An Bille Airgeadais, 2022
Finance Bill 2022

Meabhrán Míniúcháin
Explanatory Memorandum

AN BILLE AIRGEADAIS, 2022
FINANCE BILL 2022

EXPLANATORY MEMORANDUM

PART 1

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

Chapter 1

Interpretation

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

Chapter 2

Universal Social Charge

Section 2 amends section 531AN of the TCA 1997 as follows:

i. to raise the USC 2 per cent threshold from €21,295 to €22,920 for the 2023 year of assessment.

This change is made in line with the increases in the national minimum wage applicable in 2023 and will ensure that the 2 per cent rate remains the highest rate of USC that is charged on the income of full-time minimum wage workers.

ii. to extend the reduced rate of USC for full medical card holders under 70 years of age whose individual annual income does not exceed €60,000 for a further year until the end of the 2023 tax year.

Chapter 3

Income Tax

Section 3 inserts a new section 192L into the TCA 1997 and provides an exemption from income tax, USC and PRSI in respect of the ex-gratia payment in respect of an incorrect birth registration of €3,000 per individual.

The payment will be made further to the decision of the Government of 8 March 2022, and will be made by or on behalf of the Minister for Children, Equality, Disability, Integration and Youth.

Section 4 amends section 203 of the Taxes Consolidation Act 1997 as follows:

i. to provide an exemption from income tax for a payment known as Covid-19 Related Lay-off Payment (“CRLP”). This payment was legislated for under the Redundancy Payments (Amendment) Act 2022 and, subject to certain conditions, is payable to individuals who lost the opportunity to accrue reckonable service due to layoffs as a result of Covid-19 related restrictions during the period 13 March 2020 to 31 January 2022. The tax exemption applies to payments made on or after 19 April 2022.

ii. to remove references to obsolete provisions of the Redundancy Payments Act 1967, namely the term “weekly payment” and any payment made “under section 46 of the Redundancy Payments Act 1967”.

Section 5 amends section 477C of the TCA 1997 to extend the enhanced Help to Buy (HTB) relief for a further two years. The HTB scheme provides income tax relief to assist first-time buyers with obtaining the deposit required to purchase or build their first home. Enhanced HTB relief was introduced in July 2020 on a temporary basis. The enhanced HTB relief, which was extended for 12 months in Finance Act 2021, is set to expire on 31 December 2022. This amendment provides for a further extension of the enhanced HTB relief for two years to 31 December 2024.

Section 6 amends subsection (1) of section 112B of the TCA 1997. This section of the TCA 1997 provides for an exemption from Income Tax, PRSI and USC, where an employer provides an employee with a qualifying incentive, where all of the conditions contained within the provision are satisfied.

This amendment will insert a new definition of qualifying incentive which provides for:

a) an increase in the combined aggregate value of benefits or vouchers an employer can give in a tax year to a maximum of €1,000 (from €500) and

b) an increase in the combined number of qualifying vouchers and benefits that can be given in a tax year from one to two.

The above changes will apply for 2022 and subsequent years.

Section 7 amends section 118(5G) of the TCA 1997. This section provides an employee with an exemption from benefit-in-kind (Income Tax, PRSI and USC) on the first €1,250/€1,500 of expenditure incurred by an employer in connection with the provision of a bicycle/pedelec and/or safety equipment to an employee or director, where all of the conditions contained within the provision are satisfied.

The amendment extends the benefit-in-kind exemption to cargo bicycles and e-cargo bicycles (i.e. pedelec configuration) by increasing the threshold to €3,000.

The changes will apply from 1 January 2023.

Section 8 inserts a new section 897C into Chapter 3 Part 38 of the TCA 1997, to provide for the automatic reporting to the Revenue Commissioners by employers in respect of three specific measures, collectively referred to as “reportable benefits”. Such reportable benefits are made without the deduction of tax. The reportable benefits are: the remote working daily allowance of €3.20, the payment of travel and subsistence expenses, and the small benefit exemption. The reporting of such measures will align to the existing mechanisms used for payroll purposes. In order to allow for stakeholder engagement on the measure, it will be subject to a commencement order.

Section 9 gives effect to the budget announcement to increase the standard rate band and a number of tax credits, with effect from 1 January 2023.

The standard rate band for a single person will be increased by €3,200 to €40,000, with commensurate increases in the bands applying to those in receipt of the single person child carer tax credit, married persons and persons in civil partnerships.

The basic personal tax credit available to married persons and civil partners jointly assessed to tax will increase from €3,400 to €3,550, while in all other cases the value of the tax credit will increase from €1,700 to €1,775.

The value of the home carer tax credit will be increased from €1,600 to €1,700.

The value of both the employee tax credit and earned income tax credit will also increase from €1,700 to €1,775. Where an individual is entitled to both the employee tax credit and the earned income tax credit in the same year of assessment, the aggregate of credits available to him or her under these two provisions will not exceed €1,775.

Section 10 extends the sea-going naval personnel credit by one further year, to the 2023 year of assessment. The value of the credit remains unchanged at €1,500.

Section 11 amends section 480B of the TCA 1997 which provides for relief arising in a 'Week 53' scenario.

This amendment firstly provides for the application of section 480B TCA 1997 to the Sea-going Naval Personnel Credit from 1 January 2023. Therefore, where a Week 53 scenario arises, the value of that tax credit will be proportionately increased by one fifty-second for individuals paid on a weekly basis, and one twenty-sixth for individuals paid on a fortnightly basis.

This amendment also clarifies the manner in which the provisions of section 480B TCA 1997 apply to the Home Carer Tax Credit. The amendment provides that the income threshold of €7,200, applied when determining if the 'home carer' qualifies for a full or partial tax credit, will be proportionately increased. The proportionate increase is again equal to one fifty-second for individuals paid on a weekly basis, and one twenty-sixth for individuals paid on a fortnightly basis.

This amendment also provides that where a home carer has emoluments from two sources (one of which is paid weekly and one of which is paid fortnightly) and a Week 53 scenario arises in respect of both of those sources, the increased income threshold will apply based on whichever of those income sources is most beneficial to the home carer.

The provisions related to the Home Carer Tax Credit establishes a statutory footing for a practice currently operated by the Revenue Commissioners on an administrative basis and will not involve any change in tax treatment applicable to home carers.

Section 12 inserts a new section 473B into Chapter 1 Part 15 of the Taxes Consolidation Act 1997, to provide for a new income tax credit in respect of rental payments. This credit will apply in relation to the 2022 to 2025 years of assessment, inclusive. The value of the tax credit is equal to the lesser of 20 per cent of the qualifying payment made and €500, or €1,000 in the case of a jointly assessed couple. Thus, a maximum credit of €500 per claimant will apply or €1,000 in the case of a jointly assessed couple. Rental payments in respect of an individual's principal private residence, a

residence to facilitate work or college or a residence of a qualifying child attending college will, subject to satisfying the required conditions, qualify for relief. The relief will be given on foot a claim being made to Revenue by the individual.

Section 13 amends section 823A of the TCA 1997 which provides for the Foreign Earnings Deduction. The section provides for an extension of the scheme to 31 December 2025.

Section 14 amends section 825C of the TCA 1997 in relation to the Special Assignee Relief Programme, which is being extended for a further 3 year period until 31 December 2025. To qualify for the relief, an employee will be required to hold a PPS number and the employer must also confirm that it has complied with its PAYE commencement obligations as outlined in the *Income Tax (Employments) Regulations 2018.* In addition, a relevant employee who first arrives in the State on or after 1 January 2023 will require a minimum annualised relevant income of €100,000 to benefit from the relief.

Section 15 introduces a new section 200A of the TCA 1997 on the treatment of lump sums drawn down from foreign pension arrangements.

With effect from 1 January 2023, an individual who is paid a lump sum from a foreign pension arrangement, which is not subject to the provisions of section 790AA, may claim a tax-free exemption of €200,000 on the lump sum. Amounts in excess of this tax-free limit are subject to tax in two stages. The portion between €200,000 and €500,000 is taxed at the standard rate of 20 per cent while any portion above that is taxed at the individual's marginal rate of tax and USC. The standard rate charge is effectively "ring-fenced" so that no reliefs, allowances or deductions may be set or made against that portion of a lump sum subject to that charge.

