AN BILLE AIRGEADAIS (Uimh. 2), 2013
FINANCE (No. 2) BILL 2013

EXPLANATORY MEMORANDUM

PART 1

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

Income Tax

Section 2 amends section 226 of the Taxes Consolidation Act 1997 to provide for payments made to an employer under the JobsPlus scheme to be disregarded for the purposes of the Tax Acts.

Section 3 amends section 253 of the Taxes Consolidation Act 1997, which provides tax relief to individuals on loans applied in acquiring interest in partnerships.

The section is being amended to abolish the relief available for new loans with effect from 15 October 2013. The section also restricts the relief for existing loans commencing in 2014, with relief being reduced on a sliding scale each year until no relief is available from 2017.

The changes will not apply to a loan to a partnership where the partnership is a farming partnership.

Tax relief has been retained for ex-gratia payments up to a lifetime limit of €200,000. However, *Section 4* provides for the abolition of Top Slicing Relief for such payments made on or after 1 January 2014. Lump sums paid as part of an approved occupational pension scheme are unaffected by this measure. The section also includes a minor technical change in relation to the commencement of section 14 of the Finance Act 2013.

Section 5 inserts a new section 477B into the Taxes Consolidation Act 1997, to provide for a Home Renovation Incentive. This scheme will run from 25 October 2013 to 31 December 2015 and provides for tax relief for homeowners by way of a tax credit at 13.5 per cent

of qualifying expenditure incurred on repair, renovation or improvement work carried out on a principal private residence.

Qualifying expenditure is expenditure subject to the 13.5 per cent VAT rate. The work must cost a minimum of €5,000 (exclusive of VAT) which would attract a credit of €675. Where the cost of the work exceeds €30,000 (exclusive of VAT), a maximum credit of €4,050 will apply. If work is grant aided or, if any form of compensation or other tax relief is received in respect of the work, the amount of expenditure qualifying for relief will be reduced accordingly. The credit is payable over the two years following the year in which the work is carried out.

The work must commence on or after 25 October 2013 and be carried out during 2014 or 2015. However, where qualifying expenditure is incurred between 1 January 2016 and 31 March 2016 in respect of works where planning permission has been granted before 31 December 2015, this expenditure will be regarded as if it had taken place in 2015 and tax relief will be available.

Homeowners must be Local Property Tax compliant in order to qualify under the Incentive, while building contractors must be tax compliant in order to carry out works. The scheme will be administered through Revenue's online systems. Contractors will be required to inform Revenue in advance of details of works to be carried and will also be required to notify Revenue in relation to any payments received in respect of the works. Homeowners will be able to view the information provided to Revenue by the contractor through the Revenue electronic systems and will also claim the relief through those systems.

Section 6 introduces a new Start Your Own Business relief. Where an individual who has been continuously unemployed for 15 months starts a new un-incorporated business, the first €40,000 of profits of that business per annum will not be subject to Income Tax for the first 2 years. USC and PRSI will continue to be payable.

If, however, a loss is incurred, loss relief will be available in the normal manner. In order to claim this relief, the individual must file a tax return notwithstanding that there may be no liability to tax.

Section 7 introduces a new tax credit entitled the "*Single Person Child Carer Credit*" to replace the One-Parent Family Tax Credit which is being abolished. The new credit will only be granted to the primary carer of a qualifying child. To qualify for this credit the relevant child must reside with the claimant for the whole or greater part of the year of assessment.

Section 8 amends section 470 of the Taxes Consolidation Act 1997, to introduce a limit in respect of the relievable amount of medical insurance premiums on which tax relief can be granted. A maximum relievable amount of €1,000 per adult and €500 per child covered by a policy will apply. Where the premium for a particular beneficiary under the policy is less than these limits, tax relief will be restricted to the actual premium paid. This provision is effective in respect of policies entered into, or renewed, on or after 16 October 2013.

Section 9 amends section 469 of the Taxes Consolidation Act 1997 which provides for relief for health expenses. As 'psychologist' and 'speech and language therapist' are designated professions under the Health and Social Care Professionals Act 2005, the opportunity is being taken to update the definition of educational psychologist and

to remove the definition of speech and language therapist as it is no longer required.

Section 10 inserts a new section 204A into the Taxes Consolidation Act 1997. Reserve Members of An Garda Síochána are paid an annual allowance under Regulation 15 of Garda Síochána (Reserve Members) Regulations 2006 (Statutory Instrument 413 of 2006) which is intended to cover out of pocket expenses incurred by Reserve Members. This measure is designed to provide an exemption from income tax for this allowance.

Section 11 commences section 6 of Finance (No. 2) Act 2008 to the extent that it refers to the change from miles to kilometres in relation to the calculation of Benefit-in-kind on motor vehicles provided by employers. This is in keeping with all other areas of distance-measurement and regulation in the State where parameters are all determined in kilometres since 2005. The provision will now take effect from 1 January 2014.

Section 12 amends section 126 of the Taxes Consolidation Act 1997, which relates to the tax treatment of certain social welfare benefits. The amendment confirms that the beneficiary of a state pension is taxable on their pension and any increase in their pension in respect of a qualified adult dependant.

Section 13 amends section 472D of the Taxes Consolidation Act 1997 (TCA) in relation to the clawback of relief from an employee. This amendment is being made in conjunction with an amendment to section 766 of the TCA (see *section 21* of the Bill) which provides for recovery of excess credit from the company. The section is also being amended to ensure that the obligation on an employer to pay all tax due under the PAYE system in respect of an employee applies to all years in which relief under the section is availed of, including roll-over years. It is also being amended to ensure that where an employee claims relief under the section, he or she is a chargeable person for the year of claim and also for all years in which the relief is carried forward. Finally the section contains a number of technical amendments.

