Number 12 *of* 2009

FINANCE ACT 2009

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Number 12 *of* 2009

FINANCE ACT 2009

AN ACT TO PROVIDE FOR THE IMPOSITION, REPEAL, REMISSION, ALTERATION AND REGULATION OF TAXATION, OF STAMP DUTIES AND OF DUTIES RELATING TO EXCISE AND OTHERWISE TO MAKE FURTHER PROVISION IN CONNECTION WITH FINANCE INCLUDING THE REGULATION OF CUSTOMS.

[3*rd June*, 2009]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART 1

Income Levy, Income Tax, Corporation Tax and Capital Gains Tax

Chapter 1

Interpretation

1.—In this Part "Principal Act" means the Taxes Consolidation Act 1997. Interpretation (*Part 1*).

Chapter 2

Income Levy

2.—(1) The Principal Act is amended— Income levy.

(*a*) in section 531A(1) by substituting the following for the definition of "aggregate income":

" 'aggregate income for the year of assessment', in relation to an individual and a year of assessment, means the aggregate of the individual's relevant emoluments in the year of assessment, including relevant emoluments that are paid in whole or in part for a year of assessment other than the year of assessment during which the payment is made, and relevant income for the year of assessment;",

(*b*) in section 531B in paragraph (*b*) of the Table to subsection (1) by substituting the following for all of the words from "The income described in this paragraph" to "in accordance with the Income Tax Acts and—":

"The income described in this paragraph, to be known as 'relevant income', is income, without regard to any amount deductible from or deductible in computing total income, from all sources as estimated in accordance with the Tax Acts, other than relevant emoluments, social welfare payments and similar type payments and excluded emoluments, and—",

(*c*) in section 531B in paragraph (*b*)(iii) of the Table to subsection (1) by deleting "and",

(*d*) in section 531B in paragraph (*b*)(iv) of the Table to subsection (1) by substituting "such payment," for "such payment.",

(*e*) in section 531B in paragraph (*b*) of the Table to subsection (1) by inserting the following after subparagraph (iv):

"(v) disregarding expenses, in respect of which an employee may be entitled to relief from income tax, which fall within Regulation 10(3) of the PAYE Regulations,

(vi) having regard to any relief arising under subsection (5)(*a*) of section 201, and paragraphs 6 and 8 of Schedule 3 in respect of payments chargeable to tax under section 123, and

(vii) excluding relevant emoluments of an individual who is resident in a territory with which arrangements have been made under section 826(1)(*a*)(i) in relation to affording relief from double taxation, where those emoluments are the subject of a notification issued under section 984(1).",

(*f*) in section 531B(2) by substituting the following for paragraph (*a*):

"(*a*) subject to subsection (3), proves to the satisfaction of the Revenue Commissioners that his or her aggregate income for the year of assessment does not exceed €15,028,",

(*g*) in section 531B by inserting the following after subsection (2):

"(3) For the purposes of determining an individual's aggregate income for the year of assessment 2009 for the purposes of subsection (2)(*a*), any payment of relevant emoluments from which income levy was not deducted by an employer, made in the period from 1 January 2009 to 30 April 2009, to which the appropriate portion of €18,304 was applied in that period, shall be disregarded.

(4) (*a*) This subsection applies to emoluments paid to an individual in the period 1 January 2009 to 30 April 2009 in the form of any taxable ex-gratia payment made on the occasion of the redundancy of that individual, which is chargeable to income tax under the provisions of section 123.

(*b*) Notwithstanding any other provision of this Part and subject to paragraph (*c*), to the extent that emoluments are emoluments to which this subsection applies, those emoluments—

(i) shall be charged to income levy for the year of assessment 2009 at the rate of—

(I) 1 per cent on the first €100,100 of such emoluments,

(II) 2 per cent on the next €150,020 of such emoluments, and

(III) 3 per cent on the remainder of such emoluments,

and

(ii) shall not be reckoned in computing relevant emoluments for that year for any other purpose of this Part.

(*c*) This subsection shall not apply to emoluments paid to an individual if that individual so elects by notice in writing to an inspector after the end of the year of assessment 2009.",

(*h*) by substituting the following for section 531C:

"Rate of charge.

531C.—(1) For the year of assessment 2009, an individual shall be charged to income levy on the individual's aggregate income for the year of assessment at the rates specified in the Table to this subsection.

TABLE

Part of aggregate income	Rate of income levy
The first €75,036	1.67%
The next €25,064	3%
The next €74,880	3.33%
The next €75,140	4.67%
The remainder	5%

(2) For the year of assessment 2010, and subsequent years of assessment, an individual shall be charged to income levy on the individual's aggregate income for the year of assessment at the rates specified in the Table to this subsection.

TABLE

Part of aggregate income	Rate of income levy
The first €75,036	2%
The next €99,944	4%
The remainder	6%

.",

(*i*) in section 531D by substituting the following for subsection (2):

"(2) (*a*) As respects any payment of relevant emoluments made to or on behalf of an employee in the period beginning on 1 January 2009 and ending on 30 April 2009, income levy shall be deducted from such emoluments by the employer at any or all of the following rates—

(i) 1 per cent where the amount of the relevant emoluments does not exceed €1,925, in the case where the period in respect of which the payment is being made is a week, or a corresponding amount, where the period is greater or less than a week,

(ii) 2 per cent on the amount of the excess where the amount of relevant emoluments exceeds €1,925, but does not exceed €4,810, in the case where the period in respect of which the payment is being made is a week, or a corresponding amount, where the period is greater or less than a week,

(iii) 3 per cent on the amount of the excess where the amount of relevant emoluments exceeds €4,810, in the case where the period in respect of which the payment is being made is a week, or a corresponding amount, where the period is greater or less than a week.

(*b*) As respects any payment of relevant emoluments made to or on behalf of an employee on or after 1 May 2009, income levy shall be deducted from such emoluments by the employer at any or all of the following rates—

(i) 2 per cent where the amount of the relevant emoluments does not exceed €1,443, in the case where the period in respect of which the payment is being made is a week, or a corresponding amount, where the period is greater or less than a week,

(ii) 4 per cent on the amount of the excess where the amount of relevant emoluments exceeds €1,443, but does not exceed €3,365, in the case where the period in respect of which the payment is being

made is a week, or a corresponding amount, where the period is greater or less than a week,

(iii) 6 per cent on the amount of the excess where the amount of relevant emoluments exceeds €3,365, in the case where the period in respect of which the payment is being made is a week, or a corresponding amount, where the period is greater or less than a week.",

and

(*j*) by substituting the following for section 531H:

"Assessment, collection, payment and recovery of income levy on aggregate income for the year of assessment.

531H.—(1) Income levy payable for a year of assessment in respect of aggregate income for the year of assessment shall be assessed, charged and paid in all respects as if it was an amount of income tax assessed and charged under the Tax Acts, but without regard to section 1017, and may be stated in one sum (in this section referred to as the 'aggregate sum') with the amount of income tax contained in any computation of, or assessment or assessments to, income tax made by or on the individual by whom the income levy is payable for the year of assessment.

(2) Where, but for this subsection, no assessment to income levy would be made on an individual for a year of assessment, then an officer of the Revenue Commissioners shall make an assessment to income levy on the individual to the best of the officer's judgement of the amounts chargeable to income levy, and the provisions of the Tax Acts, including in particular those provisions relating to the assessment, collection and recovery of tax and the payment of interest on unpaid tax, shall apply as respects any assessment to income levy made on the individual by virtue of this subsection, other than any such provisions in so far as they relate to the granting of any allowance, deduction or relief.

(3) Where income levy is payable for the year of assessment 2009 in respect of aggregate income for the year of assessment, section 958 shall apply and have effect as if, in accordance with this Part, income levy had been payable for the year of assessment 2008.

(4) The Revenue Commissioners may make regulations for the purposes of the proper administration and implementation of this Part, and those regulations may, in particular and without prejudice to the generality of the foregoing, include provision

for assessment, collection, recovery and repayment of income levy for any year of assessment to which this Part applies.".

(2) This section applies for the year of assessment 2009 and subsequent years of assessment.

Chapter 3

Income Tax

Amendment of section 244 (relief for interest paid on certain home loans) of Principal Act.

3.—As respects the year of assessment 2009 and subsequent years of assessment, section 244 of the Principal Act is amended by inserting the following after subsection (1)—

"(1A) (*a*) This section shall not apply as respects interest paid on or after 1 May 2009.

(*b*) Notwithstanding paragraph (*a*), this section shall continue to apply—

(i) as respects the first 7 years of assessment for which an individual has an entitlement to relief under this section in respect of qualifying interest determined by reference to paragraph (iii) or (iv) of the definition of 'relievable interest', and

(ii) as respects a period not exceeding 7 years of assessment for which an individual has an entitlement to relief under this section in respect of qualifying interest in relation to a qualifying loan.

(*c*) (i) Paragraph (*b*) shall not apply in respect of qualifying interest attributable to that part of a qualifying loan used to repay another qualifying loan (in this paragraph referred to as an 'existing qualifying loan') unless the qualifying interest on that existing qualifying loan would, had the existing qualifying loan not been repaid, have been interest referred to in paragraph (*b*)(i) or (ii).

(ii) Where subparagraph (i) applies, the number of years of assessment for which there is an entitlement to relief under this section in respect of qualifying interest attributable to that part of a qualifying loan used to repay the existing qualifying loan shall not exceed the number of years of assessment for which relief would have applied had the existing qualifying loan not been repaid.

(*d*) As respects the year of assessment 2009 only, the definition of 'relievable interest' is amended—

(i) in paragraph (i) by substituting 'the amount of qualifying interest paid by the individual in the period 1 January 2009 to 30 April 2009 or, if less, €2,000 and the amount of qualifying interest paid by the individual in the period 1

May 2009 to 31 December 2009 or, if less, €4,000' for 'the amount of qualifying interest paid by the individual in the year of assessment or, if less, €6,000', and

(ii) in paragraph (ii) by substituting 'the amount of qualifying interest paid by the individual in the period 1 January 2009 to 30 April 2009 or, if less, €1,000 and the amount of qualifying interest paid by the individual in the period 1 May 2009 to 31 December 2009 or, if less, €2,000' for 'the amount of qualifying interest paid by the individual in the year of assessment or, if less, €3,000'.".