These limits are lifetime ones and as such, all lump sums from a foreign pension arrangement which are paid to a resident individual after 1 January 2023 will "use up" these limits, in addition to all prior lump sums subject to the provisions of section 790AA which were paid before or after 1 January 2023.

The portion of a lump sum which is charged at the standard or marginal rate of income tax is regarded as income of the individual for the tax year in which the lump sum is paid and accordingly, it is charged to tax under Case III of Schedule D and subject to income tax self-assessment provisions.

Section 16 introduces a new Chapter 2D into Part 30 of the TCA 1997 that provides the taxation and relief rules for the pan-European Personal Pension Product (PEPP) which has been introduced as required under Regulation (EU) 2019/1238 of the European Parliament and of the Council of 20 June 2019. A PEPP will be a contract-based product between an individual and a PEPP provider in the form of an investment account. PEPPs are of a similar nature to the equivalent Irish product, the Personal Retirement Savings Accounts (PRSA).

Chapter 2D comprises nine new sections. PEPPs will be taxed according to the "Exempt-Exempt-Taxed" or "E-E-T" system that applies to Irish pension products. This means taxpayers who invest in a PEPP will get tax relief subject to certain limits, and the growth of the funds will be exempt, and tax will apply on pension payments drawn down from the fund, with the exception of a tax-free lump sum.

The taxation measures for PEPPs are modelled on the existing PRSA tax provisions in Chapter 2A TCA. The key features of the provisions include:

- tax relief for PEPP savings by individuals is calculated by reference to net relevant earnings and is subject to an overall earnings cap of €115,000;
- tax relief for employer contributions to a PEPP for an employee;
- relief for PEPP contributions is given in respect of relevant earnings from any trade, profession, office or employment carried on by an individual and allowable;
- contributions are deducted from or offset against relevant earnings for the year in which the contributions are paid;
- claims to relief must be in in the prescribed form detailed by the Revenue Commissioners, and Revenue decisions on relief can be appealed to the Tax Appeals Commission;
- the maximum allowable contribution and thresholds which apply to relief on PEPP contributions (subject to the overall earnings cap of €115,000 mentioned above) are-

Up to age 30	15% of remuneration
30 to 39	20%
40 to 49	25%
50 to 54	30%
55 to 59	35%
60 and over	40%

- payments from a PEPP will generally be taxed under PAYE but certain payments may be made without deduction of tax, such as the tax free lump sum at retirement or the transfer for PEPP assets to an ARF;
- rules for payments to beneficiaries following the death of a PEPP saver;
- rules for the "vesting" of PEPPs where the beneficiary reaches age 75 are, as well as subjecting the vested PEPP to the "imputed distribution" regime; and
- provision for an Approved Retirement Fund option for PEPP savers at the time their assets become available to them.

Section 17 contains a number of consequential amendments to the TCA 1997, the Capital Acquisition Tax Consolidation Act 2003 and the Stamp Duties Consolidation Act 1999 as a result of the insertion of a new Chapter 2D into the TCA 1997 which provides a framework for the Pan-European Personal Pension Product (PEPP.) These changes are being made to ensure that PEPP products are subject to the same taxation, relief, and administration provisions as set out for Personal Retirement Savings Accounts (PRSAs) and will be taxed according to the "exempt-exempt-taxed" or "E-E-T" system in common with other Irish pension products.

The provisions amended in the TCA 1997 include:

- section 110, to provide that the payment of profit participating interest is tax deductible where it is paid to a PEPP;
- section 172A, to include relevant definitions of PEPP in the interpretation section relating to Dividend Withholding Tax (DWT);
- section 172C, to include a PEPP distribution in the exemptions from DWT for relevant distributions made by a company resident in the State to a person who is beneficially entitled to the distributions;
- section 256, to include relevant definitions of PEPP in the interpretation section relating to interest payments by certain deposit takers in relation

to DIRT and to add the PEPP to the list excluded from the definition of "relevant deposit" in relation to DIRT;

- a new section 263F, which sets out the details of new "Declarations relating to deposits made by a PEPP provider held for a PEPP" for the purposes of section 256;
- section 531AM. to exclude contributions from an employer to a PEPP from being chargeable to USC;
- section 608, to provide for the exclusion of disposal of investment assets held in a PEPP for CGT purposes;
- section 706, to provide that payments to PEPPs are qualifying premiums for pension business, in relation to Life Assurance Companies;
- section 730D, to include PEPP providers in the list of policyholders in relation to chargeable events not giving rise to a gain;
- section 730E, to set out the details required to be included in the declarations by PEPP providers to an assurance company for the life policy concerned to be exempt from exit tax on a gain arising on a chargeable event;
- section 739D, to provide for the inclusion of PEPP and PEPP provider in the cases where a chargeable event in respect of a unit holder does not arise to an investment undertaking in the case of certain persons/ entities that comply with a declaration procedure;
- section 739K, to include relevant definition of PEPP and insertion in "specified person" of a PEPP and vested PEPP in part (a);
- section 739KA, to provide that a contributor to a PEPP is a member of a pension scheme for the purposes of this section;
- section 783, to provide that when calculating the amount of any reduction in net relevant earnings for contributions to a retirement annuity, a PEPP contribution shall also be treated as qualifying for the purpose of applying the age-related limits;
- section 787E to state that any contribution made to a PEPP will reduce the maximum amount of relief available to a PRSA contribution by that amount;
- sections 787M and 787N to include a PEPP in the definition of overseas pensions plan and relevant migrant member, to sets out the mechanism for claims to relief in relation to contributions to a PEPP subaccount;
- section 787O, to include a PEPP in the limit on tax-relieved pension funds regime;
- section 787Q, to allow a fund administrator to use the assets of a vested PEPP fund to satisfy a tax liability of a non-member where a chargeable excess arises on a pension adjustment order;
- section 787R, to include the PEPP in the chargeable excess tax regime;
- section 788, to ensure that any PEPP assets used to purchase an annuity shall not be subject to that section, concerning purchased life annuities;
- section 790A, to include PEPP in the limit on earnings for the purposes of tax relief;
- section 790AA, to include PEPP lump sums in the taxation of lump sums in excess of the tax free amount;

- section 790D, to include PEPP in the imputed distribution regime, by the inclusion of the definition for vested PEPPs - this definition replicates the current treatment of a vested PRSAs;
- section 897A, to include employer PEPP contributions in returns by employers;
- section 986, to include PEPP in the regulations for collection and recovery of income tax on certain emoluments (PAYE system);
- Schedule 2A, by inserting a new part 12 “Declaration to be made by a PEPP provider” arising from the amendment to section 172C, which provides a series of conditions which must be adhered to by the PEPP provider regarding their administration of a PEPP on behalf of a PEPP beneficiary;
- Schedule 2B, by inserting a new “Declaration of a PEPP provider” arising from the amendment to section 739D;
- Schedule 2C, by inserting new parts 12 and 13 which details ‘Declaration of PEPP providers’ and ‘Declaration of PEPP providers regarding PEPPs and vested PEPPs’ respectively arising from the amendment to section 739K;
- Schedule 23B, to include PEPP in the provisions dealing with the limit on tax-relieved pension funds; and
- Schedule 34, to include PEPP in the provision dealing with specified arrangements referred to in Section 817RI.

The Capital Acquisitions Tax Consolidation Act 2003 is amended to include references to PEPP within the meaning of Chapter 2D of the TCA 1997.

The Stamp Duties Consolidation Act 1999 is amended to include PEPP under existing definitions of ‘pension scheme’, ‘administrator’ and ‘scheme’. It also contains a new reference to PEPP within the meaning of Chapter 2D of the TCA 1997.

Section 18 amends section 118 of the TCA 1997 to exempt an employer contribution to an employee’s PRSA or PEPP from an income tax charge to Benefit-in-kind (BIK). This is a recommendation of the Inter-departmental Pensions Reform and Taxation Group (IDPRTG). The section also deletes subsection (2) of section 787E TCA 1997, which treated both employer and employee contributions to a PRSA for the purposes of the tax relief as if they had been made by the employee. This is no longer required following the abolition of the BIK charge.

The section also makes two consequential amendments to the TCA 1997: the definition of “PRSA employer contribution” in section 897A (which requires employer to provide statistical details on payments through payroll systems) is updated to change an obsolete legislative reference; and reference to employer PRSA contributions is removed from section 985A (which deals with the application of the PAYE system to certain perquisites).