Section 14 amends section 473A of the Taxes Consolidation Act 1997 to prevent possible abuse of the tax relief available for fees paid for third-level education. In cases where fees are refunded or partly refunded, individuals must notify the Revenue Commissioners within 21 days.

Section 15 amends section 480A of the Taxes Consolidation Act 1997 which provides for retirement relief for sportspersons. The total income deduction that retiring sportspersons can claim is now based on the income arising in any 10 of the 15 years prior to retirement (including the year of retirement). In addition, instead of having to be resident in Ireland at the time of retirement, a sportsperson may claim relief if they are resident in an EEA or EFTA country at the time of retirement.

Section 16 amends item 47A of Schedule 25B to the Taxes Consolidation Act 1997, to provide for the temporary removal of the Employment and Investment Incentive from the High Earners' Restriction for a period of three years. This section also inserts two items opposite reference 15B of Schedule 25B to provide that capital allowances on plant and machinery used in manufacturing trades that are claimed by passive investors in a leasing trade will be a specified relief for the purpose of the high earners' restriction.

Section 17 extends the scope of professional services withholding tax (PSWT) to include not just those persons listed on Schedule 13 of the Taxes Consolidation Act 1997 and their 51 per cent subsidiaries, but also to include new bodies controlled by two or more persons listed on Schedule 13, for example a 50/50 joint venture. Furthermore, this section clarifies how PSWT should be operated where doctors are engaged as employees and are providing medical services on behalf of their employers, rather than on their own account. Finally, this section adds a new body to the list of accountable persons on Schedule 13.

Section 18 makes a number of amendments to certain pension-related provisions in Part 30 of the Taxes Consolidation Act 1997 and gives legislative effect to the changes announced in Budget 2014.

Firstly, section 776, which provides tax relief for employees' contributions to retirement benefits schemes established under a public statute, is amended to put beyond doubt that ''Spouses and Childrens'' contributions to such schemes, in respect of earlier service, that are deducted from the 90 per cent balance of a retirement lump sum payable at preserved pension age to retirees under the Incentivised Scheme of Early Retirement, can be taken into account for tax relief purposes. The amendment takes effect from 1 May 2009, the date the Early Retirement Scheme commenced.

Secondly, section 782A, which provides members of occupational pension schemes with an option to withdraw up to 30 per cent of the accumulated value of certain additional voluntary contributions, is amended to address concerns that the existing override provisions in the section may not give scheme trustees and PRSA administrators sufficient scope to allow such withdrawals where the trust deed and scheme rules or the PRSA contract terms prohibit them. The amendment specifically provides that the option may be exercised by an individual, notwithstanding the rules of the retirement benefits scheme or the terms of the PRSA contract concerned. This will obviate the need for scheme rules or contract terms to be changed to facilitate the withdrawal option. The change applies to options exercised on or after 27 March 2013, the date Finance Act 2013 became law.

Thirdly, the section makes a number of changes to Chapter 2C and associated Schedule 23B relating to the Standard Fund Threshold (SFT) regime, which places a limit on the maximum allowable pension fund on retirement for tax purposes.

The absolute value of the SFT is being reduced, with effect from 1 January 2014, from €2.3m to €2m. However, as before, an individual who has pension rights in excess of this new lower SFT on 1 January 2014, may claim a Personal Fund Threshold (PFT) from the Revenue Commissioners. The PFT is calculated on the aggregate of the capital value of pension benefits which the individual has already become entitled to since 7 December 2005 (the date the SFT regime was introduced) plus the capital value of any ''uncrystallised'' pension rights which the individual has on 1 January 2014 (i.e. pension rights which the individual is building up but has not become entitled to on that date). Where this amount exceeds the SFT of €2 million, that higher amount will be the individual's PFT, subject to it not exceeding the previous SFT of €2.3m. An individual who holds a PFT issued in accordance with the legislation as it applied before Finance (No.2) Act 2013 is passed into law retains that PFT.

Pension rights arising under Defined Benefit (DB) arrangements have to be valued on 1 January 2014 for PFT purposes using the current standard valuation factor of 20. In the case of rights arising under Defined Contribution arrangements, the capital value for PFT purposes remains, as before, the value of the assets in the arrangement that represent the member's accumulated rights on that date i.e. the value of the fund on that date.

The valuation factor to be used for establishing the capital value of an individual's DB pension rights at the point of retirement, where this takes place after 1 January 2014, is being changed from the current standard factor of 20 to a higher age-related factor that will vary with the individual's age at the point at which the pension rights are drawn down. The age-related factors are set out in a table to Schedule 23B and range from 37 for DB pension rights drawn down at age 50 or under, to a factor of 22 where they are drawn down at age 70 or over.

Accordingly, where DB pension rights are drawn down after 1 January 2014, the capital value will be determined by multiplying the annual amount of pension payable under the arrangement by the relevant age-related factor. However, where part of the pension has been accrued at 1 January 2014 and part after that date, transitional arrangements allow the capital value of the pension at retirement to be calculated by way of a ''split'' calculation, so that the part accrued up to 1 January 2014 (referred to in the legislation as the ''accrued pension amount'') will be valued at a factor of 20 and the part accrued after that date valued at the appropriate higher age-related factor. The legislation sets out how the accrued pension amount is to be established. A condition of applying the ''split'' calculation is that the administrator concerned is satisfied from information and records available to the administrator that an accrued pension amount arises in relation to the DB pension in question.

In order to make a PFT notification to Revenue, an individual will be required to obtain from the administrator of each pension arrangement of which he or she is a member, a statement certifying, among other things, the amount of the individual's pension rights on 1 January 2014 relating to that arrangement, calculated in accordance with the provisions of the legislation. In general, a PFT notification will have to be made electronically on a system being developed by Revenue and the time period for notification will be 12 months after the date on which the electronic system is made available.