Amendment of section 244A (application of section 244) of Principal Act.

4.—As respects the year of assessment 2009 and subsequent years of assessment, section 244A of the Principal Act is amended by inserting the following after subsection (6)—

"(7) (*a*) Notwithstanding any other enactment, an officer of the Revenue Commissioners may request a qualifying lender to provide, in such form as the Revenue Commissioners may require, such information in relation to qualifying mortgage loans granted by the qualifying lender—

(i) as will or may assist an officer of the Revenue Commissioners to determine if relief is due under section 244 for a particular year of assessment, and

(ii) as is necessary for the proper administration of this section.

(*b*) The qualifying lender shall comply with a request under paragraph (*a*) no later than—

(i) 30 days after receipt of such request, or

(ii) any extension of the period referred to in subparagraph (i) as may be agreed with an officer of the Revenue Commissioners.

(*c*) Information provided to the Revenue Commissioners under this subsection shall be used by them only for the purposes of section 244 and this section and, notwithstanding section 872, shall be used for no other purpose.".

Amendment of section 97 (computational rules and allowable deductions) of Principal Act.

5.—Section 97 of the Principal Act is amended by inserting the following after subsection (2I):

"(2J) (*a*) Notwithstanding subsection (2) but subject to the other provisions of this section (including paragraph (*b*) of this subsection), the deduction authorised by subsection (2)(*e*) shall not exceed 75 per cent of the deduction that would, but for this subsection, be authorised by subsection (2)(*e*) in respect of interest accrued on or after 7 April 2009 on borrowed money employed in the purchase, improvement or repair of a premises which, at the time the interest accrues, is

a residential premises and, for the purposes of this subsection, interest on such borrowed money shall be treated as accruing from day to day.

(*b*) For the purposes of paragraph (*a*)—

(i) borrowed money employed on the construction of a residential premises on land in which the person chargeable has an estate or interest shall, together with any borrowed money which that person employed in the acquisition of such land, be deemed to be borrowed money employed in the purchase of a residential premises, and

(ii) where a premises consists in part of residential premises and in part of premises which are not residential premises, paragraph (*a*) shall apply to the interest accrued on the part of the borrowed money employed in the purchase, improvement or repair of the premises that is attributable, on a just and reasonable basis, to residential premises.".

Income tax: treatment of profits or gains and losses from dealing in residential development land.

6.—Part 22 of the Principal Act is amended—

(*a*) in section 644A by inserting the following after subsection (5):

"(6) This section shall not apply to profits or gains arising to a person in the year of assessment 2009 or in any subsequent year of assessment.",

and

(*b*) by inserting the following after section 644A:

"Treatment of losses from dealing in residential development land.

644AA.—(1) In this section—

'adjusted income' for a tax year means a person's income from all sources for the tax year after taking into account any allowance, charge, deduction or loss attributable to a specific source to which the person is entitled in taxing the income from the source or which is required to be made in taxing the person's income from the source, but without taking into account any allowance, charge, deduction or loss to which the person is entitled, or which is required to be made, in taxing the person's income from all sources;

'adjusted profits or gains' in relation to a trade for a tax year means the amount, if any, of the profits or gains from the trade after taking into account any allowance, charge, deduction or loss to which a person is entitled in taxing the trade or which is required to be made in taxing the trade, and references to the adjusted profits or gains from the combined trade or from the

non-specified trade shall be construed accordingly;

'combined trade' means a trade comprising partly of a specified trade and partly of a non-specified trade;

'non-specified trade', in relation to a combined trade, means the activities and operations of the combined trade that are the part of the trade that is not a specified trade;

'relevant loss', in relation to a tax year, means—

(*a*) in the case of a specified trade, the full amount of a loss sustained in the specified trade in the tax year, and

(*b*) in the case of a combined trade, so much of the amount of a loss sustained in the combined trade in the tax year as is attributable to a specified trade;

'specified trade' means, as the case may be, a trade, or the part of a combined trade, the profits or gains, if any, of which, for a tax year before the tax year 2009, were chargeable to tax in accordance with section 644A(3) (other than by virtue of subsection (5) of that section);

'tax' means income tax;

'tax year' means a year of assessment.

(2) For the purposes of subsections (3) to (8), where a trade is a combined trade, the part of the trade which is a specified trade and the part of the trade which is a non-specified trade shall each be treated as a separate trade and where, in order to give effect to the provisions of subsections (3) to (8), an apportionment of the total amount receivable from sales made and services rendered in the course of a combined trade and of expenses incurred in that trade is required to be made, such apportionment shall be made in a manner that is just and reasonable.

(3) Where, in respect of a tax year before the tax year 2009, a claim is made by a person (in this subsection and subsections (4) to (7) referred to as the 'claimant') in accordance with subsection (6) of section 381, which claim is in respect of, or includes, a relevant loss, then, notwithstanding subsection (1) of that section, unless the claim is made to and received by

the Revenue Commissioners before 7 April 2009, that subsection shall not apply to so much of the loss as is a relevant loss and the claimant shall instead be entitled as regards the relevant loss to such repayment of tax as is provided for by subsection (4).

(4) (*a*) In relation to the relevant loss referred to in subsection (3), the repayment of tax to which the claimant is entitled shall be such amount as is necessary to secure that the aggregate amount of tax for the tax year ultimately borne by the claimant does not exceed the amount which would have been borne by the claimant if the interim amount of tax payable by the claimant for the tax year had been reduced by the amount (in this section referred to as the 'tax credit') determined in accordance with subsection (5).

(*b*) For the purposes of this subsection and subsections (6)(*a*) and (7)(*a*), the references to the 'interim amount of tax payable by the claimant for the tax year' shall be taken to mean the tax which would have been borne by that person for that tax year following any reduction in the income of that person for that tax year, to which the person is entitled in accordance with section 381(1), by—

(i) so much of the amount of a loss arising in a combined trade as is attributable to the non-specified trade, and

(ii) the amount of any other loss (other than the amount of the relevant loss).

(5) The tax credit referred to in subsection (4) shall be an amount equivalent to the amount determined by the formula—

$$A \times \frac{20}{100}$$

where A is the amount of the relevant loss.

(6) (*a*) Notwithstanding section 382, to the extent that relief has not been fully given under subsection (4) in respect of a relevant loss due to the interim amount

of tax payable by the claimant for the tax year being less than the tax credit provided by that subsection, the claimant may claim that the unused portion of the tax credit (in this section referred to as the 'excess tax credit') shall be carried forward and, insofar as may be, used to reduce the amount of tax payable on the profits or gains on which that person is assessed under Schedule D in respect of the combined trade for any subsequent tax year.

(*b*) Any relief under this subsection shall be given as far as possible from the tax payable for the first subsequent tax year and, in so far as it cannot be so given, from the tax payable for the next tax year and so on.

(7) (*a*) For the purposes of subsection (6)(*a*) but subject to paragraph (*b*), where in a subsequent tax year to which an excess tax credit is carried forward a person's income comprises profits or gains from a combined trade and other income, the amount of tax payable on the profits or gains from the combined trade for the tax year shall be taken to be an amount equivalent to the amount determined by the formula—

$$B \times \frac{C}{D}$$

where—

B is the interim amount of tax payable by the claimant for the tax year,

C is the adjusted profits or gains from the combined trade for the tax year, and

D is the claimant's adjusted income for the tax year.

(*b*) For the purposes of subsection (6)(*a*), where the tax year to which an excess tax credit is carried forward is a tax year before the tax year 2009, any excess tax credit shall be used to reduce—

(i) firstly, the amount of tax, if any, payable in accordance with section 644A(3) on the profits or gains of the specified trade for that tax year, and

(ii) secondly, where following the application of subparagraph (i), all or part of the excess tax credit remains unused, the amount of tax payable on the non-specified trade calculated in accordance with paragraph (*a*) but on the assumption that the following definition was substituted for the definition of C in the formula in that paragraph:

'C is the adjusted profits or gains from the non-specified trade for the tax year, and'.

(8) (*a*) Where a claim under section 382 is made in respect of a relevant loss, or part of a relevant loss, sustained in a tax year before the tax year 2009 (other than a relevant loss to which a claimant is entitled to a repayment of tax under subsection (4)) then, notwithstanding subsection (1) of that section, unless the claim is made to and received by the Revenue Commissioners before 7 April 2009, that subsection shall not apply, and instead the claimant shall, in relation to the amount of the relevant loss to which the claim relates, be entitled to carry forward a tax credit determined in accordance with paragraph (*b*).

(*b*) The amount of the tax credit referred to in paragraph (*a*) shall be an amount equivalent to the amount determined by the formula—

$$E \times \frac{20}{100}$$

where E is the relevant loss, or the part of the relevant loss, in respect of which the claim under section 382 relates.

(*c*) The amount of the tax credit a claimant is entitled to carry forward in accordance with paragraph (*a*) shall be treated as an excess tax credit of the kind referred to in subsection (6)(*a*).

(9) (*a*) Where a claim to relief under section 385 is made in respect of a terminal loss sustained in a combined trade, then, for the purposes of subsection (1) of that section, unless the claim is made to and received by the Revenue Commissioners before 7 April 2009, that subsection shall apply in relation to so much of the terminal loss as is attributable to the period before 1 January 2009, as if the part of the combined trade which was a specified trade and the part of the combined trade which was a non-specified trade were each separate trades and sections 386 to 389 shall apply accordingly.

(*b*) Where, in order to give effect to the provisions of paragraph (*a*), an apportionment of the total amount receivable from sales made and services rendered in the course of a combined trade and of expenses incurred in that trade is required to be made, such apportionment shall be made in a manner that is just and reasonable.".

Chapter 4

Income Tax, Corporation Tax and Capital Gains Tax

Amendment of section 372AW (interpretation, applications for approval and certification) of Principal Act.

7.—Section 372AW of the Principal Act is amended—

(*a*) in subsection (1) by substituting the following for the definition of "qualifying period":

" 'qualifying period' means the period commencing on 1 June 2008 and ending on 31 May 2013;",

and

(*b*) in subsection (2)(*b*) by substituting "2 years" for "one year".

Capital allowances for certain health-related facilities.