Section 19 amends Schedule 13 of the TCA 1997, by removing from the list one entity that is no longer an accountable person required to operate Professional Services Withholding Tax, by adding three entities that are now accountable persons and by amending the wording of one entry.

Section 20 inserts a new section 216E into the TCA 1997 to provide for an exemption of up to €20,000 from income tax, for certain profits arising from the production, maintenance and repair of certain musical instruments. The exemption is available to individuals who are chargeable

to tax in respect of profits arising from the production, maintenance and repair of early Irish harps, Irish lever harps and uilleann pipes.

Chapter 4

Income Tax, Corporation Tax and Capital Gains Tax

Section 21 provides for the extension of the property incentive scheme known as the Living City Initiative until 31 December 2027. Qualifying expenditure incurred on refurbishment or conversion work carried out up to this new termination date may qualify for tax relief under the scheme.

Secondly section 372AAB of the TCA 1997 is being amended to provide that relief for qualifying expenditure incurred on or after 1 January 2023 is allowed over 7 years at a rate of 15 per cent in the first 6 years and 10 per cent in the final year. A new subsection is also being inserted which allows for the carry forward of relief which is unused in the 7 year period. An individual may carry forward unused relief for up to 9 years after the year in which the claim is first made.

Section 22 amends the treatment of capital sums received for the sale of patent rights.

Paragraph (a) provides for the application of section 617 to section 757 with the necessary modifications. This provides relief for intra-group transfers of patent rights in a similar manner to the relief which is available to intra-group transfers of patents. Relief is provided by deeming that the sale of patent rights intra-group occurs at such an amount that neither a gain nor a loss arises to the selling company and the purchaser is treated as acquiring the patent rights for that same amount.

Paragraph (b) is a technical amendment confirming that the outright sale of a patent or a patent pending is not a sale of patent rights. This confirms that the sale of a patent is chargeable to CGT, whereas the sale of patent rights for a capital sum is subject to tax as income.

Section 23 amends sections 766, 766A and 766B of the Research and Development (R&D) tax credit regime and introduces two new sections, section 766C and section 766D, into Chapter 2 of Part 29 of the Taxes Consolidation Act 1997 (TCA). These changes are being made to reflect international tax changes. These are timing changes and do not affect the quantum of credit that a company is entitled to claim.

This section also repeals the non-commenced provisions relating to micro and small sized companies, which it is not possible to commence for State aid reasons.

The amendments introduced are as follows:

- The current system, which offsets the R&D tax credit against corporation tax liabilities followed by three payable instalments, is being changed to a new three-year fixed payment schedule.
- A company will have an option to call for payment of their eligible R&D tax credit or to request for it to be offset against other tax liabilities.
- Existing caps on the payable element of the credit are being removed.
- The first €25,000 of a claim on R&D expenditure will now be payable in full, to provide a cash-flow benefit for smaller R&D projects and encourage more companies to engage with the regime.
- Pre-trading expenditure incurred on qualifying R&D activities can be claimed as a payable R&D credit over a three-year period from the year that the company commences to trade.

- Transitional measures will be in place for one year, to smooth the transition to the new payment system for companies already engaged in research & development activities.

Section 766B is amended such that the caps which were imposed on the amount of the payable R&D tax credit no longer apply for accounting periods beginning on or after 1 January 2022.

Two new sections are being introduced, section 766C (relating to R&D expenditure other than on a building or structure) and section 766D (relating to qualifying R&D expenditure on a building or structure), to apply for accounting periods beginning on or after 1 January 2022. These sections introduce the new system for payment or offset of the R&D corporation tax credit. A company will have the option to specify whether the R&D corporation tax credit is to be offset against the company's tax liabilities or is to be paid to the company.

Section 766C provides that the R&D corporation tax credit in respect of qualifying expenditure (other than expenditure on buildings or structures) will be payable over up to three years, as follows:

- The first payable instalment in year one, shall equal the greater of:
  - €25,000, or if lower, the amount of the R&D corporation tax credit, or
  - 50 percent of the amount of the R&D corporation tax credit.
- The second payable instalment in year two, shall be three-fifths of the remaining balance of the R&D corporation tax credit.
- The last payment in year three shall be the remaining balance of the R&D corporation tax credit in respect of the accounting period, less the sum of the first and second instalment amounts.

Section 766D provides for payment of the R&D credit over a three-year period in respect of expenditure on buildings or structures used for qualifying R&D activities, as set out below:

The first payable instalment in year one shall be 50% of the R&D corporation tax credit.

The second payable instalment in year two, shall be three-fifths of the remaining balance of the R&D corporation tax credit.

The last payment in year three shall be the remaining balance of the R&D corporation tax credit in respect of the accounting period, less the sum of the first and second instalment amounts.

The new provisions provide for the payment of the R&D corporation tax credit in full within 48 months from when a valid claim is made and where all conditions to qualify for the R&D corporation tax credit are met, which includes satisfying Revenue Commissioners in respect of the company's entitlement to the R&D corporation tax credit claim by furnishing any information which may reasonably be required.

The section also sets out the relevant interest and penalty provisions and other administrative matters.

Section 24 is a consequential technical amendment, following from the new payment mechanisms for the R&D tax credit introduced in section 23 above. Section 24 amends section 472D of the Taxes Consolidation Act 1997 (TCA) which contains the key employee relief provisions for the R&D tax credit. This section updates cross-references in section 472D to the main R&D tax credit provisions to also include reference to the new

section 766C, which will contain the new payment mechanisms for the R&D tax credit.

Section 25 amends section 97A of the TCA 1997, which provides that expenses incurred on a vacant residential premises prior to it being first let after a period of non-occupancy are authorised as a deduction against rental income from that premises. The cap on allowable pre-letting expenses has been increased from €5,000 to €10,000 and the minimum period for which a property must be vacant has been reduced from 12 months to 6 months.

Section 26 amends Schedule 4 and Schedule 15 of the TCA 1997, to include the National Standards Authority of Ireland (NSAI) in the list of specified non-commercial state-sponsored bodies that qualify for exemption from tax on certain income which would otherwise be chargeable under cases III, IV and V of Schedule D, and on chargeable gains under section 610 of the TCA 1997.

The NSAI is a non-profit making body and is being made exempt from taxation in order to avoid circular payments in and out of the Exchequer. The exemptions are to take effect from the date of establishment of the body.

Section 27 makes three amendments to Part 16 of the TCA 1997, in respect of Relief for Investments in Corporate Trades. Those reliefs include the Employment Investment Incentive ("EII"), Start-Up Relief for Entrepreneurs ("SURE") and Start-Up Capital Incentive ("SCI"). The amendments are to sections 500, 508A and 508U as follows:

- Section 500 TCA 1997 provides that an individual is not a qualifying investor if that individual or an associate of that individual is connected with the company within the meaning of the section. An associate includes a partner of that individual. The section is amended to provide an exception to the connected persons provisions in respect of persons who are partners solely as a result of being partners in a partnership constituting a qualifying investment fund within the meaning of Part 16. This exception does not extend to partnerships arising in any other circumstances. It is confined in its application to Part 16 relief only.
- Section 508A TCA 1997 amends the information to be included in statements of qualification to reflect the amendment made by Finance Act 2019 to allow relief in respect of the full investment made under the Employment Investment Incentive Scheme (EII) and the Start-Up Capital Incentive Scheme (SCI) to be claimed in the year of investment. The section now provides that a statement of qualification must include either the amount of the investment that qualifies for relief under section 502(2)(a) where shares were issued on or before 8 October 2019 or section 502(2A) where shares were issued after 8 October 2019.
- Section 508U TCA 1997 is amended to provide that, where the legislation requires, the full amount of the Employment Investment Incentive (EII) relief claimed by an individual investor may be recovered from the company in which the investment has been made for investments made on or after 1 January 2023.

Section 28 amends section 835D of the TCA 1997 by updating the definition of “transfer pricing guidelines”. This amendment will require the transfer pricing rules to be construed, as far as practicable, in accordance with the 2022 version of the OECD Transfer Pricing Guidelines. The rules previously referred to the 2017 version of the OECD Transfer Pricing Guidelines.

This amendment applies to chargeable periods commencing on or after 1 January 2023.