The reimbursement options, introduced in Finance Act 2012, for public servants affected by chargeable excess tax (who, unlike affected individuals in the private sector, cannot generally minimise or prevent the breaching of the SFT or PFT by ceasing contributions and benefit accruals) are being amended and extended to reduce the amount that can be recovered upfront from the net retirement lump sum payable to the individual to a maximum of 20 per cent of the net lump sum (from 50 per cent) and to include the option of reimbursement of the pension fund administrator solely by way of a reduction in the gross pension payable over a period not exceeding 20 years.

Finally, the section introduces a fixed penalty of €3,000 for each failure on the part of a person to comply with any of the obligations imposed on the person by Chapter 2C and Schedule 23B. These changes have effect from 1 January 2014.

Section 19 amends Schedule 12 to the Taxes Consolidation Act 1997 which deals with employee share ownership trusts. The period

in which ex-employees may benefit from tax relief on the value of shares appropriated via an employee share ownership trust is being extended from 15 years to 20 years.

Chapter 3

Income Tax, Corporation Tax and Capital Gains Tax

Section 20 makes a number of amendments in relation to the tax treatment of farmers.

Firstly, the section changes the names of the awarding bodies arising from the enactment of the Qualifications and Quality Assurance (Education and Training) Act 2012. This change of names is effective from 6 November 2012, the date on which the Qualifications and Quality Assurance Authority of Ireland came into being.

Secondly, the section adds three new courses to the list of qualifications which an individual may attain, in order to meet the criteria necessary to be a qualifying Young Trained Farmer.

Thirdly, the section provides for a restriction to the 50 per cent rate of stock relief available to farmers in registered farm partnerships. This is a requirement for EU approval under State Aid rules. Approval has been given on the basis that the relief be restricted to the de minimis amount which is €7,500 over a three year period.

Lastly, the section makes a technical change in relation to the application of stock relief for farmers in registered farm partnerships.

Section 21 — Section 766 of the Taxes Consolidation Act 1997 provides for a tax credit of 25 per cent for incremental expenditure on certain research and development (R&D) activities over such expenditure in a base year (2003). The section also includes provision for the surrender of the tax credit to a key employee. *Section 21* amends section 766 in three respects. These are:

- Subsection (1)(*a*) increases the amount of group expenditure on research and development activities that is excluded from the incremental basis of calculation from €200,000 to €300,000;
- Subsection (1)(*b*) increases the limit on the amount of research and development expenditure that can be outsourced from 10 per cent to 15 per cent of the qualifying expenditure; and
- Subsection (1)(*c*) provides that where a company has made an incorrect claim for the R&D tax credit and surrenders an amount of that credit to a key employee, the tax foregone can be recovered from the company instead of the employee. This amendment is being made in conjunction with an amendment to section 472D of the TCA (see *section 13* of the Bill).

Section 22 — Section 246 of the Taxes Consolidation Act 1997 provides an exemption from the requirement to deduct withholding tax from payments of annual interest in certain circumstances. *Section 22* amends section 246(3)(bb) to enable a treasury company to make a payment of interest without deduction of withholding tax where the recipient is another group company that is resident in the State.

Section 23 increases Deposit Interest Retention Tax by eight percentage points, to 41 per cent, with effect from 1 January 2014. The section abolishes the higher rate of Deposit Interest Retention Tax that applied to interest that is not payable annually or more frequently or where the interest cannot be determined until the maturity of the investment. As and from the 1 January 2014 the standard rate of Deposit Interest Retention Tax will apply to this interest. The section also brings Dividends paid or credited to Regular Share Accounts of Credit Unions within the Deposit Interest Retention Tax regime from the 1 January 2014.

Additionally, *Section 23* removes the exemption from Deposit Interest Retention Tax, as and from the 16 October 2013, that applied to part of the interest paid on Special Term Accounts offered by banks and Special Term Share Accounts offered by Credit Unions. Finally, the section also provides for a number of consequential amendments to Part 8 of the Taxes Consolidation Act 1997, to cater for the increase in rates.

Section 24 amends the definition of ''eligible individual'' in section 481 of the Taxes Consolidation Act 1997, which sets out the rules governing the grant of tax relief for investments in qualifying films. This section removes the residence requirements so that the amount spent on an eligible individual qualifies for the relief regardless of where the individual is resident.

Section 25 provides for the introduction of a withholding tax on payments made by companies, qualifying for film relief under section 481 of the Taxes Consolidation Act 1997, to performing artistes who are resident outside of EU and EEA member states. The main features of the withholding tax are:

- The tax is to be deducted at the standard rate.
- A deduction certificate is to be issued by the company when a payment is made and tax is deducted.
- Electronic returns and payments are to be made by the company.
- Assessments may be raised by Revenue where appropriate.
- Appropriate tax deducted is not available for refund.
- Allowable expenses incurred by the performing artiste will not be subject to the withholding tax.

Commencement of the section will be subject to Ministerial commencement order.

Section 26 amends section 530F of the Taxes Consolidation Act 1997, to allow the Revenue Commissioners to establish the correct amount of tax which should have been deducted from a relevant payment in instances where a principal contractor submits details of the relevant payment after the due date for the return in which the payment was made.

Section 27 — Section 891E of the Taxes Consolidation Act 1997 implements the Agreement to Improve Tax Compliance and Provide for Reporting and Exchange of Information concerning Tax Matters (United States of America) Order 2013 (S.I. No. 33 of 2013). This agreement provides for the reciprocal exchange of information between the tax authorities of both countries in respect of financial accounts held by U.S. persons in Ireland and by Irish resident persons in the United States. This section makes a technical

amendment to subsection (10) of Section 891E TCA 1997 to ensure that the section operates as intended.