8.—Part 9 of the Principal Act is amended—

(*a*) in section 268(9) by substituting the following for paragraph (*d*):

"(*d*) by reference to paragraph (*g*), as respects capital expenditure incurred in the period commencing on 3 December 1997 and ending—

(i) on 31 December 2009, or

(ii) where subsection (17)(*a*) applies, on 30 June 2010, or

(iii) where subsection (17)(*b*) applies, on 30 June 2011,",

(*b*) in section 268(9) by substituting the following for paragraphs (*f*) and (*g*):

"(*f*) by reference to paragraph (*i*), as respects capital expenditure incurred in the period commencing on 2 December 1998 and ending—

(i) on 31 December 2009, or

(ii) where subsection (17)(*a*) applies, on 30 June 2010, or

(iii) where subsection (17)(*b*) applies, on 30 June 2011,

(*g*) by reference to paragraph *(j*), as respects capital expenditure incurred in the period commencing—

(i) where subsection (2A)(*d*)(i) applies, on 15 May 2002, or

(ii) where subsection (2A)(*d*)(ii) applies, on 28 March 2003,

and ending—

(I) on 31 December 2009, or

(II) where subsection (17)(*a*) applies, on 30 June 2010, or

(III) where subsection (17)(*b*) applies, on 31 December 2013,",

(*c*) in section 268(9) by substituting the following for paragraph (*i*):

"(*i*) by reference to paragraph (*l*), as respects capital expenditure incurred in the period commencing on 23 January 2007 and ending—

(i) on 31 December 2009, or

(ii) where subsection (17)(*a*) applies, on 30 June 2010, or

(iii) where subsection (17)(*b*) applies, on 30 June 2011, and",

(*d*) in section 268 by inserting the following after subsection (16):

"(17) (*a*) This paragraph shall apply where—

(i) capital expenditure is incurred on the construction or refurbishment of a building or structure referred to in paragraphs (*g*), (*i*), (*j*) or (*l*) of subsection (1),

(ii) the construction or refurbishment work on the building or structure represented by that expenditure is exempted development for the purposes of the Planning and Development Act 2000 by virtue of section 4 of that Act or by virtue of Part 2 of the Planning and Development Regulations 2001 (S.I. No. 600 of 2001) (in this subsection referred to as the 'Regulations of 2001'), and

(iii) not less than 30 per cent of the total construction or refurbishment costs has been incurred on or before 31 December 2009.

(*b*) This paragraph shall apply where—

(i) capital expenditure is incurred on the construction or refurbishment of a building or structure referred to in paragraphs (*g*), (*i*), (*j*) or (*l*) of subsection (1),

(ii) a planning application (not being an application for outline permission within the meaning of section 36 of the Planning and Development Act 2000), in so far as planning permission is required, in respect of the construction or refurbishment work on the building or structure represented by that expenditure, is made in accordance with the Regulations of 2001,

(iii) an acknowledgement of the application, which confirms that the application was received on or before 31 December 2009, is issued by the planning authority in accordance with article 26(2) of the Regulations of 2001, and

(iv) the application is not an invalid application in respect of which a notice was issued by the planning authority in accordance with article 26(5) of the Regulations of 2001.",

and

(*e*) in section 316 by inserting the following after subsection (2B):

"(2C) For the purposes only of determining, in relation to a claim for an allowance under this Part, whether and to what extent capital expenditure incurred on the construction or refurbishment of a building or structure

referred to in paragraphs (*g*), (*i*), (*j*) or (*l*) of section 268(1) is incurred or not incurred in any of the periods referred to in paragraphs (*d*), (*f*), (*g*) and (*i*) of section 268(9), only such an amount of that capital expenditure as is properly attributable to work on the construction or refurbishment of the building or structure actually carried out in any such period shall (notwithstanding subsection (2) and any other provision of the Tax Acts as to the time when any capital expenditure is or is to be treated as incurred) be treated as having been incurred within that period.".

Amendment of Part 8 (annual payments, charges and interest) of Principal Act.

9.—(1) The Principal Act is amended in section 256(1) in the definition of "appropriate tax"—

(*a*) in paragraph (*a*) by substituting "25 per cent" for "23 per cent",

(*b*) by substituting the following for paragraph (*b*):

"(*b*) subject to paragraph (*c*), in the case of interest paid in respect of any other relevant deposit, at the rate of 25 per cent, and",

and

(*c*) by substituting the following for paragraph (*c*):

"(*c*) in the case of interest paid in respect of a relevant deposit, being a deposit made on or after 23 March 2000, other than interest which is—

(i) referred to in paragraph (*a*), or

(ii) payable annually or at more frequent intervals, or

(iii) specified interest within the meaning of section 260,

at the rate of 28 per cent;".

(2) The Principal Act is amended in section 267B—

(*a*) in subsection (2)(*b*) by substituting "25 per cent" for "23 per cent", and

(*b*) in subsection (3)(*b*) by substituting "25 per cent" for "23 per cent".

(3) This section applies as respects any payment or crediting of relevant interest (within the meaning of Chapter 4 of Part 8 of the Principal Act) made on or after 8 April 2009.

Life assurance policies and investment funds.

10.—(1) The Principal Act is amended in section 730F(1)—

(*a*) by substituting the following for paragraph (*a*):

"(*a*) subject to paragraph (*b*), where the chargeable event falls on or after 1 January 2001, at the rate of 28 per cent,",

and

(*b*) in paragraph (*b*) by substituting "(S + 28) per cent" for "(S + 26) per cent".

(2) The Principal Act is amended in section 730J—

(*a*) in paragraph (*a*)(i) by substituting the following for clause (I):

"(I) where the payment is a relevant payment, at the rate of 25 per cent, and",

(*b*) in paragraph (*a*)(i)(II)(A) by substituting "(S + 28) per cent" for "(S + 26) per cent",

(*c*) in paragraph (*a*)(i)(II) by substituting the following for subclause (B):

"(B) in any other case, at the rate of 28 per cent,",

and

(*d*) in paragraph (*a*)(ii)(I) by substituting "(H + 25) per cent" for "(H + 23) per cent".

(3) The Principal Act is amended in section 730K(1)—

(*a*) by deleting "the rate determined by the formula" where it first occurs,

(*b*) in paragraph (*a*) by substituting "(S + 28) per cent" for "(S + 26) per cent", and

(*c*) by substituting the following for paragraph (*b*):

"(*b*) in any other case, at the rate of 28 per cent".

(4) The Principal Act is amended in Chapter 1A of Part 27—

(*a*) in section 739D by substituting the following for subsection (5A):

"(5A) The amount referred to in subsection (2)(*dd*) is the amount determined by the formula—

$$A \times G \times \frac{100}{100 - (G \times 28)}$$

where—

A is the appropriate tax payable on the transfer by a unit holder of entitlement to a unit in accordance with subsection (2)(*d*), and

G is the amount of the gain on that transfer of that unit divided by the value of that unit.",

(*b*) in section 739E(1) by substituting the following for paragraph (*a*):

"(*a*) subject to paragraph (*ba*), where the amount of the gain is provided by section 739D(2)(*a*), at the rate of 25 per cent,",

(*c*) in section 739E(1) by substituting the following for paragraph (*b*):

"(*b*) subject to paragraph (*ba*), where the chargeable event happens on or after 1 January 2001 and the amount of the gain is provided by paragraph (*b*), (*c*), (*d*), (*dd*) or (*ddd*) of section 739D(2), at the rate of 28 per cent,",

(*d*) in section 739E(1)(*ba*) by substituting "(S + 28) per cent" for "(S + 26) per cent", and

(*e*) in section 739G(2)(*c*) by substituting "specified in" for "determined in accordance with".

(5) The Principal Act is amended in Chapter 4 of Part 27—

(*a*) in section 747D(*a*)(i)(I)(A) by substituting "(S + 28) per cent" for "(S + 26) per cent",

(*b*) in section 747D(*a*)(i)(I) by substituting the following for subclause (B):

"(B) in any other case, at the rate of 25 per cent,",

(*c*) in section 747D(*a*)(i)(II)(A) by substituting "(S + 28) per cent" for "(S + 26) per cent",

(*d*) in section 747D(*a*)(i)(II) by substituting the following for subclause (B):

"(B) in any other case, at the rate of 28 per cent,",

(*e*) in section 747D(*a*)(ii)(I) by substituting "(H + 25) per cent" for "(H + 23) per cent",

(*f*) in section 747E(1)(*b*) by deleting "the rate determined",

(*g*) in section 747E(1)(*b*)(i)—

(i) by inserting "at the rate determined" before "by the formula", and

(ii) by substituting "(S + 28) per cent" for "(S + 26) per cent",

and

(*h*) in section 747E(1)(*b*) by substituting the following for subparagraph (ii):

"(ii) in any other case, at the rate of 28 per cent.".

(6) (*a*) *Subsection (1)* applies and has effect as respects the happening of a chargeable event in relation to a life policy (within the meaning of Chapter 5 of Part 26 of the Principal Act) on or after 8 April 2009.

(*b*) *Subsection (2)* applies and has effect as respects the receipt by any person of a payment in respect of a foreign life policy (within the meaning of Chapter 6 of Part 26 of the Principal Act) on or after 8 April 2009.

(*c*) *Subsection (3)* applies and has effect as respects the disposal in whole or in part of a foreign life policy (within the meaning of Chapter 6 of Part 26 of the Principal Act) on or after 8 April 2009.

(*d*) *Subsection (4)* applies and has effect as respects the happening of a chargeable event in relation to an investment undertaking (within the meaning of section 739B(1) of the Principal Act) on or after 8 April 2009.

(*e*) *Paragraphs (a)* to *(e)* of *subsection (5)* apply and have effect as respects the receipt by any person of a payment in respect of a material interest in an offshore fund (within the meaning of Chapter 4 of Part 27 of the Principal Act) on or after 8 April 2009.

(*f*) *Paragraphs (f)* to *(h)* of *subsection (5)* apply and have effect as respects the disposal in whole or in part by a person of a material interest in an offshore fund (within the meaning of Chapter 4 of Part 27 of the Principal Act) on or after 8 April 2009.

Chapter 5

Corporation Tax

Corporation tax: treatment of profits or gains and losses from dealing in residential development land.

