposed amendments to the Relief for Investment in Films are aimed at encouraging compliance by qualifying companies with the reporting requirements of the scheme to the Revenue Commissioners. These changes will impose the existing reporting requirements on company directors/secretaries, where the qualifying company has failed to comply with its requirement. They also provide that return to investors cannot take place until a complete compliance report is acknowledged by Revenue.

83. OBLIGATION TO KEEP CERTAIN RECORDS

This amends Section 886 of the Taxes Consolidation Act 1997 and Section 84 of the Value-Added Tax Consolidation Act 2010 to ensure that the current general six-year requirement to keep records and underlying documentation, that exists for all other taxpayers, will also apply to companies in liquidation and companies that are dissolved.

84. TAXPAYER CONFIDENTIALITY

The requirement that wrongful disclosure should constitute an offence in legislation, with appropriate sanctions, resulted in the enactment of Section 77 of Finance Act 2011. Some modifications now require to be introduced to this provision relating to exchange of information and taxpayer confidentiality.

85. RETURNS OF PAYMENT TRANSACTIONS BY PAYMENT SETTLERS

Evidence is emerging that some businesses may be underreporting card payment transactions. Approval is sought that merchant acquirers and third party payment processors be required to make regular automatic returns to Revenue of all amounts credited to traders.

86. RETURNS OF CERTAIN INFORMATION BY INVESTMENT UNDERTAKINGS

It is proposed to amend the legislation on the automatic reporting of relevant payments. This amendment would provide for the automatic annual reporting of values, rather than payments, by Investment Undertakings.

87. INFORMATION FOR TAX AUTHORITIES IN OTHER COUNTRIES

For the purposes of satisfying our international obligations in such cases, it is proposed that the definition of "taxpayer" in Section 912A of the Taxes Consolidation Act 1997 be deleted, so that the standard definitions in Section 902A, 907 and 908 apply. This will enable Revenue to provide information to tax authorities in foreign jurisdictions, with whom Ireland has Double Taxation

Agreements /Tax Information Exchange Agreements in place, in relation to a person whose name/ address may not be available to the foreign tax authority, but who is identifiable by reference to other criteria (e.g. a bank account number without a name. In addition, it is proposed that Section 905 (inspection of documents and records) be added to the powers that Revenue may, where necessary, use in relation to a request for information from a foreign tax authority.

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89. Penalty for deliberately or carelessly making incorrect returns, etc.

It is proposed to amend section 1077E of the Taxes Consolidation Act 1997 which provides for penalties for deliberately or carelessly making incorrect returns. The penalty provisions will now also apply to returns that are required in respect of the Domicile Levy and the Universal Social Charge.

90. Power of Collector-General to require certain persons to provide return of property

This amendment proposes that, in the case of a tax debtor who does not engage effectively with the Collector-General (CG) in relation to a tax debt, a provision be introduced to require the tax defaulter to complete a statutory statement of affairs and that failure to do so would be a Revenue offence. The existence of such a power, would greatly improve the CG's ability to manage tax debts in an efficient manner and to maximise tax collection and minimise efforts by some debtors to hide assets in negotiations with Revenue.

91. Security for certain taxes

This proposal would require that any taxpayer who has had a significant previous tax default may be required to provide Revenue with a bond covering fiduciary taxes. Failure to provide such a bond would render the person liable to a criminal penalty (as is the case in the UK). A right of appeal would be included.

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93. Modernisation of Direct Taxes Assessing Rules including rules for Self Assessment

It is proposed to make a number of administrative changes in relation to assessment. These include changes to modernise, simplify and streamline the pre self-assessment assessing rules and the self-assessment rules relating to direct taxes. This is in order to provide for a common integrated set of rules for those taxes. The proposed measures will result in efficiency gains for Revenue, taxpayers and practitioners and, in part, will increase protection of the revenue base.

94. Provision of electronic financial statements

To facilitate the submission of financial statements in iXBRL (inline eXtensible Business Reporting Language) with Corporation Tax (CT) returns via the Revenue Online System (ROS) it is proposed to amend the legislation relating to the CT return so that the return can include accounts required to be prepared under, and in accordance with the Companies Act 1963.

95. GIFTS TO THE STATE BY CERTAIN DONORS

It is proposed that Section 161 of Finance Act 2010 be ceased for 2012 and subsequent years. This section gave effect to a voluntary gift scheme for members of the judiciary and military judges to allow them to make a gift to the State, of an equivalent amount to the Pension Related Deduction imposed on state employees. However, as a consequence of the referendum on 27th October 2011 and the passing of the Twenty-Ninth Amendment of the Constitution (Judges' Remuneration) Act 2011 (No. 44 of 2011) on 17th November 2011, which relaxed the previous prohibition on the reduction of the salaries of Irish judges, this provision is no longer necessary.