Section 28 — Amendment of Schedule 24 (relief from income tax and corporation tax by means of credit in respect of foreign tax).

Firstly, *Section 28* amends Schedule 24 of the Taxes Consolidation Act 1997 to clarify how double tax relief is calculated in the case of individuals who are subject to the High Earners Restriction.

Where an individual is subject to the high earners' restriction, then for the purposes of calculating the double tax relief available the specified rate shall be calculated as the tax payable by the taxpayer after the application of the high earners' restriction divided by the individual's adjusted income.

Secondly, this amendment replaces paragraph 7(3)(*c*) of that Schedule, which provides double tax relief for foreign tax on foreign income by means of a reduction against that income for excess foreign tax which cannot be allowed as a credit. This amendment clarifies that, for the purposes of corporation tax, the reduction available to a company for the excess foreign tax cannot exceed the amount of the Irish measure of that foreign income, as calculated in accordance with Schedule 24. The effect of this amendment is to ensure that the reduction allowed under this paragraph cannot reduce the amount of the income to less than Nil.

Finally, the section amends paragraph 9DC of Schedule 24 of the Taxes Consolidation Act 1997, which provides unilateral credit relief for foreign tax suffered by a company on foreign-sourced leasing income. The amendment provides that unrelieved foreign tax of an accounting period may be carried forward and treated as foreign tax incurred on leasing income from the same source in the subsequent accounting period. The effect of the amendment is to enable unrelieved foreign tax on leasing income to be carried forward against tax, or deducted from income, relating to the same leased equipment for subsequent accounting periods.

Section 29 amends sections 37 and 607 of the Taxes Consolidation Act 1997 respectively so that interest on any securities issued by Irish Water may be paid without deduction of tax and that such securities will not be chargeable assets for Capital Gains Tax purposes.

Section 30 introduces a single rate of exit tax of 41 per cent to apply to payments from life assurance policies and investment funds, in place of existing rates of 33 per cent and 36 per cent, which rates depend on the nature of the payments.

In addition, the section increases the higher rates applying to investments in Personal Portfolio Life Policies (PPLPs) and Personal Portfolio Investment Undertakings (PPIUs) from 56 per cent to 60 per cent and from 74 per cent to 80 per cent.

These amendments apply to the rates of exit tax on income and gains from domestic life assurance policies and investment undertakings under the gross roll-up regime introduced in the Finance Act 2000 and also apply to the rate of tax on income and gains from life assurance policies and investment funds in other EU Member States, EEA States and OECD countries with which Ireland has double taxation agreements.

The rate changes are to be introduced with effect from 1 January 2014.

Section 31 amends the relief known as the Living City Initiative, which was introduced in section 30 of the Finance Act 2013, by now applying the measure to houses originally constructed prior to 1915. The relief will apply in certain special urban regeneration areas to be set out by order of the Minister for Finance.

In addition, a number or minor drafting errors in the original provision are corrected.

Finally, these amendments will come into effect at the same time the original provision is commenced by order of the Minister for Finance.

Chapter 4

Corporation Tax

Section 32 amends section 77 of the Taxes Consolidation Act 1997, which contains miscellaneous rules for the computation of income. Subsections (6A) and (6B) of that section relate to the provision of relief where a company's trading income includes foreign sourced royalties or interest from which foreign tax was deducted, and a credit for that tax is not available under a tax treaty. The subsections provide that the amount of the income relating to the relevant royalty or interest which is chargeable to tax can be reduced by the relevant foreign tax in relation to that income. This amendment clarifies that the reduction for relevant foreign tax provided for under these subsections cannot exceed the amount of income referable to the royalties or interest. The effect of this amendment is to ensure that the reduction allowed under these subsections cannot create a loss for tax purposes.

Section 33 provides that section 396C of the Taxes Consolidation Act 1997 will not apply for accounting periods commencing on or after 1 January 2014. Section 396C was introduced by section 240 and Schedule 3 of the National Asset Management Agency Act 2009 to place a limit of 50 per cent on the amount of the trading income of a participating institution, and all other participating institutions within the same group, against which trading losses forward may be set off in any accounting period.

Section 34 amends section 411 of the Taxes Consolidation Act 1997, which deals with group relief for companies. That section sets out the general nature of group relief and the conditions under which it is available for trading losses and other eligible amounts, including conditions under which a parent company and its subsidiary company may form a group. This amendment clarifies that, as respects the group relationship where a company is quoted on a recognised stock exchange, it is the direct or indirect parent of the subsidiary company that must be quoted on a recognised stock exchange.

Section 35 inserts a new section 628A into Part 20 Chapter 2 of the Taxes Consolidation Act 1997. Section 627 of that Chapter provides for a tax on exit when a company ceases to be resident in the State. A company is deemed to have disposed of, and reacquired, immediately before the event of changing residence, all of its assets at their market value at that time, although no actual disposal has taken place. In response to recent decisions of the Court of Justice of the European Union in relation to the 'exit tax' regimes of other Member States, this section amends the 'exit tax' provisions in Part 20 Chapter 2. The new section provides such migrating companies with options to elect to defer the immediate payment of the tax arising where a company migrates its tax residency to another EU

or EEA Member State after 1 January 2014. The immediate charge to tax may be deferred and paid in 6 equal annual instalments or within 60 days of the disposal of migrated assets. However, in the case of the latter option, all deferred tax is due and payable on or within a period of 10 years from the date of migration. Interest is payable on the deferred payment of the relevant tax. An immediate crystallisation of relevant tax will arise in the event of the appointment of a liquidator to the migrating company, the company ceasing to be tax resident in an EU or EEA Member State, or the company failing to pay tax by the date that it is due and payable. The migrating company can make the election for deferral in its final corporation tax return. The section requires a migrating company to submit annual statements to the Revenue Commissioners, the details of which are outlined in the section. Provision is also made for security, collection and recovery of the tax.