11.—(1) Part 22 of the Principal Act is amended—

(*a*) in section 644B by inserting the following after subsection (4):

"(5) (*a*) This section shall not apply to an accounting period ending after 31 December 2008.

(*b*) Where an accounting period of a company begins before 31 December 2008 and ends after that day, it shall be divided into 2 parts, one beginning on the day on which the accounting period begins and ending on 31 December 2008 and the other beginning on 1 January 2009 and ending on the day on which the accounting period ends, and both parts shall be treated for the purposes of this section as if they were separate accounting periods of the company.",

and

(*b*) by inserting the following after section 644B:

"Relief from corporation tax for losses from dealing in residential development land.

644C.—(1) (*a*) In this section—

'corporation tax referable to dealing in residential development land', in relation to an accounting period of a company, means the corporation tax

referable to trading income from dealing in residential development land within the meaning of subsection (2) of section 644B as reduced under that section;

'relevant corporation tax', in relation to an accounting period of a company, means the corporation tax which would be chargeable on the company for the accounting period apart from—

(i) this section and sections 239, 241, 420B, 440 and 441, and

(ii) where the company carries on a life business (within the meaning of section 706), any corporation tax which would be attributable to policyholders' profits;

'relevant trading income' has the same meaning as it has in section 243A;

'residential development land' has the same meaning as it has in section 644A(1).

(*b*) Where an accounting period of a company begins before 31 December 2008 and ends after that day, it shall be divided into 2 parts, one beginning on the day on which the accounting period begins and ending on 31 December 2008 and the other beginning on 1 January 2009 and ending on the day on which the accounting period ends, and both parts shall be treated for the purpose of this section as if they were separate accounting periods of the company.

(2) Notwithstanding subsection (1) of section 396, where a company claims that a loss incurred in a trade, the operations or activities of which consist of or include dealing in residential development land, in an accounting period ending on or before 31 December 2008 be set off against trading income of an accounting period beginning after that date, the said subsection (1) shall apply as if the amount of the loss so far as it relates to dealing in residential development land were reduced by 20 per cent.

(3) Notwithstanding subsection (2) of section 396, for the purposes of that subsection the amount of a loss incurred by a company in an accounting period in a trade, the operations or activities of which consist of or include dealing in residential development land, shall be deemed to be reduced—

(*a*) where the accounting period falls wholly before 1 January 2009, by the lesser of—

(i) the amount of the loss, and

(ii) the amount of the loss which relates to dealing in residential development land,

and

(*b*) where the accounting period begins before 1 January 2009 and ends on or after that day, by the lesser of—

(i) the amount of the loss, and

(ii) the amount of the loss which relates to dealing in residential development land,

incurred in the period beginning when the accounting period begins and ending on 31 December 2008.

(4) The computation of the amount of the loss which relates to dealing in residential development land for the purposes of subsections (2), (3)(*a*)(ii), (3)(*b*)(ii), (13)(*b*), (14)(*a*)(ii), (14)(*b*)(ii), (20)(*b*)(i)(II) and (20)(*b*)(ii)(II) shall take into account receipts and purchases, changes in values of stock and other expenses referable to residential development land and a proportion (determined on a just and reasonable basis) of receipts and expenses partly referable to dealing in residential development land and partly to other land or activities of the trade.

(5) Subsections (6) to (12) shall apply to the amount by which a loss in an accounting period is restricted under subsection (3) as if it were a loss (hereinafter in this section referred to as a 'relevant loss') incurred by the company in that accounting period in carrying on a separate trade of dealing in residential development land.

(6) Where in an accounting period a company incurs a relevant loss, the company may make a claim requiring that the

loss be set off against profits of the company, being—

(*a*) income specified in section 21A(4)(*b*),

(*b*) relevant trading income,

(*c*) income to which section 21A(3) does not apply by virtue of section 21B, and

(*d*) profits attributable to chargeable gains,

of that accounting period and, if the company was then carrying on the trade, the losses of which are restricted under subsection (3), and if the claim so requires, of preceding accounting periods ending within the time specified in subsection (7), and subject to that subsection and any relief for an earlier trading loss, to the extent that the profits of any of those accounting periods consists of or includes profits or income specified in paragraphs (*a*) to (*d*), those profits or that income shall then be reduced by the amount of the loss to which this section applies or by so much of that amount as cannot be relieved against profits of a later accounting period.

(7) For the purposes of subsection (6), the time referred to in that subsection shall be a time immediately preceding the accounting period first mentioned in subsection (6) equal in length to the accounting period in which the loss is incurred, but the amount of the reduction which may be made under subsection (3) in the profits of an accounting period falling partly before that time shall not exceed a part of those profits proportionate to the part of the period falling within that time.

(8) Where in any accounting period a company incurs a relevant loss and the amount of that loss exceeds an amount equal to the aggregate of the amounts which could, if a timely claim for such set off had been made by the company, have been set off in respect of that loss for the purposes of corporation tax against profits of the company of that accounting period and any preceding accounting period in accordance with subsection (6), then the company may claim relief under this subsection in respect of the excess.

(9) Where for any accounting period a company claims relief under subsection (8) in respect of the excess, the relevant corporation tax of the company for that

accounting period and, if the company was then carrying on the trade, the losses of which are reduced under subsection (3), and the claim so requires, for preceding accounting periods ending within the time specified in subsection (10) and subject to that subsection, shall be reduced by an amount equal to 20 per cent of the excess or so much of that amount as cannot be relieved against relevant corporation tax of a later accounting period.

(10) For the purposes of subsection (9), the time referred to in that subsection shall be a time immediately preceding the accounting period first mentioned in subsection (9) equal in length to the accounting period in which the loss is incurred, but the amount of the reduction which may be made under subsection (9) in the relevant corporation tax for an accounting period falling partly before that time shall not exceed a part of that corporation tax proportionate to the part of the period falling within that time.

(11) (*a*) Where a company makes a claim for relief for any accounting period under subsection (8) in respect of a relevant loss, an amount (which shall not exceed the amount of the excess in respect of which a claim under subsection (8) may be made), determined in accordance with paragraph (*b*), shall be treated for the purposes of the Tax Acts as an amount of loss relieved against profits of that accounting period.

(*b*) Subject to paragraph (*c*), the amount determined in accordance with this paragraph in relation to an accounting period is an amount equal to:

$$T \times \frac{100}{20}$$

where—

T is the amount by which the relevant corporation tax payable is reduced by virtue of subsection (9).

(*c*) (i) In this paragraph 'relevant amount' means an amount (not being an amount incurred by a company for the purposes of a trade carried on by it) of charges

on income, expenses of management or other amount (not being an allowance to which effect is given under section 308(4)) which is deductible from, or may be treated as reducing, profits of more than one description.

(ii) For the purposes of paragraph (*b*), where as respects an accounting period of a company a relevant amount is deductible from, or may be treated as reducing, profits of more than one description, the amount by which corporation tax is reduced by virtue of subsection (9) shall be deemed to be the amount by which it would have been reduced if no relevant amount were so deductible or so treated.

(12) Subsections (3) to (11) shall apply in respect of any claim to relief under section 396(2) in respect of a loss in a trade, the operations or activities of which consist of or include dealing in residential development land and the claim is made on or after 7 April 2009.

(13) Notwithstanding subsection (1) of section 397, where, on or before 31 December 2008, a company ceasing to carry on a trade, the operations or activities of which include dealing in residential development land, has incurred a loss in the trade, in any accounting period falling wholly or partly within the period of 12 months ending on the day the company ceased to carry on the trade, then, for the purposes of subsection (1) of that section, the amount of that loss shall be deemed to be reduced by the lesser of—

(*a*) the amount of the loss, and

(*b*) the amount of the loss which relates to dealing in residential development land.

(14) Notwithstanding subsection (1) of section 397, where, on or after 1 January 2009, a company ceasing to carry on a trade, the operations or activities of which include dealing in residential development land, has incurred a loss in the trade, in any accounting period falling wholly or partly within the period of 12 months ending on

the day the company ceased to carry on the trade, and falling wholly or partly before 1 January 2009, then, for the purposes of subsection (1) of that section, the amount of that loss shall be deemed to be reduced—

(*a*) where the accounting period falls wholly before 1 January 2009, by the lesser of—

(i) the amount of the loss, and

(ii) the amount of the loss which relates to dealing in residential development land,

and

(*b*) where the accounting period begins before 1 January 2009 and ends on or after that day, by the lesser of—

(i) the amount of the loss, and

(ii) the amount of the loss which relates to dealing in residential development land,

incurred in the period beginning when the accounting period begins and ending on 31 December 2008.

(15) Where a company ceasing to carry on a trade, the operations or activities of which include dealing in residential development land, makes a claim under section 397 in respect of a loss incurred in that trade and the loss is reduced under subsection (13) or (14) for an accounting period, then, subject to subsection (17) and to any relief for earlier losses, the company may claim relief under this subsection for that accounting period in respect of the amount by which the loss has been reduced.

(16) Where for any accounting period a company claims relief under subsection (15) in respect of a loss to which that subsection applies, the corporation tax paid by the company in respect of the income of the trade which is corporation tax referable to dealing in residential development land of the company for accounting periods falling wholly or partly within the 3 years preceding the period of 12 months mentioned in subsection (13) or (14) (or within any shorter period throughout which the company has carried on the trade) shall be reduced by an amount equal to 20 per cent of the loss, or by so much of that amount as cannot be relieved under this subsection

against corporation tax of a later accounting period.

(17) (*a*) Relief shall not be given under subsection (16) in respect of any loss in so far as the loss has been or can be otherwise taken into account so as to reduce or relieve any charge to tax.

(*b*) Where a loss is incurred in an accounting period falling partly outside the period of 12 months mentioned in subsection (13) or (14), relief shall be given under subsection (16) in respect of a part only of that loss proportionate to the part of the period falling within that period of 12 months, and the amount of the reduction which may be made under that subsection in the corporation tax for an accounting period falling partly outside the 3 years mentioned in subsection (16) shall not exceed a part of that corporation tax proportionate to the part of the period falling within those 3 years.