Section 29 amends section 743(1)(b) of the TCA 1997, which provides that an interest in a unit trust scheme, the trustees of which are not resident in the State, will be considered to be an interest in an offshore fund. The amendment clarifies that an authorised unit trust, the general administration of which is carried on in the State, will not be treated as an offshore fund solely on the basis that its trustee is an Irish branch of a company resident in another EU or EEA Member State.

Section 30 amends Section 731, Section 739I and Section 739J of the TCA 1997.

Section 731(5)(a)(iii) provides that an Exempt Unit Trust ('EUT') is required to make an annual statement to the Revenue Commissioners. The amendment provides that additional information is required to be included in the annual statement in relation to the assets and business activities of the EUT.

Section 739I(4) provides that a Common Contractual Fund ('CCF') is required to make an annual statement to the Revenue Commissioners. The amendment provides that additional information is required to be included in the annual statement in relation to the assets and the business activities of the CCF. The amendment also inserts a new subsection, providing for the introduction of a €3,000 penalty where the management company of a CCF fails to submit an annual statement or submits an incomplete or incorrect annual statement.

Section 739J(3) provides that an Investment Limited Partnership ('ILP') is required to make an annual statement to the Revenue Commissioners. The amendment provides that additional information is required to be included in the annual statement in relation to the assets and the business activities of the ILP. The amendment also inserts a new subsection providing for the introduction of a €3,000 penalty where the partners of an ILP fail to submit an annual statement or submit an incomplete or incorrect annual statement.

Chapter 5

Corporation Tax

Section 31 amends section 79(1)(a) of the TCA 1997 by inserting a new definition for a "relevant monetary item" in order to amend the treatment of gains or losses resulting from foreign exchange movements in certain circumstances relating to trading activities.

Section 79 provides that foreign exchange movements on 'relevant monetary items' will, for corporation tax purposes, be treated as part of profits or losses of a company's trade rather than subject to capital gains tax. This amendment expands the definition to include trade debtors and trading bank accounts. This will allow for foreign exchange gains or losses in respect of trade debtors and non-Euro currency deposits held in a trading bank account to be treated in the manner that currently applies to foreign exchange gains or losses on trade creditors and Euro currency deposits held in a trading bank account.

Section 32 introduces technical amendments to Part 35D of the TCA 1997 that contains the interest limitation rules introduced in Finance Act 2021 as required by the Anti-Tax Avoidance Directives. The amendments are required to ensure that the interest limitation and associated preliminary tax rules operate as intended. This includes a clarification of the operation of the exemption for interest on legacy debt, to specify that a "first-in-first-

out” basis applies where there is a repayment in respect of facilities which have a mixture of legacy debt and non-legacy debt.

Section 33 amends the Knowledge Development Box (KDB) in section 769Q to extend the relief available to companies for a further four years, to include accounting periods beginning before 1 January 2027.

The section also provides for a number of other amendments, subject to a commencement order to be issued by the Minister for Finance. It is intended that these amendments will be commenced from a date which will be determined by reference to international progress on implementation of the Pillar Two Subject to Tax Rule. Firstly, the rate of the allowance given as a trading expense is amended in section 769I to 20 per cent of the qualifying profits, to give a new effective rate of 10 per cent for profits within scope of the KDB. Secondly, section 769K is amended to reflect the new effective rate of 10 per cent when allowing relief for losses incurred by a company on activities that qualify for relief.

Section 34 amends section 481 to extend the final date when films can be certified as qualifying for the film corporation tax credit from 31 December 2024 to 31 December 2028. This amendment will be commenced at a future date, subject to EU State aid approval.

Section 35 makes a number of technical amendments to section 481A of the TCA 1997 in respect of digital games relief, to ensure compliance with State aid requirements and make minor technical corrections, as follows:

- The first is to amend the definition of a digital games development company and the requirements under section 481A(13) that must be met by such a company at the time of making a claim for the credit. The amendments are to provide:
- that, where a company is resident in an EEA State other than the State, the requirement that it must carry on business in Ireland through a branch or agency applies only at the time of making a claim, and
- that the requirement that a digital games development company has filed a Corporation Tax return applies at the time of making a claim for the credit only.
- The second is to amend the definition of “qualifying expenditure” in section 481A(1) to provide that such expenditure is as determined in accordance with regulations made under subsection (17).
- The third is to delete the word “relevant” from the reference to “relevant Member State” in subsection (14)(d)(ii) as the provision is intended to apply to all Member States.
- The fourth is to amend section 481A(16)(a) to refer to EEA States instead of Member States of the European Communities.

Section 36 amends subsection (1) of section 835YA of the TCA 1997 which provides for defensive measures, involving the disapplication of exemptions, against controlled foreign companies (CFCs) resident in jurisdictions listed in Annex I of the EU list of non-cooperative jurisdictions for tax purposes (the list), for an accounting period. The amendment takes account of the October 2022 update to the list which takes effect for CFCs with accounting periods beginning on or after 1 January 2023.

PART 2

EXCISE

Section 37 confirms the Budget changes to Mineral Oil Tax (MOT) rates to come into effect from 12 October 2022 and for further rate changes to come into effect from 1 March 2023.

The amendment provides for the extension of reductions in certain MOT rates which were introduced earlier in 2022. Provision was made in Finance (Covid-19 and Miscellaneous Provisions) Act 2022 for these MOT rate reductions to be reversed from 12 October 2022. The reversal of these reductions will now be implemented from 1 March 2023.

The amendment further provides for increases in MOT rates, as set out in Schedule 2 of Finance Act 1999, on auto-fuels (light oils and heavy oils used as propellants, for air navigation or for private pleasure navigation), effective from 12 October 2022. These MOT rate changes arise from increases in carbon charge rates, as set out in Schedule 2A of Finance Act 1999, which came into effect on 12 October 2022.

Section 38 confirms the Budget increases in the rates of Tobacco Products Tax. The Tobacco Products Tax rate increase amounts to 50 cents on a pack of 20 cigarettes in the most popular price category, on a VAT inclusive basis, with pro-rata increases on other tobacco products.

Section 39 Subsection 1 (a) amends section 78A of Chapter 1 of Part 2 of the Finance Act 2003 to provide for an increase to the production threshold for eligibility to claim relief from alcohol products tax on beer brewed in small breweries. The production threshold is raised to 75,000 hectolitres per annum, the limit on the amount of relief granted remains unchanged at up to 30,000 hectolitres per annum.

Subsection 1(b) amends section 78B of the Finance Act 2003 to clarify that self-certification requirements apply to small independent producers (within the State) of beer, wine, other fermented beverages, intermediate products and ethyl alcohol who wish to avail of reduced rates in other Member States.

Subsection 1(c) inserts a new section 78C into the Finance Act 2003 which provides for an excise relief scheme allowing reduced rates of alcohol products tax on cider and perry produced by small independent producers. This section transposes Article 13a of Council Directive 92/83/EEC (as amended by Council Directive (EU) 2020/1151) into National law.

Section 40 provides for the reduction in excise duty on special exemption orders (SEO’s) announced in Budget 2023. The rate of duty is reduced to €55 and is applicable to SEO’s granted on and after 28 September 2022.

Special Exemption Orders are granted by the District Court to holders of on-licences and permit the sale and consumption of alcohol in licensed premises beyond normal trading hours. For example, nightclubs and late bars require a special exemption order to operate past normal closing time.

Section 41 amends section 67 of Chapter 1 of Part 2 of the Finance Act 2002, which outlines the sum of any bet when calculating for tax purposes. The amendment will clarify that the amount of the bet shall be the unit stake when a bet placed with a bookmaker is wholly or partially on foot of an offer (including a 'free' bet). This means that where a person places a free bet, it is taxable at the value of the bet.

Section 42 amends section 126 of Finance Act 2001 by inserting a new subsection (7). This clarifies that the time limits for prosecution of summary offences do not apply where an offence under excise law is triable either on

indictment in the Circuit Court or on a summary basis in the District Court. This type of offence is known as a hybrid offence. This amendment applies to proceedings initiated after the coming into operation of this section.

PART 3

VALUE-ADDED TAX

Section 43 is a definitions section.

Section 44 amends Section 46 of the Value-Added Tax Consolidation Act 2010 to provide for the extension of the 9 per cent rate on the supply of electricity and gas until 28 February 2023.