Section 36 makes a number of amendments to the Real Estate Investment Trusts (REITs) legislation that was introduced earlier this year by section 41 of Finance Act 2013, which inserted Part 25A into the Taxes Consolidation Act 1997. The section corrects what were, in the main, typographical errors to ensure that the legislation operates as intended. The changes made by this section ensure that definitions and language used in various provisions in Part 25A interact more clearly with each other.

Section 37 amends Schedule 4 of the Taxes Consolidation Act 1997 to include The Teaching Council in the list of specified non-commercial State sponsored bodies that qualify for exemption from certain tax provisions under section 227 of the Taxes Consolidation Act 1997. This section exempts from income tax and corporation tax certain income arising to the specified bodies which would otherwise be chargeable to tax under cases III, IV and V of Schedule D. This State sponsored body is being made exempt from taxation in order to avoid circular payments in and out of the Exchequer. The exemption is to take effect from the date that the body was established.

Section 38 amends section 23A of the Taxes Consolidation Act 1997 to ensure that an Irish incorporated company cannot be 'stateless', in terms of its place of tax residence, as a result of a mismatch between Ireland's company residence rules and those of a treaty partner country. The amendment provides that where an Irish incorporated company that is managed and controlled in a treaty partner country would not otherwise be regarded as resident for tax purposes in any territory for the reason that

— the company would not be resident for tax purposes in the treaty partner country because it is not incorporated in that country, and

— the company would not be resident in the State for tax purposes because it is not managed and controlled in the State,

then the company will be regarded as resident in the State for tax purposes.

The amendment will have effect from:

— 24 October 2013 for companies incorporated on or after that date, and

— 1 January 2015 for companies incorporated before 24 October 2013.

Chapter 5

Capital Gains Tax

Section 39 amends section 29 of the Taxes Consolidation Act 1997. The section sets out the persons who are chargeable to Capital Gains Tax and the extent of the charge. Individuals who are resident or ordinarily resident but not domiciled in the State are only taxed on non-Irish chargeable gains in respect of amounts derived from those gains that are remitted to the State. Section 29 was amended in Finance Act 2013 to counter a potential avoidance scheme where a non-domiciled individual transfers his or her gains or amounts derived from such gains to his or her spouse or civil partner and where, on or after 13 February 2013, such gains or amounts derived from such gains are received in the State. These gains or amounts derived from such gains are deemed to have been received in the State by the non-domiciled individual.

This amendment clarifies that the changes made to section 29 by Finance Act 2013 apply to the proceeds of a disposal relating to such chargeable gains made on or after 24 October 2013.

Section 40 amends section 552 of the Taxes Consolidation Act 1997 to provide that, where a debt incurred in relation to borrowed monies used to acquire or enhance an asset is not repaid and the borrower is released in respect of some or all of the debt, the amount of debt so released will not be allowed as a deduction in computing a chargeable gain or loss on a later disposal of the asset. The amendment also provides that if any such debt is released in a later year than the year in which the asset is disposed of, the amount of the debt released in that year is deemed to be a chargeable gain of that year. These amendments ensure that only the actual economic cost of the asset is allowed in computing a chargeable gain or allowable loss.

Section 41 amends section 598 of the Taxes Consolidation Act 1997, which grants relief in respect of a disposal of business or agricultural assets which have been owned and used by the individual disposing of those assets for at least 10 years prior to the disposal. The relief also applies to land that has been leased in certain circumstances where the 10-year ownership and use test has been met immediately before the letting of the land commenced. This amendment retains the existing relief where land has been let at any time in the period of 15 years prior to the disposal and the disposal is to a child (within the meaning of section 599) of the individual. It further provides that relief will apply where the land has been leased for the purposes of farming and each such letting to the same person is for a minimum period of at least 5 consecutive years in the period of 15 years referred to and where the subsequent disposal is to a person other than a child (within the meaning of section 599) of the individual disposing of the land. The amendment also clarifies, as regards such disposals that the assets are qualifying assets for the purposes of section 598 only.

The amendment applies to disposals made on or after 1 January 2014.

Section 42 gives effect to the change announced in the Budget 2014 Statement in relation to the Capital Gains Tax relief for properties acquired in the period commencing on 7 December 2011 and ending on 31 December 2013. The period within which the properties may be acquired for the purposes of this relief is being extended to 31 December 2014.

Section 43 introduces a CGT relief for individuals who reinvest the proceeds of previous asset disposals made by them into new business ventures. It provides that, where the proceeds of disposals of assets on or after 1 January 2010 on which Capital Gains Tax has been paid are applied in acquiring chargeable business assets of a new business, a tax credit equal to the lower of the Capital Gains Tax paid on the original asset disposals or 50 per cent of the Capital Gains Tax due on the chargeable business assets of the new business will be allowed on the subsequent disposal of those chargeable assets of the new business. The reinvestment must take place within the period 1 January 2014 to 31 December 2018, the chargeable business assets must be held for at least three years and a minimum reinvestment of €10,000 is required. A further reinvestment of the proceeds from any disposal of chargeable business assets in a further new business within the period 1 January 2014 to 31 December 2018 will also qualify for relief. The relief is subject to a Commencement Order pending approval from an EU State-aid perspective.

PART 2

Excise

Section 44 amends the Mineral Oil Tax provisions of Chapter 1 of Part 2 of the Finance Act 1999:

Paragraph (a) amends section 99A of that Act, which was introduced by the Finance Act 2013 to provide for a partial relief, by way of repayment, for diesel purchased by qualifying road haulage and bus operators.