(18) Where relief is claimed under section 397 in respect of an accounting period and the amount of loss, in respect of which relief is claimed, is reduced by virtue of subsection (2), then, for the purposes of granting relief under that section—

(*a*) the income from the trade for the accounting period shall be deemed to be reduced by an amount determined by the formula—

$$U \times \frac{100}{20}$$

where—

U is the amount of the corporation tax referable to dealing in residential development land payable by the company for the accounting period before relief given under subsection (16),

and

(*b*) the corporation tax paid by the company shall be deemed to be reduced by any corporation tax

referable to dealing in residential development land paid by the company and not repaid to it for that accounting period.

(19) Subsections (13) to (18) shall apply in any case where a claim for relief under section 397 is made on or after 7 April 2009 in respect of a loss in a trade, the operations or activities of which include dealing in residential development land.

(20) (*a*) Notwithstanding subsections (1) and (6) of section 420 and section 421, where in an accounting period ending before 31 December 2009 the surrendering company has incurred a loss in a trade, the operations or activities of which consist of or include dealing in residential development land, then an amount of the loss, determined in accordance with paragraph (*b*), may not be set off for the purposes of corporation tax against the total profits of the claimant company for its corresponding accounting period.

(*b*) The amount determined in accordance with this paragraph in relation to an accounting period is an amount equal to—

(i) where the accounting period ends on or before 31 December 2008, the lesser of—

(I) the amount of the loss, and

(II) the amount of the loss which relates to dealing in residential development land,

and

(ii) where the accounting period begins before 1 January 2009 and ends after that date, the lesser of—

(I) the amount of the loss, and

(II) the amount of the loss which relates to dealing in residential development land,

incurred in the period beginning when the accounting period begins and ending on 31 December 2008.

(21) (*a*) Where in any accounting period the surrendering company has incurred a loss in a trade, the operations and activities of which consist of or include dealing in residential development land, and an amount of the loss (hereinafter in this section referred to as the 'restricted loss') may not be set off for the purposes of corporation tax against the total profits of the claimant company for its corresponding accounting period by virtue of subsection (20), then the corporation tax (if any) of the claimant company which is referable to dealing in residential development land for its corresponding accounting period may be reduced by 20 per cent of the restricted loss for that period.

(*b*) Where for any accounting period a company claims relief under this subsection, the surrendering company shall be treated as having surrendered, and the claimant company shall be treated as having claimed relief for, trading losses of an amount determined by the formula—

$$V \times \frac{100}{20}$$

where—

V is the amount by which the relevant corporation tax payable for the accounting period is reduced by virtue of paragraph (*a*).

(22) (*a*) Where in any accounting period the surrendering company has incurred a loss in a trade, the operations and activities of which consist of or include dealing in residential development land, the restricted loss as reduced by any amount treated as relieved by subsection (21)(*b*), may be set off for the purposes of corporation tax against—

(i) income specified in section 21A(4)(*b*),

(ii) relevant trading income,

(iii) income to which section 21A(3) does not apply by virtue of section 21B, and

(iv) profits attributable to chargeable gains,

of the claimant company for its corresponding accounting period as reduced by any amounts allowed as deductions against that income under section 243A or set off against that income under section 396A.

(*b*) Paragraph (*a*) shall not apply—

(i) to so much of a loss as is excluded from section 396(2) by section 396(4) or 663, or

(ii) so as to reduce the profits of a claimant company which carries on life business (within the meaning of section 706) by an amount greater than the amount of such profits (before a set off under this subsection) computed in accordance with Case I of Schedule D and section 710(1).

(23) Group relief allowed under subsection (22) shall reduce the income from a trade of the claimant company for an accounting period—

(*a*) before relief granted under section 397 in respect of a loss incurred in a succeeding accounting period or periods, and

(*b*) after the relief granted under section 396 in respect of a loss incurred in a preceding accounting period or periods.

(24) For the purposes of subsections (21) and (22), in the case of a claim made by a company as a member of a consortium only a fraction of a restricted loss may be set off, and that fraction shall be equal to

that member's share in the consortium, subject to any further reduction under section 422(2).

(25) Where in any accounting period the surrendering company has incurred a loss in a trade the operations or activities of which consists of or includes dealing in residential development land, and the restricted loss is greater than an amount equal to the aggregate of the amounts which could, if timely claims had been made for such set off, have been set off in respect of that loss for the purposes of corporation tax against—

(*a*) the profits of the company in accordance with subsection (6), or

(*b*) profits of any other company in accordance with subsections (21) and (22),

the claimant company may claim relief under subsection (26) for its corresponding accounting period in respect of the amount (hereinafter in this section referred to as the 'relievable loss') by which the unrelieved loss is greater than that aggregate.

(26) (*a*) Where for any accounting period a company claims relief under subsection (25) in respect of a relievable loss, the relevant corporation tax of the company for the accounting period shall be reduced by an amount equal to 20 per cent of that loss.

(*b*) Where for any accounting period a company claims relief under this section in respect of any relievable loss, the surrendering company shall be treated as having surrendered, and the claimant company shall be treated as having claimed relief for, trading losses of an amount determined by the formula—

$$W \times \frac{100}{20}$$

where—

W is the amount by which the relevant corporation tax payable for the accounting period is reduced by virtue of paragraph (*a*).

(27) Chapter 5 of Part 12 shall apply as if subsections (20) to (26) were contained in that Chapter.

(28) Subsections (20) to (27) shall apply in any case where a claim for group relief is made on or after 7 April 2009 in respect of a loss in a trade, the operations or activities of which consist of or include dealing in residential development land.".

(2) This section applies as on and from 1 January 2009.

Amendment of section 626B (exemption from tax in the case of gains on certain disposals of shares) of Principal Act.

12.—(1) Section 626B of the Principal Act is amended in subsection (3)(*d*) by substituting "paragraphs (*a*) and (*b*) of subsection (3) of section 29 and subsection (6) of that section" for "paragraphs (*a*) and (*b*) of section 29(3)".

(2) This section applies to disposals made on or after 7 May 2009.

Intangible assets, etc.

13.—(1) The Principal Act is amended—

(*a*) in section 247 by inserting the following after subsection (4A):

"(4B) Where a loan, or part of a loan, to an investing company has been applied—

(*a*) to subscriptions for the share capital of another company on the issue of the share capital by the other company, or

(*b*) in lending moneys to another company,

and such other company (in this subsection and subsection (4D) referred to as the 'other company') uses those subscriptions or moneys to provide specified intangible assets (within the meaning of section 291A) in respect of which allowances are to be made to it under section 284 as applied by section 291A, then, notwithstanding subsection (3) and section 243, the amount of the relief to be given in respect of so much (in this subsection and subsections (4C) and (4D) referred to as the 'relevant interest') of the interest paid in an accounting period by the investing company on the loan, or the part of the loan, as the case may be, as exceeds the sum of—

(i) any dividends or other distributions chargeable to corporation tax received by the investing company from the other company in that accounting period in respect of that share capital, and

(ii) any interest received by the investing company for that accounting period in respect of those moneys lent to the other company,

shall not exceed the amount of interest that would be—

(I) the amount of the relevant interest to be deducted for the corresponding accounting

period (within the meaning of subsection (4D)) by the other company—

(A) if that relevant interest had been incurred by the other company in connection with the provision of a specified intangible asset by reference to which allowances were to be made to it under section 284 as applied by section 291A in addition to any other interest so incurred by it, and

(B) notwithstanding subsection (6) of section 291A, if any additional restrictions of deductions, whether for allowances or interest, which would then be required by that subsection, were to be made solely by restriction of the deduction for that relevant interest,

or

(II) where the corresponding accounting period is not the same as the accounting period of the investing company or there is more than one corresponding accounting period, the aggregate of the amounts of relevant interest to be deducted for the corresponding period or periods by the other company if that relevant interest had been incurred by the other company, which amounts are computed by apportionment in accordance with paragraph (*d*) of subsection (4D) and are interest paid or treated as paid in the accounting period of the investing company.

(4C) The amount (in this paragraph referred to as the 'excess amount') of the interest paid in an accounting period by the investing company in respect of which, in accordance with subsection (4B), relief is not given under this section for that accounting period shall not be deducted or otherwise relieved for that period under any other provision of the Tax Acts but that excess amount of interest paid shall be carried forward and treated as an amount of relevant interest paid in the succeeding accounting period to be added to the relevant interest, if any, actually paid in that accounting period, for which, subject to subsection (4B), relief can be given for that accounting period and any excess amount of interest paid or treated as paid in that next succeeding accounting period shall, in turn, be carried forward and treated as an amount of relevant interest paid in the next succeeding accounting period to be added to the relevant interest, if any, actually paid in that accounting period for which, subject to subsection (4B), relief can be given for that accounting period and so on for each succeeding accounting period.

(4D) For the purposes of computing any restriction of relief to be given for an accounting period required by subsection (4B)—

(*a*) any accounting period (in this subsection referred to as the 'corresponding accounting

period') of the other company which falls wholly or partly within an accounting period of the investing company corresponds to the accounting period of the investing company,

(*b*) if an accounting period of the investing company and the corresponding accounting period of the other company are not the same relevant interest will be apportioned to corresponding accounting periods on a time basis according to the proportion which the period common to the accounting period of the investing company and the corresponding accounting period bears to the accounting period of the investing company,

(*c*) the total relevant interest referable to a corresponding accounting period shall be the aggregate of each of the amounts of relevant interest apportioned to that corresponding accounting period under paragraph (*b*), and

(*d*) the amount of the total relevant interest referred to in paragraph (*c*) which, subject to subsection (4B)(I)(A) and (B), would have been deducted if it had been incurred by the other company for the corresponding accounting period shall be apportioned to each of the amounts of relevant interest referred to in paragraph (*c*) by reference to the proportion which each of those amounts bears to that total relevant interest.",

(*b*) in section 288(1)(*d*) by inserting "a specified intangible asset within the meaning of section 291A," after "in the case of machinery or plant consisting of",

(*c*) in section 288 by inserting the following after subsection (3B):

"(3C) Notwithstanding subsection (3), a balancing charge shall not be made by reference to a wear and tear allowance made to a company in respect of capital expenditure incurred on the provision of a specified intangible asset within the meaning of section 291A where an event referred to in subsection (1) occurs more than 15 years after the beginning of the accounting period of the company in which the asset was first provided and such event, or any scheme or arrangement which includes that event, does not result in a company within the charge to corporation tax which is connected (within the meaning of section 10) with the first-mentioned company incurring capital expenditure on the asset in respect of which expenditure a claim is made under section 291A.",

(*d*) by inserting the following after section 291:

"Intangible assets.