96. COUNTERING SERIOUS TAX CRIMINALITY

As a measure to assist in the countering of tax evasion and shadow economy activities, approval is sought to provide Revenue with powers similar to those contained in section 15 (order to produce documents or provide information) and section 16 (privileged legal material) of the Criminal Justice Act 2011 (CJA). These powers would only be available where Revenue are investigating tax serious tax offences/crimes that are similar to those covered by the CJA. These will be offences that are capable of being punished by imprisonment for a period of five years or more. This means that the crimes covered would include serious Revenue crimes in the area of customs and excise offences, including oil laundering and cigarette smuggling, serious extraction type frauds perpetrated on the direct tax side (e.g. Relevant Contracts Tax) and major cross-frontier type frauds in relation to VAT (such as carousel or diversion-type VAT frauds).

INTERNATIONAL FINANCIAL SERVICES

97. CASH POOLING

The Bill will introduce changes to interest deductibility rules to facilitate cash-pooling business in the corporate treasury sector. Deductibility is currently confined to payments to jurisdictions with which Ireland has a tax treaty. It is proposed to allow a deduction for interest payments to group companies in non-treaty jurisdictions by reference to the tax charged on the recipient in such jurisdictions. The change is required to facilitate cash-pooling activities of treasury operations where members of a group of companies are located in jurisdictions where Ireland does not have a tax treaty.

98. UNILATERAL CREDIT RELIEF FOR INBOUND LEASING ROYALTIES

The Bill will extend the existing unilateral credit relief, which currently applies to royalty payments, to include equipment lease rental payments. This measure will be of particular benefit to the aircraft leasing industry.

99. TECHNICAL EXPOSURE TO IRISH TAX LIABILITY ON INTEREST PAYMENTS TO NON-RESIDENTS

The Bill will amend section 198, TCA 1997 to remove a technical liability to Irish tax arising in respect of certain interest payments to non-residents. The measure aims to improve the competitiveness of the Irish debt market.

100. SECTION 110 MEASURES – GREEN IFSC INITIATIVE

Section 110, TCA 1997 governs the taxation of securitisation and structured finance transactions. The provisions were amended in Finance Act 2011 to prevent a Section 110 company from being used to facilitate tax avoidance transactions involving recipients in other countries. This Bill contains two technical amendments to ensure that last year’s amendments work as intended.

At the same time, the Bill will extend the range of "carbon offsets" that a section 110 company can acquire to include forest carbon credits – this is part of a broader initiative to develop a Green Financial Services Centre. A consequential amendment to the Stamp Duty Consolidation Act is required to accommodate this measure.

101. SECTION 80A

Section 80A, TCA 1997 effectively allows for accelerated capital allowances for lessors of short-life assets (assets with a useful life of less than 8 years). The provisions were extended in Finance Act 2010 to apply to operating leases. This Bill will contain a technical amendment to ensure that the measure operates as originally intended.

102. EXTENSION OF GROUP RELIEF FOR LOSSES TO COMPANIES WITH NON-EU/EEA PARENT

In response to industry representations and a recent European Court of Justice case, the Bill will extend the current group relief rules so that losses can be transferred between two Irish resident companies where those companies are part of a 75% group involving companies who are; a) resident in a jurisdiction with whom Ireland has a treaty, or b) "quoted" on a recognised stock exchange

103. ISLAMIC FINANCE

A suite of measures were introduced in Finance Act 2010 to facilitate Islamic Finance in Ireland. This Bill will make two minor amendments to improve the functioning of those provisions.

104. NON-RESIDENT INVESTORS IN IRISH FUNDS

In Finance Act 2010 the requirement for non-resident individuals who have invested in Irish investment funds to submit written non-resident declarations (in order to obtain exemption from exit tax) was supplemented by an alternative regime whereby the investment fund itself could put in place "*equivalent measures"* to ensure that its unit-holders are not Irish resident. This Bill will extend the "equivalent measures" regime to include situations where; a) investments are made through intermediaries, and b) where a fund migrates to Ireland.

105. EXCHANGE TRADED FUNDS

The Bill will remove a technical liability to Irish tax arising from the exchange of units in an Irish Exchange Traded Fund.

106. UCITS[1] IV ISSUES - CROSS-BORDER MERGERS AND RECONSTRUCTIONS OF INVESTMENT FUNDS

One of the objectives of the UCITS IV Directive, which came into effect on 1 July 2011, is to enhance the ability of fund managers to rationalise their products and make them more cost effective. To this end, the Directive provides for the cross-border merger of investment funds and for new 'master-feeder' structures. Ireland was one of the first countries to adopt this new Directive and changes were introduced in Finance Act 2010 in order to give the Irish industry a 'first-mover' advantage. This Bill contains three further amendments to ensure that Ireland will remain as one of the leading domiciles of choice for UCITS funds.

i) An amendment is required to section 739D(8D)(a) TCA 1997 to accommodate master/feeder structures. The amendment is required to allow for the issue of units in a master fund directly to a foreign feeder fund in exchange for the assets of that fund.