The amendment provides that the diesel concerned must be purchased either as a bulk supply to the transport operator concerned or by means of a fuel card approved for that purpose by the Revenue Commissioners. It also provides that bulk purchases must either be made from a licensed mineral oil trader in the State or delivered from another Member State in accordance with EU requirements.

Paragraph (b) amends the provisions for licensing of mineral oil traders, so that a licence shall not be granted where, in relation to dealings in or with mineral oil, there has been a failure to comply with a requirement of excise law by the applicant or at the premises or place concerned, and that failure has not been remedied. Similar provision is made for where there has been a failure to comply with the conditions attaching to a mineral oil trader's licence.

Paragraph (c) provides for a technical amendment to correct a reference.

Section 45 amends the general excise law provisions of Chapter 1 of Part 2 of the Finance Act 2001.

Paragraph (a) provides for minor technical amendments to definitions that apply throughout that Part.

Paragraph (b) amends the provisions, under section 99 of the Finance Act 2001, for the liability of persons in certain circumstances for the excise duty on excisable products: A new subsection (10A) is introduced to provide that a person who supplies or delivers excisable products on which excise duty has been relieved, or charged at a lower rate, is liable for any excise duty evaded where that person knew, or was reckless as to whether or not, that the supply or delivery was connected to that evasion.

This provision is, in particular, required to address the problem of supply and delivery of marked gas oil for laundering.

The provision for joint and several liability of persons under section 99 is extended to persons liable under the new subsection 99(10A).

Paragraph (c) extends the provision for a civil penalty for failure to make an excise return as required to also include failure to make a required declaration.

Paragraph (d) provides for a technical amendment to update a reference to provisions of EU excise law,

Paragraph (e) deletes a redundant provision.

Paragraph (f) deletes a redundant definition.

Section 46 introduces a new section to general excise law to provide that alcohol products held for sale on an unlicensed premises are liable to forfeiture, where that premises remains unlicensed because the person who should hold the licence does not qualify for a tax clearance certificate. This is to address the situation where a person continues to trade without a licence while tax arrears remain unaddressed.

The liability to forfeiture commences twenty days after a notice has been issued by Revenue to the person concerned.

Section 47 amends **s**ection 138 of the Finance Act 2001 which provides that a person suspected of an offence of dealing in, or with, unstamped tobacco products must provide information to a Revenue officer or a member of the Garda Síochána,

The amendment clarifies that the suspected person may be required to present any tobacco products concerned for examination. It also provides that the Revenue officer or Garda may search any bag or other receptacle that he or she reasonably believes to contain tobacco products that are concerned in the offence, and the person concerned may be required to present the bag or other receptacle for that purpose and to provide access to it.

The Revenue officer or Garda may detain the suspected person for as long as is reasonably required for the purposes of questioning, examination and search under the section. There is, however, no provision for search of the person or any article of clothing on the person.

Section 48: Paragraph (a) amends the provisions of general excise law for the delegation to Revenue officers of powers, functions and duties that are vested in the Revenue Commissioners. The amendment clarifies that a Revenue officer may, while assigned to the Criminal Assets Bureau, continue to exercise the Revenue powers, functions and duties that have been delegated to that officer.

Paragraph (b) provides for a technical amendment to correct a referencing error.

Paragraph (c) amends the provisions for excise appeals: With the exception of appeals against excise assessments, all appeals against Revenue decisions and actions in excise matters must first be made to the Revenue Commissioners. Any person aggrieved by a

determination at that stage of the appeal process may then appeal against it to the Appeal Commissioners.

The amendment provides that, with the exception of appeals relating to Vehicle Registration Tax matters (most of which are technical), the first stage appeal to Revenue will no longer apply, and there will be the same right of direct appeal to the Appeal Commissioners as applies for the other taxes.

Section 49 amends the Solid Fuel Carbon Tax provisions of Chapter 3 of Part 3 of the Finance Act 2010:

Subsection(1)(a) amends the definitions for ''briquettes'', ''coal'', ''peat'', ''supplier'' and ''supply'', and introduces a definition of ''first supplied'', for clarity. Definitions of ''biomass'', ''biomass content'' and ''biomass product'' are also inserted, to support the introduction of the relief, under *subsection (1)(c)*, for the biomass content of solid fuel.

Subsection (1)(b) deletes a subsection which is now redundant.

Subsection (1)(c) introduces a new section 82A to provide a relief for solid fuel with a biomass content:

> Subsection (1) of that section provides that the relief applies to solid fuel with a biomass content of 30 per cent or more, where that ''biomass product'' has been identified and marked in accordance with regulations made by the Minister for the Environment, Community and Local Government, and shown to the satisfaction of the Revenue Commissioners to have been supplied as such.
>
> Subsection (2) provides that the amount of the relief shall be 30 per cent of the tax chargeable, where the biomass content of the product is less than 50 per cent, and 50 per cent of the tax chargeable, where the biomass content is 50 per cent or more.
>
> Subsection (3) provides that the supplier is to deduct the amount of the relief when paying and accounting for the tax. The relief may, however, also be applied by way of repayment. It also provides for a time limit for submission of repayment claims.

Subsection (2) provides for commencement of the new section 82A by Ministerial Order.

Section 50 confirms the Budget increases in the rates of Tobacco Products Tax which, when VAT is included, amount to 10 cent on a pack of 20 cigarettes with pro-rata increases on other tobacco products.

Section 51 confirms the Budget increases in the rates of Alcohol Products Tax which, when VAT is included, amount to 10 cent on a pint of beer or cider, 10 cent on a measure of spirits and €0.50 on a bottle of wine, with pro-rata increases for other products.