291A.—(1) In this section—

'authorised officer' means an officer of the Revenue Commissioners authorised by them in writing for the purposes of this section;

'intangible asset' shall be construed in accordance with generally accepted accounting practice;

'specified intangible asset' means an intangible asset, being—

(*a*) any patent, registered design, design right or invention,

(*b*) any trade mark, trade name, trade dress, brand, brand name, domain name, service mark or publishing title,

(*c*) any copyright or related right within the meaning of the Copyright and Related Rights Act 2000,

(*d*) any supplementary protection certificate provided for under Council Regulation (EEC) No. 1768/92 of 18 June 1992[1],

(*e*) any supplementary protection certificate provided for under Regulation (EC) No. 1610/96 of the European Parliament and of the Council of 23 July 1996[2],

(*f*) any plant breeders' rights within the meaning of section 4 of the Plant Varieties (Proprietary Rights) Act 1980, as amended by the Plant Varieties (Proprietary Rights) (Amendment) Act 1998,

(*g*) know-how within the meaning of section 768,

(*h*) any authorisation without which it would not be permissible for—

(i) a medicine, or

(ii) a product of any design, formula, process or invention,

to be sold for any purpose for which it was intended,

(*i*) any rights derived from research, undertaken prior to any authorisation referred to in paragraph (*h*), into the effects of—

(i) a medicine, or

[1]OJ No. L182, 2.7.1992, p.1
[2]OJ No. L198, 8.8.1996, p.30

(ii) a product of any design, formula, process or invention,

(*j*) any licence in respect of an intangible asset referred to in any of paragraphs (*a*) to (*i*),

(*k*) any rights granted under the law of any country, territory, state or area, other than the State, or under any international treaty, convention or agreement to which the State is a party, that correspond to or are similar to those within any of paragraphs (*a*) to (*j*), or

(*l*) goodwill to the extent that it is directly attributable to anything within any of paragraphs (*a*) to (*k*);

'profit and loss account', in relation to an accounting period of a company, has the meaning assigned to it by generally accepted accounting practice and includes an income and expenditure account where a company prepares accounts in accordance with international accounting standards.

(2) Where a company carrying on a trade incurs capital expenditure on the provision of a specified intangible asset for the purposes of the trade, then, for the purposes of this Chapter and Chapter 4 of this Part—

(*a*) the specified intangible asset shall be treated as machinery or plant,

(*b*) such machinery or plant shall be treated as having been provided for the purposes of the trade, and

(*c*) for so long as the company is the owner of the specified intangible asset or, where the asset consists of a right, is entitled to that right, that machinery or plant shall be treated as belonging to that company.

(3) Subject to this section, where for any accounting period a wear and tear allowance is to be made under section 284 to a company which has incurred capital expenditure on the provision of a specified intangible asset for the purposes of a trade carried on by that company, subsection (2) of section 284 shall apply as if the reference in paragraph (*ad*) of that subsection to a

rate per cent of 12.5 were a reference to a rate per cent determined by the formula—

$$\frac{A}{B} \times 100$$

where—

A is—

(*a*) the amount, computed in accordance with generally accepted accounting practice, charged to the profit and loss account of the company, for the period of account which is the same as the accounting period, in respect of the amortisation or depreciation of the specified intangible asset, or

(*b*) where the period of account beginning in the accounting period is not the same as that accounting period, so much of the amount, so computed and charged in that respect to the profit and loss account of the company for any such period of account, as may be apportioned to the accounting period on a just and reasonable basis taking account of the respective lengths of the periods concerned and the duration of use and ownership of the asset in each of those periods,

and

B is the actual cost, within the meaning of paragraph (*ad*) of section 284(2), of the specified intangible asset or, if greater than the actual cost, the value of that asset by reference to which amortisation or depreciation have been computed for the period of account referred to in paragraph (*a*) or (*b*).

(4) (*a*) Notwithstanding subsection (3), where a company makes an election under this subsection in respect of capital expenditure incurred on the provision of a specified intangible asset for the purposes of a trade carried on by the company, subsection (2) of section 284 shall apply as if the reference in paragraph (*ad*) of that subsection to 12.5 per cent were a reference to 7 per cent.

(*b*) An election by a company under paragraph (*a*) shall—

(i) be made in the return required to be made under section 951 for the accounting period of the company in which the expenditure on the provision of the specified intangible asset is first incurred, and

(ii) apply to all capital expenditure incurred on the asset.

(5) (*a*) So much of the activities of a company carried on as part of a trade (in this subsection referred to as 'relevant activities') which consist of managing, developing or exploiting a specified intangible asset or specified intangible assets in respect of which allowances under this Chapter have been made to the company, including activities which comprise the sale of goods or services that derive the greater part of their value from such assets, shall be treated for the purposes of the Tax Acts, other than any provision of those Acts relating to the commencement or cessation of a trade, as a separate trade (in this subsection and subsection (6) referred to as a 'relevant trade'), which is distinct from any other trade or part of a trade carried on by the company.

(*b*) For the purposes of treating relevant activities as a separate trade in accordance with paragraph (*a*), any necessary apportionment shall be made so that income shall be attributed to the relevant trade on a just and reasonable basis and the amount of that income shall not exceed the amount which would be attributed to a distinct and separate company, engaged in the relevant activities, if it were independent of, and dealing at arm's length with, the company mentioned in paragraph (*a*).

(6) (*a*) Subject to paragraphs (*b*) and (*c*), the aggregate amount for an accounting period of—

(i) any allowances to be made to a company under section 284 as applied by this section, and

(ii) any interest incurred in connection with the provision of a specified intangible asset by reference to which allowances referred to in subparagraph (i) are made,

shall not exceed 80 per cent of the amount which would be the amount of the trading income from the relevant trade carried on by the company for that accounting period if no such allowances were to be made to the company and no such interest were to be deducted in computing that income for that accounting period and, for the purposes of this paragraph, the whole or part of any such allowances shall not be allowed for that accounting period and, only if it is then necessary for the purposes of this paragraph, the whole or part of any such interest shall not be deducted for that accounting period.

(*b*) (i) The amount of any allowances which, by virtue of paragraph (*a*), remains unallowed for an accounting period (in this subparagraph referred to as the 'excess amount') shall be carried forward and treated as an allowance within the meaning of paragraph (*a*)(i) for the succeeding accounting period to be added to the amount of any allowances within that meaning which, subject to paragraph (*a*), are available for offset against trading income of the relevant trade for that succeeding accounting period and any excess amount in that succeeding accounting period shall, in turn, be carried forward and treated as an allowance within the meaning of paragraph (*a*)(i) for the next succeeding accounting period to be added to the amount of any allowances within that

meaning which, subject to paragraph (*a*), are available for offset against trading income of the relevant trade for that accounting period and so on for each succeeding accounting period.

(ii) The amount of any interest for which relief cannot be given, by virtue of paragraph (*a*), for an accounting period (in this subparagraph referred to as 'excess interest') shall be carried forward and treated as interest within the meaning of paragraph (*a*)(ii) for the succeeding accounting period to be added to the amount of any interest within that meaning for which relief, subject to paragraph (*a*), can be given for that succeeding accounting period and any excess interest in that succeeding accounting period shall, in turn, be carried forward and treated as interest within the meaning of paragraph (*a*)(ii) for the next succeeding accounting period to be added to the amount of any interest within that meaning, for which relief, subject to paragraph (*a*), can be given for that accounting period and so on for each succeeding accounting period.

(*c*) In computing, for the purposes of this subsection, the trading income from a relevant trade for an accounting period of a company, no account shall be taken of any income which is disregarded for the purposes of the Tax Acts.

(7) This section shall not apply to capital expenditure incurred by a company—

(*a*) for which any relief or deduction under the Tax Acts may be given or allowed other than by virtue of this section,

(*b*) to the extent that the expenditure incurred on the provision of a specified intangible asset

exceeds the amount which would have been paid or payable for the asset in a transaction between independent persons acting at arm's length, or

(*c*) that is not made wholly and exclusively for bona fide commercial reasons and that was incurred as part of a scheme or arrangement of which the main purpose or one of the main purposes is the avoidance of, or reduction in, liability to tax.

(8) (*a*) The Revenue Commissioners or an authorised officer may, in relation to an allowance made or to be made to a company under section 284 as applied by this section in respect of capital expenditure incurred on a specified intangible asset—

(i) consult with any person (in this subsection referred to as an 'expert') who in their opinion may be of assistance in ascertaining the extent to which such expenditure is incurred on the specified intangible asset and, where such an asset is acquired from a connected person (within the meaning of section 10), the amount which would have been payable for the asset in a transaction between independent persons acting at arm's length, and

(ii) notwithstanding any obligation as to secrecy or other restriction on the disclosure of information imposed by, or under, the Tax Acts or any other statute or otherwise, but subject to paragraph (*b*), disclose to the expert any detail in relation to the allowance claimed under this section which they consider necessary for such consultation.

(*b*) (i) Before disclosing information to any expert under paragraph (*a*), the Revenue

Commissioners or authorised officer shall make known to the company—

(I) the identity of the expert who they intend to consult, and

(II) the information they intend to disclose to the expert.

(ii) Where the company shows to the satisfaction of the Revenue Commissioners or authorised officer (or on appeal to the Appeal Commissioners) that disclosure of such information to that expert could prejudice the company's trade, then the Revenue Commissioners or authorised officer shall not make such disclosure.

(9) (*a*) This section shall not apply to the acquisition by a company (in this subsection referred to as 'the transferee') of a specified intangible asset where the acquisition is from another company (in this subsection referred to as 'the transferor') and, by virtue of section 615(2) or 617(1), the transferee is treated as having acquired the asset for a consideration of such amount as would secure that neither a gain nor a loss would accrue on the transferor's disposal of the asset to the transferee.

(*b*) Notwithstanding paragraph (*a*), where the transferor and transferee make a joint election under section 615(4) or 617(4), the transferee shall be entitled to claim an allowance under section 284 as applied by this section in respect of capital expenditure incurred by it on acquiring the specified intangible asset from the transferor.