Section 45 amends Section 59 and Schedule 1 of the Value-Added Tax Consolidation Act 2010 as regards input VAT deductions incurred in respect of dealing in new stocks, new shares, new debentures or new securities for raising capital which will now be subject to deduction under general provisions.

Section 46 amends Section 65 of the Value-Added Tax Consolidation Act 2010 to provide that a person who registers for VAT in respect of domestic-only transactions but subsequently engages in intra-Community trade, is required to notify the Revenue Commissioners of this engagement within 30 days of that engagement.

Section 47 amends Section 86 of the Value-Added Tax Consolidation Act 2010 to provide that the flat-rate addition for farmers is to be reduced to 5 per cent.

Section 48 amends Section 108 and Section 115 of the Value-Added Tax Consolidation Act 2010 to allow the Revenue Commissioners to request information from financial institutions where such information has been requested by another Member State under the provisions of Council Regulation (EU) 904/2010 and to provide for the application of a penalty where a request served on a financial institution by the Revenue Commissioners is not complied with.

Section 49 amends paragraph 2(3) of Schedule 1 to the Value-Added Tax Consolidation Act 2010 to clarify that the persons who may supply exempt medical care services under this provision are registered medical professionals and registered members of designated health and social care professions as provided for by the Department of Health.

Section 50 amends paragraph 3(1) of Schedule 1 to the Value-Added Tax Consolidation Act 2010 to provide for the extension of the exemption from VAT currently in place for independent groups of persons (also known as cost-sharing groups) to members who also carry out taxable activities, in line with recent Court of Justice of the European Union judgements.

Section 51 amends paragraph 6(2) of Schedule 1 to the Value-Added Tax Consolidation Act 2010 to clarify that financial funds subject to Directive 2009/65/EC (the Undertakings for Collective Investment in Transferable Securities Directive) and Directive 2011/61/EU (the Alternative Investment Funds Managers Directive) and which are registered in other EU Member States are exempt from VAT, similar to equivalent financial funds registered in the State.

Section 52 amends paragraph 6(2) of Schedule 1 to the Value-Added Tax Consolidation Act 2010 to remove section 110 companies holding ‘qualifying assets’ in the form of plant and machinery from the VAT exemption for fund management. This will come into effect from 1 March 2023.

Section 53 amends paragraph 7 of Schedule 1 to the Value-Added Tax Consolidation Act 2010 to provide that the provision of agency services related to the management of an undertaking specified in paragraph 6(2) of Schedule 1 is not exempt from VAT.

Section 54 amends Schedule 2 to the Value-Added Tax Consolidation Act 2010 to remove the wording "preparations and extracts derived from milk" from Paragraph 8 of column (2)(c) of Part E of the food and drink table of Schedule 2.

Section 55 amends Schedules 2 and 3 to the Value-Added Tax Consolidation Act 2010 to provide for, with effect from 1 January 2023, the application of the zero rate of VAT to the supply of:

- newspapers, including e-newspapers,
- menstrual cups, menstrual pants and menstrual sponges,
- non-oral hormone replacement therapy medicine and non-oral nicotine replacement therapy medicine, and
- automated external defibrillators, including parts or accessories suitable for use solely or principally with an automated external defibrillator.

PART 4

STAMP DUTIES

Section 56 is the interpretation section for Part 4. It provides that in Part 4 the "Principal Act" means the Stamp Duties Consolidation Act 1999.

Section 57 amends section 31E of the Stamp Duties Consolidation Act 1999. Section 31E provides for a higher stamp duty rate of 10 per cent to be charged where a person acquires 10 or more residential units (excluding apartments) in any 12-month period.

This section clarifies that section 31E applies where there is an acquisition of a partial interest in a residential unit, and not just a full interest in a residential unit. It further clarifies that where a person acquires a partial interest in a residential unit, that partial interest, expressed as a fraction, will be taken into account for the purposes of determining whether the 10-unit threshold has been met.

This section also amends section 31E(7) by excluding acquisitions by home reversion firms pursuant to a home reversion agreement, as defined by the Central Bank Act 1997, from the scope of section 31E.

Section 58 amends section 83D of the Stamp Duties Consolidation Act 1999. Section 83D provides for a refund of the difference between the stamp duty rate of 2 per cent on transfers of non-residential property that applied prior to 11 October 2017 and subsequent higher rates (currently 7.5 per cent) where land is subsequently developed for residential purposes.

This amendment extends the availability of relief by extending the final date by which construction must be commenced to qualify for a refund to 31 December 2025.

Section 58 also corrects three incorrect cross references to subsection (4)(b) in section 83D.

Section 59 inserts two new sections 83DA and 83DB into the Stamp Duties Consolidation Act (SDCA) 1999 which provide for refunds of stamp duty in relation to residential property. It also repeals two existing sections which are made redundant by the insertion of section 83DB.

Paragraph (a) inserts the two refund provisions.

Section 83DA provides for a full repayment of stamp duty charged at the residential rate of 1 per cent (amounts up to €1 million), 2 per cent (amounts in excess of €1million) or 10 per cent (pursuant to section 31E SDCA 1999). A repayment will be made where a residential property is acquired and then sold, within 12 months of acquisition, for the purpose of affordable home arrangements under the Affordable Housing Act 2021. The conditions are that the residential property must be purchased by a person who enters into a "direct sales agreement" with a local authority in relation to the sale of the residential property to an eligible applicant nominated by a local authority and subsequently sells the property to such an eligible applicant.

Section 83DB provides for a partial repayment of stamp duty charged on the acquisition of residential properties at the higher 10 per cent rate pursuant to section 31E SDCA 1999 where certain conditions are met.

This section not only provides for two new partial repayment schemes but amalgamates the new schemes with two existing partial repayment schemes that are currently provided for in sections 83E and 83F SDCA 1999.

Under section 83DB, a partial repayment of stamp duty may be available, if certain conditions are satisfied, in respect of properties that have been:

- let to a housing authority or an approved housing body for social housing purposes, or
- designated as cost rental dwellings under the Affordable Housing Act 2021, or
- registered as designated centres under the Health Act 2007, which provide care in the community for those with special needs, or
- registered as children's residential centres under the Child Care Act 1991, which provide homes for children in care.

Paragraph (b) repeals sections 83E and 83F, as these sections will be redundant with the enactment of section 83DB.

Sections 83DA and section 83DB are subject to a commencement order.

Section 60 amends Part 6 of the Stamp Duties Consolidation Act (SDCA) 1999, the provisions of which provide for stamp duty to be charged on the electronic trading in securities.

The legislation is amended to clarify that Chapter 2 applies to electronic transfers of interests in securities only and therefore does not apply to written instruments such as stock transfer forms. Chapter 2 is also amended to limit the record-keeping obligations that apply where there is transfer of securities (or an interest in securities) in a settlement system, the operator of which has an agreement in place with the Revenue Commissioners for the collection of stamp duty. In such circumstances, the record-keeping obligations will only apply to the person who enters the transfer order in the settlement system. In all other circumstances, the record-keeping obligations of Chapter 2 will remain with all parties to a securities transaction. In addition, the compliance provisions in section 134A SDCA 1999 and record keeping requirements in section 159C SDCA 1999 are updated to include transfer orders referred to in Chapter 2. Finally, the legislation provides for the repeal of the provisions of Chapter 1 that provided for stamp duty to be charged where a transfer in title to securities was effected through the CREST system in the United Kingdom.

Section 61 updates section 61 of the Finance Act 2021, which provides for the introduction of a streamlined and modernised system for the collection

of stamp duties on financial cards and cheques. The various amendments provided for by section 61 were subject to commencement by the Minister for Finance, and have not yet been commenced. This amendment provides for specific commencement dates (1 January 2023 or 1 January 2024) in respect of all of the amendments provided for by section 61. In addition, the definitions of “credit institution” and “financial institution” have been updated to reflect changes in EU legislation.

Section 62 amends section 125A of the SDCA 1999 which section levies a stamp duty on authorised health insurers. The section provides for the introduction of a streamlined and modernised system for the collection of the duty and puts on a statutory footing a requirement to use electronic means to deliver statements to the Revenue Commissioners. In addition, section 125A is now made subject to the compliance provisions that normally apply to stamp duties. These are section 126C of SDCA 1999 which provides for a surcharge where a statement is delivered late, and section 134A SDCA 1999 which applies different levels of penalties where incorrect statements are submitted either carelessly or deliberately, or where no statement has been submitted.