Section 52 amends Chapter 1 of Part 2 of the Finance Act 2002, as amended by section 49 of the Finance Act 2011. These provisions will be commenced when the relevant amendments have been made to the Betting Act 1931.

Subsection (1)(a) amends the definitions of "remote betting intermediaries", "remote bookmaker" and "remote means" in section 64.

Paragraphs (b) and *(c)* amend the existing provisions and provide that the duty payable on the granting of a remote bookmakers' and remote betting intermediaries' licences will be €10,000. The duty payable on these licences is amended to reflect a two-year period of licence validity. The dates for the calculation of annual turnover and the annual commission earnings are also amended to take account of the ending of the licensing period on 30 June for remote operators.

Subsection (2) (a) provides that the excise duty on a bookmaker's licence will be €500 on the basis of a two-year licence period.

Paragraph (b) provides that the excise duty on the registration of a bookmaking premises and on renewal of that registration, will be €760 and the period of registration will be for two years from the 1 of December.

Subsection (3) provides for commencement of these provisions by Ministerial Order.

Section 53 amends section 135C of the Finance Act 1992 to extend the VRT relief for Electric and Hybrid Electric vehicles until 31 December 2014.

Section 54 amends section 139 of the Finance Act 1992, and provides for an increase of the term of imprisonment on summary conviction for evasion or attempted evasion of vehicle registration tax to 12 months.

The section also provides for an increase in the fine applicable on conviction on indictment for evasion or attempted evasion of vehicle registration tax. A fine of three times the amount of vehicle registration tax concerned, or €126,970, whichever is the greater, shall apply. The previous specified amount of €12,695 will no longer apply.

The section further provides that, where cases in relation to vehicle registration tax offences are dealt with under section 13 of the Criminal Procedure Act 1967, the penalties for summary conviction under the relevant vehicle registration tax provisions, rather than the penalties under the 1967 Act, will apply.

PART 3

Value-Added Tax

Section 55 is a definitions section.

Section 56 amends section 46 of the VAT Consolidation Act 2010 to provide for the retention of the 9 per cent reduced VAT rate on tourism related services.

Section 57 amends section 59 of the VAT Consolidation Act 2010 which deals with deduction of tax borne or paid. The amendments clarify the deductibility allowable in respect of VAT on services relating to the transfer of a business.

Section 58 inserts a new section 62A into the VAT Consolidation Act 2010 which provides that where consideration in relation to a supply of goods or services remains unpaid 6 months after the period

in which the tax related to that supply was deducted, the accountable person is obliged to reduce the amount of tax deductible. Where consideration is subsequently paid, the amount of the tax deductible can be increased accordingly in the period in which that consideration is paid.

This amendment has effect in respect of tax deducted in taxable periods commencing on or after 1 January 2014.

Section 59 amends section 120 of the VAT Consolidation Act 2010 which deals with Regulations. This amendment is linked to *section 58* and provides for the making of regulations relating to the adjustment of tax deductible in relation to unpaid consideration.

Section 60 amends section 64 of the VAT Consolidation Act 2010 which deals with the capital goods scheme. Subsection (12A) is amended to provide that receivers who were appointed, or mortgagees who took possession, prior to the enactment of the Finance Act 2013 i.e. 27 March 2013, will be responsible for the obligations of the capital good owner. In such cases, the capital good owner will be required to provide the capital good record to the receiver or mortgagee within sixty days of enactment of the provision. The obligations and entitlements of the capital good owner will apply to such receivers or mortgagees from 1 May 2014. This is an extension of the Finance Act 2013 provision, which applied to receivers and mortgagees appointed since 27 March 2013.

Section 61 amends section 80 of the VAT Consolidation Act 2010 which deals with tax due on a moneys received basis. Section 80(1)(*b*) of the Value-Added Tax Consolidation Act 2010 allows a taxable person to use the cash basis of accounting for VAT where his or her turnover remains below a set threshold for a period of twelve months. The amendment increases the annual turnover threshold to €2,000,000 in line with the Budget announcement of 15 October 2013.

The amendment has effect from 1 May 2014.

Section 62 amends section 86 of the VAT Consolidation Act 2010 which deals with special provisions for tax invoiced by flat-rate farmers. The amendment confirms the Budget increase in the farmers' flat-rate addition from 4.8 per cent to 5.0 per cent.

The amendment has effect from 1 January 2014.

Section 63 amends section 2 and section 46 of, and Schedule 3 to, the VAT Consolidation Act 2010. Supplies of horses not intended for the preparation of foodstuffs or for use in agricultural production, the hiring of horses and the supply of greyhounds will be chargeable at the reduced rate of 9 per cent. The reduced rate of 13.5 per cent is chargeable on supplies of insemination services for horses and greyhounds. The supply of horses intended for use in the preparation of foodstuffs or for use in agricultural production, and the supply of other livestock, will remain at the 4.8 per cent rate.

The amendment has effect from 1 May 2014.

PART 4

Stamp Duties

Section 64 is an interpretation section.

Section 65 amends section 81AA and Schedule 2B of the Stamp Duties Consolidation Act 1999 which provide for an exemption from stamp duty for transfers of farmland to young trained farmers. Three courses have been added to the list of qualifications in Schedule 2B, any one of which must be held by a young trained farmer in order to obtain the exemption. Also, the references to the Further Education and Training Awards Council (FETAC), the Higher Education and Training Awards Council (HETAC) and the National Qualifications Authority of Ireland (NQAI) have been updated following the dissolution of these bodies under section 71 of the Qualifications and Quality Assurance (Education and Training) Act 2012 and their replacement by the Qualifications and Quality Assurance Authority of Ireland (QQAAI).