(10) Any claim made by reference to this section shall be made within 12 months from the end of the accounting period in which the capital expenditure, giving rise to the claim, is incurred.",

(*e*) in section 615 by inserting the following after subsection (3):

"(4) (*a*) This section shall not apply in relation to the transfer of a specified intangible asset within the meaning of section 291A where the company acquiring the asset and the company from which the asset is acquired jointly so elect by giving notice, not later than 12 months from the end of the accounting period in which the company acquired the asset, to the Collector-General in such manner as the Revenue Commissioners may require.

(*b*) Where—

(i) an election is made under paragraph (*a*) in relation to the transfer of a specified intangible asset, and

(ii) that transfer is not a transfer to which section 400(6) applies,

then, for the purposes of computing any chargeable gain, the transfer of that asset shall be treated, as respects—

(I) the disposal by the company from which the asset was acquired, and

(II) the acquisition by the company acquiring the asset,

as having been made for a consideration equal to the market value of the asset on the date of that transfer.",

(*f*) in section 617(1) by substituting "subsections (2), (3) and (4)" for "subsections (2) and (3)",

(*g*) in section 617 by inserting the following after subsection (3):

"(4) Where a member of a group of companies disposes of a specified intangible asset within the meaning of section 291A to another member of the group, subsection (1) shall not apply to the disposal of that asset where the companies jointly so elect by giving notice, not later than 12 months from the end of the accounting period in which the other member of the group acquired the asset, to the Collector-General in such manner as the Revenue Commissioners may require.",

(*h*) in section 755 by inserting the following after subsection (2):

"(3) Subject to subsection (4), this section shall not apply to a company within the charge to corporation tax.

(4) (*a*) Subject to paragraph (*b*), where a company elects in writing, this section shall apply to capital expenditure, specified in the election, incurred by it on the purchase of patent rights after 7 May 2009 and before 7 May 2011.

(*b*) An election under paragraph (*a*) shall be made in the return required to be made under section 951 for the accounting period of the company in which the expenditure is incurred and shall not be made later than 12 months from the end of the accounting period in which the capital expenditure, giving rise to the claim, is incurred.",

(*i*) in section 756 by inserting the following after subsection (6):

"(7) This section shall not apply to patent rights in respect of which an allowance has been made to a company under section 284 as applied by section 291A.",

and

(*j*) in section 768 by inserting the following after subsection (6):

"(7) Subject to subsection (8), this section shall not apply to a company within the charge to corporation tax.

(8) (*a*) Subject to paragraph (*b*), where a company elects in writing, this section shall apply to expenditure, specified in the election, incurred by it on know-how after 7 May 2009 and before 7 May 2011.

(*b*) An election under paragraph (*a*) shall be made in the return required to be made under section 951 for the accounting period of the company in which the expenditure is incurred and shall not be made later than 12 months from the end of the accounting period in which the capital expenditure, giving rise to the claim, is incurred.".

(2) This section applies to expenditure incurred by a company after 7 May 2009.

Chapter 6

Capital Gains Tax

Capital gains: rate of charge.

14.—(1) The Principal Act is amended—

(*a*) in section 28(3) by substituting "25 per cent" for "22 per cent", and

(*b*) in section 649A(1) by substituting the following for paragraph (*b*):

"(*b*) in the case of a relevant disposal made on or after 8 April 2009, 25 per cent.".

(2) This section applies to disposals made on or after 8 April 2009.

PART 2

Excise

Rates of mineral oil tax.

15.—The Finance Act 1999 is amended—

(*a*) with effect as on and from 8 April 2009 by substituting the following for Schedule 2 to that Act (as amended by section 47(*b*) of the Finance (No. 2) Act 2008):

"SCHEDULE 2

Rates of Mineral Oil Tax

(With effect as on and from 8 April 2009)

Description of Mineral Oil	Rate of Tax
Light Oil:	
Petrol	€508.79 per 1,000 litres
Aviation gasoline	€508.79 per 1,000 litres
Heavy Oil:	
Used as a propellant	€409.20 per 1,000 litres
Used for air navigation	€409.20 per 1,000 litres
Used for private pleasure navigation	€409.20 per 1,000 litres
Kerosene used other than as a propellant	€00.00
Fuel oil	€14.78 per 1,000 litres
Other heavy oil	€47.36 per 1,000 litres
Liquefied Petroleum Gas:	
Used as a propellant	€63.59 per 1,000 litres
Other liquefied petroleum gas	€00.00
Coal:	
For business use	€4.18 per tonne
For other use	€8.36 per tonne

",

and

(*b*) in subsection (2) of section 97A (inserted by section 72(1)(*c*) of the Finance Act 2008) by substituting the following for paragraph (*b*):

"(*b*) payment of an amount of mineral oil tax on such quantity, calculated at a rate that is the difference between the rate specified in Schedule 2 for marked gas oil and the rate so specified for heavy oil used for private pleasure navigation.".

Rates of tobacco products tax.

16.—The Finance Act 2005 is amended with effect as on and from 8 April 2009 by substituting the following for Schedule 2 to that Act (as amended by section 52 of the Finance (No. 2) Act 2008):

"SCHEDULE 2

Rates of Tobacco Products Tax

(With effect as on and from 8 April 2009)

Description of Product	Rate of Tax
Cigarettes	€183.42 per thousand together with an amount equal to 18.25 per cent of the price at which the cigarettes are sold by retail
Cigars	€261.066 per kilogram
Fine-cut tobacco for the rolling of cigarettes ...	€220.301 per kilogram
Other smoking tobacco	€181.117 per kilogram

".

Betting duty.

17.—(1) Notwithstanding section 53 of the Finance (No. 2) Act 2008, section 67 of the Finance Act 2002 shall apply as if paragraph (*a*) of subsection (1) of the said section 53 had not been enacted and the said paragraph (*a*) is deemed never to have had effect.

(2) Section 67(1) of the Finance Act 2002 is amended by substituting "2 per cent" for "1 per cent".

(3) *Subsection (2)* comes into operation on such day as the Minister for Finance may appoint by order.

Air travel tax.

18.—Section 55 of the Finance (No. 2) Act 2008 is amended—

(*a*) in subsection (1) by substituting the following for the definition of "airport":

" 'airport' means an airport within the meaning of the Air Navigation and Transport (Amendment) Act 1998, but does not include an airport from which the number of persons (including passengers) who departed on aircraft during the previous calendar year was less than 50,000;",

and

(*b*) by substituting the following for subsection (4):

"(4) Every person liable to pay air travel tax shall, within 20 days or such other period as the Commissioners may determine, remit to the Commissioners the amount of air travel tax payable by him or her in respect of departures by passengers during the previous month or such other period as so determined.".

Amendment of section 135B (repayment of amounts in respect of vehicle registration tax in certain cases) of Finance Act 1992.

19.—Section 135B of the Finance Act 1992 is amended in subsection (6)(*b*) by substituting the following for subparagraph (ii):

"(ii) Where the first registered owner has disposed of the vehicle prior to the date of the making of the repayment claim the amount of the repayment shall be limited to an amount calculated as follows:

$$\frac{V \times (OP - S)}{OP}$$

where—

V is the amount of vehicle registration tax overpaid,

S is the price, if any, received by the first registered owner at the time of disposal but where S is greater than OP, OP shall be taken as the price received, and

OP is the price, including all taxes, declared to the Commissioners at the time of first registration of the vehicle.".

PART 3

Value-Added Tax

Interpretation (*Part 3*).

20.—In this Part "Principal Act" means the Value-Added Tax Act 1972.

Amendment of section 7 (waiver of exemption) of Principal Act.

21.—Section 7 of the Principal Act is amended—

(*a*) in subsection (3) by substituting "subsection (3), (7) or (9) of section 7B" for "section 7B(3)", and

(*b*) by inserting the following after subsection (5):

"(6) Where a person cancelled his or her waiver of exemption before 1 July 2008 then, for the purposes of applying section 12E, the adjustment period (within the meaning of that section or, as the context may require, the period to be treated as the adjustment period in accordance with section 4C(11)) in relation to any capital good the tax chargeable on that person's acquisition or development of which that person was obliged to take into account when that person made that cancellation, shall be treated as if it ended on the date on which that cancellation had effect.".

Amendment of section 7B (transitional measures: waiver of exemption) of Principal Act.

22.—Section 7B of the Principal Act is amended—

(*a*) by substituting the following for subsection (2):

"(2) For the purposes of applying section 12E, the adjustment period (within the meaning of that section or, as the context may require, the period to be treated as the adjustment period in accordance with section 4C(11)) in

relation to a capital good the tax chargeable on the landlord's acquisition or development of which that landlord was obliged to take into account when that landlord cancelled his or her waiver of exemption, shall end on the date on which that cancellation had effect.",

and

(*b*) by inserting the following after subsection (6):

"(7) (*a*) This subsection applies where—

(i) on 1 July 2008 a landlord had an interest in relevant immovable goods,

(ii) on the relevant date the landlord did not have an interest in any relevant immovable goods, and

(iii) that landlord's waiver of exemption had not been cancelled on or before the relevant date in accordance with section 7(3).

(*b*) Where this subsection applies—

(i) the landlord's waiver of exemption shall be treated as if it were cancelled in accordance with section 7(3) on the date of the passing of the *Finance Act 2009*, and

(ii) that landlord shall pay an amount, being the amount payable in accordance with section 7(3) in respect of the cancellation of that waiver, as if it were tax due by that landlord for the taxable period beginning on 1 May 2009.

(8) (*a*) This subsection applies where—

(i) in the period from 1 July 2008 to the relevant date, a landlord made a supply of relevant immovable goods during the adjustment period (within the meaning of section 12E or, as the context may require, the period to be treated as the adjustment period in accordance with section 4C(11)) in relation to those goods, and

(ii) tax was not chargeable on that supply.

(*b*) Where this subsection applies, then for the purposes of sections 4B(5), 12E(3)(*d*) and 12E(7)(*b*) the supply of the relevant immovable goods is treated as if it was made on the date of the passing of the *Finance Act 2009*.

(*c*) Paragraph (*b*) shall not apply where—

(i) the landlord's waiver of exemption has been cancelled in accordance with subsection (7), or

(ii) the landlord cancels his or her waiver of exemption in accordance with section 7(3) before 1 July 2009.