ii) The provisions of section 739H TCA 1997 will be amended to ensure that an Irish investor does not suffer a charge to tax on either inbound (foreign fund merges into an Irish fund) or outbound

[1] Undertakings for Collective Investment in Transferable Securities

(Irish fund merges into a foreign fund) mergers. The provisions already allow relief where units are exchanged in a reorganisation involving two Irish funds. The lack of relief in respect of cross-border mergers may be discriminatory.

iii) The definition of a "scheme of reconstruction or amalgamation" in section 747F TCA 1997 will be extended to apply to exchanges of a material interest within the same offshore fund as well as between two offshore funds. This relief is already available in the case of an Irish authorised investment fund xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx xxxxxxxxxxxxxxxxxxxx

107. Extension of Stamp Duty reliefs to accommodate a range of financial transactions

The Bill contains nine separate technical stamp duty amendments which extend the range and scope of stamp duty exemptions applying to certain financial transactions and confirm the stamp duty treatment of options over shares. The guiding principal in the case of investment funds is that stamp duty should not apply in situations where there is no change in economic ownership of the underlying assets being transferred.

i) Extension of stamp duty exemption to cover cross-border mergers of investment funds

ii) Exemption for the transfer of Irish assets between two offshore funds (in EU/Treaty countries) in cases of reconstructions or amalgamations.

iii) Extension of the existing stamp duty exemption for the transfer of a lease (other than a lease of real property) to cover the transfer of an 'interest in a lease'.

iv) Clarification of existing stamp duty exemption for foreign land

v) Extension of the stamp duty exemption for shares/securities of foreign companies to cover a wider range of foreign legal entities

vi) Clarification in legislation that options over Irish shares are subject to the same level of duty that applies to share transfers.

vii) Extension of stamp duty exemption to cover in specie transfer of pension and charity scheme assets between certain investment vehicles including unit trusts and investment companies.

viii) Extension of stamp duty exemption to cover transfer of units in an exempt unit trust.

ix) Exemption for the transfer of assets between an exempt unit trust and a corporate fund.

108. Relief for excess foreign tax on royalties by reduction of other royalty income

The Bill will amend the computational rules under which relief for foreign tax, suffered on royalty payments, is given. The amendments are technical in nature but they should be received as business-friendly by the software sector in particular.

Value-Added Tax

109. Definition of Bread for VAT Purposes

The definition of bread, for the purposes of the application of the zero rate of VAT, is being revised to reflect the breads currently available on the market, taking account of the development of bread for health, ethnic and other reasons. The new definition was decided in consultation with the industry and provides certainty for all bakers and retailers.

As a result of the revised definition the range of zero-rated breads will include loaves, rolls, batch bread, bagels, baps, blahs, burger buns, finger rolls, wraps, naan breads and pitta bread. Other bakery products with excessively high levels of sugar and fat, such as croissants, brioche and danishes will remain outside of the definition of bread and be liable to VAT at either the 13.5% or 23% rate.

110. Provision for Recovery and Penalties in relation to VAT Refund Orders

As an anti-avoidance measure, the VAT Consolidation Act 2010 is being amended to provide a mechanism to recover VAT and impose interest and penalties, where VAT has been improperly claimed and refunded under any VAT Refund Order.

111. Minor Changes in relation to VAT on Property

A number of changes are being made to the VAT rules regarding property. As an anti-avoidance measure, the VAT Consolidation Act 2010 is being amended to ensure that a reverse charge applies where construction services are supplied between connected persons. In addition, in confirming current administrative practice, an amendment is being made to provide that under the capital goods scheme, the adjustment period for transitional properties will not revert to 20 years where development has taken place and where that development constitutes a 'refurbishment' for VAT purposes.

112. Removal of VAT Deductibility on Conference Accommodation where booked under the Travel Agent Margin Scheme

The provision that allows a Travel Agent Margin Scheme operator to issue travellers with a VAT receipt for conference accommodation is being removed. The provision is contrary to the EU VAT Directive and is not used in practice. This will not affect the deductibility in relation to conference accommodation where the accommodation is supplied under the normal VAT system.

113. Strengthening VAT Ministerial Orders

Certain provisions of the VAT Consolidation Act 2010, that deal with the making of Ministerial orders, are being amended in order to strengthen them. This follows advice to this effect from the Office of the Attorney General.

Non Tax Item

114. Capital Services Redemption Account (CSRA)

The Bill amends the annuity payment set in the Finance Act 2011 to take account of the borrowing outturn for 2011 and provides for the standard annuity payment in respect of the estimated level of borrowing in 2012. The CSRA is a sinking fund set up in the 1950s to provide for the repayment of interest and capital on loans to the Government. This is a standard provision in the Finance Bill.

Technical Amendments

The Bill is to include a series of minor technical and drafting amendments. These cover, for example, drafting changes aimed at providing greater clarity or to correct minor errors, amendments to deal with changes in the official names of bodies, corrections of definitions or anomalies, changes addressing non-controversial legal and administrative issues, and so forth.