Section 63 amends section 126AA of the SDCA 1999, which makes provision for financial institutions to be charged with a stamp duty (referred to as the “bank levy”) for each of the years 2014 to 2022. The charge is based on a percentage of the amount of Deposit Interest Retention Tax (DIRT) paid by each financial institution in a specified “base year”. The amendment extends the charge for a further year to 2023, while maintaining the base year of 2019 and the rate of duty chargeable on the DIRT paid by financial institutions in respect of that year. For the year 2023 (as was the case in 2022), no charge will arise in respect of DIRT paid by KBC Bank Ireland plc and Ulster Bank Ireland DAC in 2019.

PART 5

CAPITAL ACQUISITIONS TAX

Section 64 is an interpretation section. It provides that, in Part 5, the Principal Act means the Capital Acquisitions Tax Consolidation Act 2003.

Section 65 makes a number of amendments to the Capital Acquisitions Tax Consolidation Act 2003 to take account of recent amendments to the Succession Act 1965 made by the Birth Information and Tracing Act 2022. These amendments provide that a person affected by an incorrect birth registration (an “affected person”) will, in addition to his or her existing right of succession in relation to his or her birth parents, have succession rights in relation to his or her “social” parents. Any existing right or obligation that applies in the Succession Act 1965 based on the relationship between a person and his or her birth parents, siblings and extended family will also apply based on the corresponding relationships between the affected person and his or her social parents, siblings and extended family. The effect of this is that affected persons will have the same rights of inheritance vis-à-vis their social family as they have vis-à-vis their birth family. This amendment carries over these relationships to the Capital Acquisitions Tax Consolidation Act 2003 and will be applied for capital acquisitions tax in the case of both gifts and inheritances. Section 2 of the Capital Acquisitions Tax Consolidation Act 2003 provides the definitions for the purposes of the Capital Acquisitions Tax Consolidation Act 2003. The definition of ‘child’ is amended and other new definitions in the context of ‘social families’ are inserted. Schedule 2 of the Capital Acquisitions Tax Consolidation Act 2003 deals with the computation of gift tax and inheritance tax. The Schedule is amended to provide for an election as to the relationship to

apply for Capital Acquisitions Tax purposes where a person takes a taxable benefit from his or her birth parents or from his or her social parents.

Section 66 amends section 48A of the Capital Acquisitions Tax Consolidation Act 2003 which sets out the information to be provided to the Revenue Commissioners and the Probate Office in respect of the estate of a deceased person. The amendments are technical in nature and are intended to ensure the scope of the information to be provided pursuant to section 48A is aligned with the scope of the information that was required under section 48 prior to its amendment. The amendments will also introduce a statutory obligation for banks to provide information in relation to a deceased person's accounts to the person applying for probate in relation to the deceased's estate or to an agent acting on their behalf.

Section 67 amends section 82 of the Capital Acquisitions Tax Consolidation Act 2003 which provides for the exemption of certain receipts from Capital Acquisitions Tax. The amendment extends the exemption from tax to any payments made under the COVID-19 Death in Service Scheme for Healthcare Workers.

PART 6

MISCELLANEOUS

Section 68 contains a definition of "Principal Act" (i.e. the TCA 1997) for the purposes of Part 6 of the Bill.

Section 69 amends section 949AP of the Taxes Consolidation Act 1997 to improve the administration of the case stated procedure.

Where a party to an appeal is dissatisfied with a determination made by the Appeal Commissioners on a point of law, the party may make an application to the Appeal Commissioners requiring them to state and sign a case (referred to as a "case stated") for the opinion of the High Court.

Currently, a party to a determination of the TAC who is dissatisfied on a point of law must request case stated for the opinion of the High Court within 21 days of notification of determination. The Appeal Commissioners must then prepare and share a draft case stated no later than 3 months after receiving the request. Parties to the determination are then required to submit written representations on the draft within 21 days. Upon receipt of such representations, the Appeal Commissioners must complete and sign case stated within 21 days after the end of the period for responding to the draft. The party requesting case stated must then send it to the High Court within 14 days of receiving it from Appeal Commissioners.

This amends section 949AP to extend this period by up to 21 days by allowing a dissatisfied party an additional 21 days in requesting a case stated for the opinion of the High Court, extending the current period for a party to request a case stated from 21 to 42 days.

Section 70 amends section 949AQ of the Taxes Consolidation Act 1997 to improve the administration of the case stated procedure.

Where a party to an appeal is dissatisfied with a determination made by the Appeal Commissioners on a point of law, the party may make an application to the Appeal Commissioners requiring them to state and sign a case (referred to as a "case stated") for the opinion of the High Court.

Currently, a party to a determination of the TAC who is dissatisfied on a point of law must request case stated for the opinion of the High Court within 21 days of notification of determination. The Appeal Commissioners must then prepare and share a draft case stated no later than 3 months after receiving the request. Parties to the determination are then required to

submit written representations on the draft within 21 days. Upon receipt of such representations, the Appeal Commissioners must complete and sign case stated within 21 days after the end of the period for responding to the draft. The party requesting case stated must then send it to the High Court within 14 days of receiving it from the Appeal Commissioners.

This amends section 949AQ to extend this period by up to 21 days by allowing parties an additional 21 days to submit written representations on a draft case stated issued by the Appeal Commissioners, extending the current period for parties to submit written representations from 21 to 42 days.

Section 71 repeals section 891I of the Taxes Consolidation Act 1997 as inserted by Finance Act 2021 and reinstates an amended section 891I. Section 891I places automatic reporting obligations on digital platform operators, in accordance with Article 1(8) of Council Directive (EU) 2021/514 amending the Directive on Administrative Cooperation ("DAC 7"), with respect to certain sales made via their platform. Section 891I is amended to ensure an effective domestic implementation of the automatic reporting obligations placed on digital platforms under DAC7. The amendments also enable the Revenue Commissioners to access data that has been collected for anti-money laundering and terrorist financing reasons when enquiring into transactions that involve obscuring the beneficial ownership of assets for the purpose of avoiding reporting under DAC7.

Section 72 inserts section 891J into Part 38 of the Taxes Consolidation Act 1997.

This new section 891J provides for the transposition of the OECD Model Rules for Reporting by Platform Operators with respect to Sellers in the Sharing and Gig Economy and the Model Reporting Rules for Digital Platforms: International Exchange Framework and Optional Module for Sale of Goods "Model Rules".

The Model Rules provides for the introduction of reporting obligations for digital platform operators. The Model Rules are similar to the reporting obligations introduced in the EU by Article 1(8) of Council Directive (EU) 2021/514, amending the Directive on Administrative Cooperation and commonly referred to as "DAC 7" which was legislated for by Section 82 Finance Act 2021.

Digital platform operators allow sellers to connect with users digitally in order to sell goods and provide services. The Model Rules obligations relate to the reporting of sales made via digital platforms and will ensure that digital platforms will have standardised reporting obligations.

Section 73 provides for the cessation of the current penalty regime in section 99B of the Finance Act 2001 which deals with penalties for deliberately or carelessly submitting incorrect returns or failing to file returns.

Section 74 inserts a new section 99C into Chapter 1, Part 2 of the Finance Act 2001. Section 99C replaces section 99B with effect from the date of the passing of Finance Bill 2022. This section deals with the calculation of tax-geared penalties in excise cases.

For the most part, section 99C reproduces provisions previously contained in section 99B but these provisions have been reordered to simplify the calculation of the appropriate tax-geared penalty and the application of the disclosure regime. However, section 99C contains the following notable changes:

- it provides a legislative basis for not charging a penalty for technical adjustments, innocent errors and cases where total tax defaults do not exceed €6,000 and are careless rather than deliberate (currently provided for on an administrative basis under the Code of Practice for Revenue Audit and other Compliance Interventions); and
- it amends the calculation of a tax-geared penalty where no return has been filed - the calculation will be based on the tax paid before the notification of a Revenue inquiry or investigation, rather than before the commencement of a Revenue inquiry or investigation.

Section 75 makes a number of amendments to section 1077F of the Taxes Consolidation Act 1997, which deals with penalties for making incorrect returns or failing to make returns.