Section 66 inserts a new section 86A into the Stamp Duties Consolidation Act 1999 to provide for an exemption from stamp duty on the transfer of stocks and marketable securities of companies which are listed on the Enterprise Securities Market (ESM) of the Irish Stock Exchange (ISE). The exemption will come into operation by way of a commencement order to be made by the Minister for Finance.

Section 67 amends section 125B of the Stamp Duties Consolidation Act 1999 which provides for a stamp duty levy on pension fund assets. For 2014, 0.15 per cent will be added to the current 0.6 per cent levy to give a rate of 0.75 per cent. The rate for 2015 will be reduced to 0.15 per cent.

Section 68 provides for a stamp duty levy on certain financial institutions by inserting a new section 126AA into the Stamp Duties Consolidation Act 1999. The levy amounts to 35 per cent of the DIRT paid by the relevant financial institutions in 2011. The levy will operate for a period of three years and will be payable on 20 October in each of the years 2014, 2015 and 2016.

PART 5

Miscellaneous

Section 69 contains a definition of ''Principal Act'' (i.e. the Taxes Consolidation Act 1997) for the purposes of Part 5 of the Bill.

Section 70 makes three mainly technical amendments to Part 41A of the Taxes Consolidation Act, 1997. Firstly, it makes amendments relevant to the operation of ROS in relation to the provision of indicative tax calculations and the amendment of the CGT elements of a tax return. Secondly, the situations in which a taxpayer can amend their tax return under Part 41A are now clearly set out in section 959V of the Taxes Consolidation Act 1997. Finally, it also clarifies some practical aspects around the provision which allows for the early filing by taxpayers of a paper return in order that Revenue may complete the self-assessment portion of the return on the taxpayer's behalf.

Section 71 clarifies that where a chargeable person is seeking a repayment of tax arising out of an error or mistake in the filed tax return then, in keeping with full self assessment, the chargeable person must amend that tax return to reflect the error or mistake. This section also confirms that Revenue can, subsequent to repayments being made, use their powers to re-examine claims for repayment of tax.

Section 72 amends section 887(2) of the Taxes Consolidation Act 1997, to clarify that a record includes any document generated by an electronic system.

Section 73 provides for the insertion of a new section 205A into the Taxes Consolidation Act 1997 granting an exemption from tax for ex-gratia payments made to beneficiaries by the Minister for Justice, Equality and Defence pursuant to the Magdalen Commission Report in respect of women who were admitted to and worked in Magdalen Laundries.

The payments when made will not be subject to income tax, and as a consequence Universal Social Charge will not apply. In addition, they will not attract a charge to Capital Gains Tax or be treated as a gift or inheritance for the purposes of Capital Acquisitions Tax. The exemption applies to payments made by the Minister on foot of the scheme on or after 1 September 2013.

A new Schedule 3A is being inserted containing a list of the Specified Institutions to which the women in receipt of the payments were admitted.

Section 74 amends section 1065 of the Taxes Consolidation Act 1997 to update the mitigation powers of the Revenue Commissioners and the Minister for Finance, in relation to various fines and penalties, by removing certain powers that are no longer appropriate while retaining certain other powers relevant to the administration of taxes and duties. The amendments provide that the Revenue Commissioners may in their discretion stay or compound any proceedings for the recovery of any fine or penalty and mitigate penalties either before or after judgment. The section as amended applies to all taxes and duties.

Section 75 amends section 960R of the Taxes Consolidation Act 1997, which gives the Collector-General power to require tax defaulters to provide a Statement of Affairs. Section 960R is amended in a number of respects. Firstly, it defines market value in relation to assets included in a Statement of Affairs. Secondly, it places a 30-day time limit on the delivery to the Collector-General of the Statement of Affairs. Thirdly, it requires that a Statement of Affairs also contains details of the person's income and outgoings. Fourthly, it makes it a requirement that the Statement of Affairs must be made on oath.

Section 76 amends section 851A of the Taxes Consolidation Act 1997 to ensure that external service providers, that may be engaged by the Revenue Commissioners for the purposes of carrying out work relating to the administration of taxes and duties, are subject to the same confidentiality rules, as regards non-disclosure of taxpayer information, as Revenue officers.

Section 77 amends section 1002 of the Taxes Consolidation Act 1997, which gives the Collector-General power to issue a notice of attachment to a person (for example, a bank) who has money due to a tax defaulter, requiring that person to pay to the Collector-General any amounts due to that tax defaulter up to the amount of the tax debt owed by the defaulter to the Collector-General. The amendment enables the Collector-General to issue a notice of attachment (including a number of other related notices referred to in section 1002) electronically.

Section 78 amends Parts 1 and 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 Tax Information Exchange Agreements.

Part 1 is amended by adding Ukraine to the list of countries with which the State has entered into a Double Taxation Agreement.

Part 3 is amended by adding Dominica and Montserrat to the list of countries/territories with which the State has entered into a Tax Information Exchange Agreement.

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

Section 79 and the *Schedule* provide for technical amendments to the—

- Taxes Consolidation Act 1997 (*paragraph 1*),
- Value-Added Tax Consolidation Act 2010 (*paragraph 2*)
- Finance Act 1992 (*paragraph 3*), and
- Finance Act 2013 (*paragraph 4*).

The amendments for the most part involve the correction (through deletion, amendment or insertion of text) of incorrect references and minor drafting errors. *Paragraph 5* contains the commencement provisions relating to *paragraphs 1* to *4* above.

Section 80 deals with the ‘‘care and management’’ of taxes and duties.

Section 81 contains provisions relating to the short title, construction and commencement of the Bill.

An Roinn Airgeadais,
Deireadh Fómhair, 2013.

Wt. —. 1,276. 10/13. Clondalkin. (40597). Gr. 30-15.