The definition of "qualifying disclosure" in subsection (1) is amended to include a qualifying disclosure of excise duty defaults; a typographical error in that definition has also been corrected. Lastly, subsection (9), which provides that a person will not be liable to a penalty where the aggregate amount of their tax and duty defaults does not exceed €6,000 and the default is categorised as careless in nature, is amended to include excise duty defaults in the calculation of that limit.

Section 76 amends the definition of "qualifying disclosure" in section 1086A(1) of the TCA 1997 to include a qualifying disclosure of excise duty defaults. That section deals with the publication of the list of tax defaulters.

Section 77 makes two amendments to section 116A of the Value-Added Tax Consolidation Act 2010, which deals with penalties for filing incorrect returns or failing to file returns. The definition of "qualifying disclosure" in subsection (1) is amended to include a qualifying disclosure of excise duty defaults; and subsection (9), which provides that a person will not be liable to a penalty where the aggregate amount of their tax and duty defaults does not exceed €6,000 and the default is categorised as careless in nature, is amended to include excise duty defaults in the calculation of that €6,000 limit.

Section 78 makes two amendments to section 134A of the Stamp Duties Consolidation Act 1999, which deals with penalties for filing incorrect returns or failing to file returns.

The definition of "qualifying disclosure" in subsection (1) is amended to include a qualifying disclosure of excise duty defaults; and subsection (15), which provides that a person will not be liable to a penalty where the aggregate amount of their tax and duty defaults does not exceed €6,000 and the default is categorised as careless in nature, is amended to include excise duty defaults in the calculation of that limit.

Section 79 amends section 959AA(2A) of the TCA 1997, which allows a Revenue Officer to make or amend an assessment at any time to give effect to bilateral Mutual Agreement Procedures (MAP) reached between the Revenue Commissioners and a competent authority of another jurisdiction with which Ireland has a Double Taxation Agreement. This amendment provides that a Revenue officer may make or amend an assessment to give effect to a MAP notwithstanding any time limits in the TCA 1997 on taxpayers making claims for loss relief, group relief or similar reliefs thereby allowing such reliefs in MAP cases outside of those time limits

Section 80 makes two minor amendments to section 959Z of the TCA 1997, firstly to correct a typographic error in section 959Z(2) so that it correctly refers to paragraph (a) of subsection (2) of section 959Y TCA, and secondly to clarify that the Revenue Commissioners can make

enquiries outside the 4-year period if any of the circumstances listed in the paragraphs applies.

Section 81 amends section 1041 of the TCA 1997 which provides the taxation procedure that applies to rental income and other lease income received by a non-Irish resident person in respect of property located in the State. The person (for example, a tenant) making a payment directly to a non-Irish resident person, is required to deduct a sum equal to income tax at the standard rate (currently 20 per cent) and remit that amount to the Revenue Commissioners using a R185 form. The first part of the amendment to section 1041 TCA 1997 provides that the person making the payments will also be required to give certain information as required by the Revenue Commissioners concerning the landlord and the rental income on which tax is being withheld.

The second part of the amendment relates to "collection agents", (resident persons acting on behalf of the non-Irish resident person) who are chargeable and assessable for the income of the non-Irish resident person by virtue of section 1034 TCA 1997. The amendment to section 1041 also relieves "collection agents" of the obligation of being chargeable and assessable for the income of a non-resident landlord, if the collection agent deducts withholding tax from rental payments and remits that tax to the Revenue Commissioners, and gives the Revenue Commissioners certain information related to the payments.

The amendment is subject to a Commencement Order.

Section 82 amends Part 1 of Schedule 26A, which together with section 848A TCA 1997 is concerned with tax relief for donations to approved bodies. Part 1 of Schedule 26A sets out the list of approved bodies for the purposes of the relief.

There are two amendments to Part 1. The first is to replace the reference in paragraph 3 to the Higher Education Authority Act 1971 with a reference to the Higher Education Authority Act 2022. The second amendment is to separately list the Royal Irish Academy (RIA) in Schedule 26A, Part 1, to ensure that it continues to benefit from the tax relief on donations under section 848A. This is necessary because the Higher Education Authority no longer has responsibility for the RIA after the passing of the Higher Education Authority Act 2022.

Section 83 amends Part 3 of Schedule 24A of the TCA 1997. This Schedule lists all international tax agreements entered into by Ireland.

Part 3 of Schedule 24A lists all Tax Information Exchange Agreements entered into by Ireland, as well as Double Taxation Agreements entered into by Ireland with territories with which it has also concluded a Tax Information Exchange Agreement. Part 3 of Schedule 24A is amended to include two Protocols to the existing Double Taxation Agreements with Guernsey and the Isle of Man.

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

Section 84 introduces a new Part 22B in the TCA 1997 to legislate for a vacant homes tax (VHT). The key objective in introducing this tax is to increase the supply of homes for rent or purchase by encouraging the owners of vacant residential properties to bring those properties back into use.

The tax will apply to properties which are residential properties for the purposes of local property tax (LPT). Therefore, as with LPT, VHT will

apply only to habitable residential properties - it will not apply to derelict or uninhabitable properties.

A residential property will be within the scope of the tax if it has been occupied as a dwelling for less than 30 days in a chargeable period. Each chargeable period will commence on 1 November and end on 31 October of the following year. The first chargeable period commences on 1 November 2022.

The amount of VHT payable for a chargeable period will be three times the base amount of LPT payable in respect of the property for the year in which the chargeable period ends. The liability to VHT will not be adjusted by the local adjustment factor as decided by local authorities.

A residential property will not fall within the scope of the charge to VHT in certain circumstances. For example, VHT will not be charged on properties where no LPT was payable in respect of the year in which the chargeable period ends, properties that were sold during the chargeable period, or properties that were subject to a *bona fide* tenancy lasting at least 30 days during the chargeable period.

In addition, there are a number of specific exemptions from VHT in the legislation, which may be claimed by the chargeable person where the applicable conditions are met:

- death of the chargeable person in respect of a property, where the property was the sole or main residence of that person, in either the chargeable period or in the 12-month period prior to the commencement of the chargeable period.
- a grant to administer the estate of a deceased chargeable person issues in the chargeable period and for any chargeable period following such a grant, where the administration of the estate has not yet completed. This exemption applies only where the property was the sole or main residence of that person.
- the property was being actively marketed for sale.
- the property was being actively marketed for rent.
- the sale or occupation of the property was prohibited by a court order.
- the property was undergoing structural works, substantial repairs or significant refurbishment during the chargeable period.
- the property was not occupied by the chargeable person as a result of his or her mental or physical infirmity, where prior to this the person occupied the property as his or her sole or main residence.
- the property is owned by a North-South implementation body within the meaning of the British-Irish Agreement Act 1999.

The filing date for VHT returns will be 7 November after the end of the chargeable period. The payment date for VHT will be the following 1 January. The tax will operate on a self-assessment basis, which means that the obligation will be on property owners to determine whether they are liable for VHT for a chargeable period and to satisfy their pay and file obligations. In addition, the Revenue Commissioners may request property owners to file a return for any chargeable period. Returns are to be filed electronically.

The legislation provides for penalties, interest and a late filing surcharge to be applied in cases of non-compliance.

The legislation provides for the Revenue Commissioners to establish a register of vacant homes and their associated chargeable persons.

The legislation also provides for the exchange of information between the Revenue Commissioners and other bodies such as local authorities for the purposes of administering the tax and maintaining the register. .

Section 85 makes a number of amendments to Part 22A Residential Zoned Land Tax and section 917D of the TCA 1997 to support the efficient administration of residential zoned land tax.

Section 653I of the Taxes Consolidation 1997 is amended to require proof of ownership to be made available where a landowner makes a submission to a local authority to vary the zoning status of land which is within the scope of the tax.

The amendment to section 653S of the TCA 1997 provides for a penalty of €3,000 for failure to register for the tax.

Section 653AC of the TCA 1997 is amended to bring the application of a surcharge for the late filing of returns in respect of the tax in line with that which applies to other taxes under section 1084 of the TCA 1997.

A new section 653AFA is inserted into the TCA 1997 to provide for a deferral of the tax on land which is currently subject to an unauthorised use, but where all other conditions for exclusion from the tax, as set out in section 653B(i) or (ii), have been met. The deferral applies where a person has applied for retrospective authorisation of the development, pending the decision of the relevant planning authority.

A further new section 653AFB is inserted into the TCA 1997 to extend the deferral provided for by section 653AFA where a landowner brings an appeal or judicial review against a refusal of retrospective authorisation of a development, pending the determination of same.

Another new section 653AHA is inserted into the TCA 1997 to provide an exemption from the tax in circumstances where landowners are precluded from developing land within the scope of the tax due to contractual obligations entered into prior to 1 January 2022. The exemption applies for the duration of the contractual obligations which existed prior to 1 January 2022.

The insertion of new provisions within Part 22A require consequential amendments to be made in respect of section 653K, section 653T, section s653X and section 653AI of the TCA 1997.

Section 653AH of the TCA 1997 provides for the deferral of residential zoned land tax while residential development is underway; this provision is amended to confirm the date from which any deferred tax is due and payable, once the period of deferral ceases.

Residential zoned land tax is currently not deductible in relation to income tax, corporation tax and capital gains tax. The amendment to section 653AK further restricts the deductibility of residential zoned land tax in relation to the universal social charge and the domicile levy.

Section 917D of the TCA 1997 is amended to bring the residential zoned land tax within the scope of mandatory e-filing, as provided for in Chapter 6 of Part 38 of the Act.

Section 86 introduces a new Part 18E and a new Schedule 36 in the TCA 1997 to legislate for a Defective Concrete Products Levy. The intention of the levy is to raise revenue to contribute towards the funding of the Defective Concrete Blocks Grant Scheme which was introduced by the Minister for Housing, Local Government and Heritage.

The legislation applies a levy on the first supply of a defined list of certain concrete products calculated at 5 per cent of the open market

value of the products. The concrete products within the scope of the levy are concrete that is ready to pour and those concrete products which are required to comply with the Harmonised European Standard as referenced in the Official Journal of the European Union (or any adopted national version of such Harmonised European Standard) listed in column 1 of Schedule 36 and which are described in column 2 of Schedule 36.

A person in the State making the first supply of a concrete product will be a chargeable person in respect of the levy and will be accountable for and liable to pay the levy and to make returns to the Revenue Commissioners. A first supply for the purpose of the levy includes, for example, sales and transfers of concrete products in the course of business carried on in the State, the assignment of concrete products to a business, and the disposal of a concrete product free of charge.

The legislation requires chargeable persons to register with the Revenue Commissioners for the levy, prior to their first supply of a concrete product after the commencement of the legislation.

Chargeable persons will be required to file returns electronically with the Revenue Commissioners declaring their liability to the levy, and to pay those amounts to the Collector General. Interest will be chargeable on late payments to the Revenue Commissioners and a chargeable person will be liable for a penalty for the non-operation of the levy. Amended returns may also be filed where an error was discovered on the original return. Where an overpayment of the levy was made by a chargeable person, the legislation provides that the Revenue Commissioners may make a refund.

Chargeable persons are required to retain all books and records and linking documents used in ascertaining the basis for their liability for the levy and a chargeable person will be liable for a penalty where books and records are not adequately maintained.

The levy will operate on a self-assessment basis and the legislation includes provisions for the making and amending of assessments, the making of enquiries, and for the right of appeal. The legislation also applies existing provisions available to the Revenue Commissioners around tackling non-compliance with this levy.

The levy is being placed under the care and management of the Revenue Commissioners and the levy will come into effect from 1 September 2023.

Section 87 sets out the objectives and purpose of section 88 and certain duties of the Minister for Finance in connection with it.

Section 88 makes provision for the TBESS and its key features are -

- The TBESS is a support available for businesses that carry on a trade or profession chargeable to tax under Case I or II of Schedule D, including self-employed individuals, companies and partnerships. Charities and sporting bodies who carry on certain activities which would be chargeable to tax under Case I or II of Schedule D but for an available exemption are also included in the scheme. Businesses within the scope of the scheme are referred to as “eligible businesses”.
- The scheme operates by reference to bills for the metered supply of electricity and natural gas through electricity accounts or gas connections which are identified by their own Meter Point Reference Number (MPRN) or Gas Point Reference Number (GPRN).
- To be eligible to make a claim under the TBESS in respect of an electricity bill or a natural gas bill, a business must be able to demonstrate that the average unit price for electricity or gas, as the case may be, on the relevant bill has increased by 50 per cent or more

as compared to the average unit price in a reference period. In broad terms, this is the average unit price in the month that is 12 months prior to the month to which the relevant bill relates. This is known as the "energy cost threshold".

- Once the eligible business has passed the energy cost threshold in relation to a particular bill, and satisfies a number of other conditions, it is a qualifying business and is entitled to claim a Temporary Business Energy Payment amounting to 40 per cent of its eligible cost (subject to a cap for each monthly claim period).
- The eligible cost amount in relation to an electricity or natural gas bill is calculated as the uplift in the bill as compared to a bill amount in a reference period. For these purposes, electricity costs relating to a MPRN and/ or gas costs relating to a GPRN in respect of each monthly claim period falling within 1 September 2022 and 31 December 2022 must be compared with the electricity or natural gas bill costs, as the case may be, for the reference period, which is a monthly period that is 12 months prior to the claim period concerned. Where an electricity or natural gas bill covers only part of a claim period then it will be compared with a proportionate amount of the electricity or natural gas costs for the reference period in determining the eligible cost amount.
- Provision is made for businesses that do not have an electricity or natural gas bill for the reference period because the electricity account or natural gas connection, as the case may be, either did not exist or was not held by the eligible business during the reference period. In such circumstances, a deemed monthly reference unit price in respect of electricity or natural gas must be used for the purposes of the energy costs threshold and also, where the energy costs threshold is passed, for determining the eligible cost amount. Deemed monthly reference unit prices for electricity and natural gas will be made available by the Sustainable Energy Authority of Ireland (based on data provided by suppliers and the Commission for Regulation of Utilities) and will be contained in operational guidelines published by the Revenue Commissioners.
- The support available in respect of electricity and natural gas costs is subject to an overall monthly cap of €10,000 per trade. However, where the trade of a qualifying business operates across more than one location, as demonstrated by the fact that the qualifying business has more than one MPRN, each with an electricity supply address in a different location (and not adjacent to each other), the business will be eligible for an increased cap of €10,000 per MPRN, which is available as regards both electricity and natural gas costs, up to a maximum amount of €30,000 per claim period.
- There is an overall maximum payment limit for support given under the TCF of €500,000 per undertaking carrying on one or more qualifying business (lower limits apply to businesses engaged in farming (€62,000) and fishing (€75,000) activities).
- A claim for the TBESS must be made within 4 months of the end of the relevant claim period.
- In order to be a qualifying business and entitled to make a claim under the scheme, a number of other conditions must be satisfied including that the business is eligible to obtain tax clearance and has complied with their tax obligations. The person must register to claim on the 'Revenue Online Service' and make a declaration that they satisfy the relevant conditions.

- Provisions are made with regard to repayments and clawbacks in respect of invalid claims or overclaims with the possible application of interest and penalties where relevant.
- Provision is also made for the publication of the name of claimants of TBESS on the website of the Revenue Commissioners.
- It is intended that the scheme will operate in respect of energy costs relating to the period 1 September 2022 to 31 December 2022 or, where it is possible to grant aid beyond that date should the end date of the TCF be extended, to 28 February 2023. The scheme may be extended beyond this date by Ministerial Order subject to conditions set out in Section 87.

Section 89 makes provision for a number of consequential amendments arising in the Taxes Consolidation Act, 1997 as a result of section 88.

Section 90 provides that sections 87, 88 and 89 are subject to commencement orders as the relief will constitute a State aid and accordingly must be notified to and approved by the European Commission prior to commencement.

Section 91 and the Schedule provide for technical amendments to the TCA 1997 (paragraph 1).

The amendments for the most part involve the correction (through deletion, amendment, or insertion of text) of incorrect references and minor drafting errors. Paragraph 2 contains the commencement provisions relating to paragraph 1.

Section 92 deals with the “care and management” of taxes and duties.

Section 93 contains provisions relating to the short title, construction and commencement of the Bill.

An Roinn Airgeadais,
Deireadh Fómhair 2022

Wt. —. 611. 10/22. Essentra. (94439). Gr. 30-15.