(9) (*a*) This subsection applies where—

(i) on or after the date of the passing of the *Finance Act 2009* a landlord has an interest in relevant immovable goods,

(ii) the landlord ceases, whether as a result of disposing of such goods or otherwise, to have an interest in any such goods, and

(iii) on the date when that landlord ceases to have any such interest, that landlord's waiver of exemption has not been cancelled in accordance with section 7(3).

(*b*) Where this subsection applies—

(i) the landlord's waiver of exemption shall be treated as if it were cancelled on the date referred to in paragraph (*a*)(iii), and

(ii) that landlord shall pay an amount, being the amount payable in accordance with section 7(3) in respect of the cancellation of that waiver, as if it were tax due by that landlord for the taxable period in which the waiver of exemption is so treated as cancelled.

(10) In this section—

'relevant immovable goods' means immovable goods the tax chargeable on the acquisition or development of which a landlord would be obliged to take into account in accordance with section 7(3) in relation to the cancellation of that landlord's waiver of exemption;

'relevant date' means the date immediately before the date of the passing of the *Finance Act 2009*.".

PART 4

Stamp Duties

Interpretation (*Part 4*).

23.—In this Part "Principal Act" means the Stamp Duties Consolidation Act 1999.

Exchange of houses.

24.—The Principal Act is amended by inserting the following after section 83B:

"Exchange of houses.

83C.—(1) In this section—

'excess land' means an area of land other than land referred to in the definition of 'house';

'house' means a building or part of a building, used or suitable for use as a dwelling, and includes an area of land for occupation and enjoyment with the dwelling as its gardens or grounds which, exclusive of the area of the land on which the dwelling is constructed, does not exceed 0.4047 hectare;

'house builder' means a person who has constructed a new house and includes a person who is connected, within the meaning of section 10 of the Taxes Consolidation Act 1997, with the first-mentioned person as part of an arrangement in connection with the construction or disposal of the house;

'new house' means a house that immediately prior to a conveyance, transfer or lease of the house by the house builder has not previously been occupied or sold;

'old house' means a house that, immediately prior to a conveyance or transfer of the house by an individual, has been occupied by the individual or any other individual.

(2) This section applies to an instrument which operates as a conveyance or transfer of an old house by an individual (whether alone or with other individuals) to a house builder where—

(*a*) the instrument contains a certificate that this section applies,

(*b*) either or both the house builder and any other person conveys, transfers or leases a new house to the individual (whether alone or with other individuals), and

(*c*) the conveyance or transfer of the old house is entered into in consideration of the conveyance, transfer or lease of the new house (in this section referred to as an 'exchange of houses').

(3) Notwithstanding section 37, stamp duty shall not be chargeable on an instrument to which this section applies in so far as the instrument effects the conveyance or transfer of an old house by an individual (whether alone or with other individuals) to a house builder.

(4) Where subsection (3) applies and the old house and the new house are not of equal value, any consideration paid or agreed to be paid for equality shall consist only of a payment in cash.

(5) Where excess land is conveyed or transferred by an individual to a house builder by an instrument to which this section applies, the instrument, in so far as it conveys or transfers excess land, shall be chargeable to stamp duty, in respect

of the excess land, as if it were a conveyance or transfer on sale of the excess land with the substitution of the value of the excess land thereby conveyed or transferred for the amount or value of the consideration for the sale.

(6) Subsection (3) shall not apply to an instrument unless it has, in accordance with section 20, been stamped with a particular stamp denoting that it is duly stamped or, as the case may be, that it is not chargeable with any duty.

(7) For the purposes of subsection (6), where any exchange of houses is effected by more than one instrument, the instruments shall, for the purposes of section 20, be presented to the Commissioners at the same time.

(8) (*a*) Where relief from stamp duty arises under this section, on the first occurrence of either of the events specified in paragraph (*c*), the house builder shall become liable to pay the Commissioners an amount (in this subsection referred to as a 'clawback') equal to the amount of the duty that would have been charged on the instrument by virtue of section 37, in respect of the conveyance or transfer of the old house to the house builder, together with interest charged on that amount, calculated in accordance with section 159D, from the date of the first occurrence of either of the said events to the date the clawback is paid.

(*b*) Where relief from stamp duty arises under this section and it is subsequently found that the certificate, referred to in subsection (2)(*a*), contained in the instrument—

(i) was untrue in any material particular which would have resulted in the relief afforded by this section not applying, and

(ii) was included knowing same to be untrue or in reckless disregard as to whether it was true or not,

then, where a false certificate has been included in the instrument, the house builder shall be liable to pay to the Commissioners a penalty in an amount equal to 125 per cent of the duty that would have been charged on the instrument by virtue of section 37, in respect of the conveyance or transfer of the old house to the house builder, had all the facts been truthfully certified, together with interest charged on that amount, calculated in accordance

with section 159D, from the date the instrument was executed to the date the penalty is paid.

(*c*) The events referred to in paragraph (*a*) are that—

(i) the old house, or part of the old house, is conveyed or transferred by the house builder to another person, or

(ii) the old house is not conveyed or transferred by the house builder to another person on or before 31 December 2010.

(9) Notwithstanding subsection (8)—

(*a*) a house builder shall not be liable to a clawback under paragraph (*a*) of subsection (8) if and to the extent that the house builder has paid a penalty under paragraph (*b*) of the said subsection,

(*b*) a house builder shall not be liable to a penalty under paragraph (*b*) of subsection (8) if and to the extent that the house builder has paid a clawback under paragraph (*a*) of the said subsection.

(10) This section applies as respects instruments executed on or after 7 May 2009 and on or before 31 December 2010.".

Amendment of section 101 (intellectual property) of Principal Act.

25.—(1) Section 101(1) of the Principal Act is amended in the definition of "intellectual property"—

(*a*) in paragraph (*a*) by substituting ", domain name, trade name, trade dress, brand, brand name, service mark or publishing title" for "or domain name",

(*b*) by inserting the following after paragraph (*e*):

"(*ea*) any authorisation without which it would not be permissible for—

(i) a medicine, or

(ii) a product of any design, formula, process or invention,

to be sold for any purpose for which it was intended,

(*eb*) any rights derived from research undertaken, prior to any authorisation referred to in paragraph (*ea*), into the effects of—

(i) a medicine, or

(ii) a product of any design, formula, process or invention,",

(*c*) in paragraph (*f*) by substituting ", (*e*), (*ea*) or (*eb*)" for "or (*e*)",

(*d*) in paragraph (*g*) by substituting "(*e*), (*ea*), (*eb*)" for "(*e*)",

(*e*) in paragraph (*h*) by substituting "(*e*), (*ea*), (*eb*), (*f*) or (*g*), or" for "(*e*), (*f*) or (*g*),", and

(*f*) in paragraph (*i*) by substituting "(*e*), (*ea*), (*eb*)" for "(*e*)".

(2) This section applies as respects instruments executed after 7 May 2009.

Amendment of Part 9 (levies) of Principal Act.

26.—(1) Part 9 of the Principal Act is amended—

(*a*) by inserting the following after section 124A:

"Certain premiums of life assurance.

124B.—(1) In this section—

'assessable amount', in relation to a quarter, means the gross amount received by an insurer by means of premiums in that quarter for policies of insurance referred to in classes I, II, III, IV, V and VI of Annex I to the Directive, to the extent that the risks to which those policies of insurance relate are located in the State (being risks deemed to be located in the State by virtue of section 61);

'Directive' means Directive 2002/83/EC of the European Parliament and of the Council of 5 November 2002[1] concerning life assurance;

'due date' means, in respect of the quarter ending on—

(*a*) 31 March in any year, 30 April in the same year,

(*b*) 30 June in any year, 31 July in the same year,

(*c*) 30 September in any year, 31 October in the same year, and

(*d*) 31 December in any year, 31 January in the following year;

'insurer' means—

(*a*) a person who is the holder of an assurance licence under the Insurance Act 1936,

[1]OJ No. L345, 19 December 2002, p.1.

(*b*) the holder of an authorisation within the meaning of the European Communities (Life Assurance) Framework Regulations 1994 (S.I. No. 360 of 1994), or

(*c*) the holder of an official authorisation to undertake insurance in Iceland, Liechtenstein or Norway, pursuant to the EEA Agreement within the meaning of the European Communities (Amendment) Act 1993, who is carrying on the business of life assurance in the State;

'life assurance' means insurance of a class referred to in Annex I to the Directive;

'premium' has the same meaning as in the Insurance Act 1936;

'quarter', in relation to a year, means a period of 3 months ending on 31 March, 30 June, 30 September or 31 December.

(2) An insurer shall, in each year, not later than the due date for each quarter, commencing with the quarter ending on 30 September 2009, deliver to the Commissioners a statement in writing showing the assessable amount for the insurer in respect of that quarter.

(3) There shall be charged on every statement delivered pursuant to subsection (2) a stamp duty of an amount equal to 1 per cent of the assessable amount shown in the statement.

(4) The duty charged by subsection (3) on a statement delivered by an insurer pursuant to subsection (2) shall be paid by the insurer to the Commissioners on delivery of the statement.

(5) There shall be furnished to the Commissioners by an insurer such particulars as the Commissioners may deem necessary in relation to any statement required by this section to be delivered by the insurer.

(6) In the case of failure by an insurer—

(*a*) to deliver not later than the due date any statement required to be delivered by the insurer pursuant to subsection (2), or

(*b*) to pay the stamp duty chargeable on any such statement on delivery of the statement,

the insurer shall—

(i) from that due date until the day on which the stamp duty is paid, be liable to pay, in addition to the stamp duty, interest on the stamp duty calculated in accordance with section 159D, and

(ii) from that due date, be liable to pay a penalty of €380 for each day the stamp duty remains unpaid.

(7) Where during any quarter but before the due date—

(*a*) an insurer ceases to carry on a business in the course of which the insurer is required to deliver a statement (in this subsection referred to as the 'first-mentioned statement') pursuant to subsection (2) (including any case where the insurer is so required by virtue of the prior operation of this subsection) but has not done so before that cesser, and

(*b*) another person (in this subsection referred to as the 'successor') acquires the whole, or substantially the whole, of the business,

then—

(i) the insurer is not required to deliver the first-mentioned statement, and

(ii) the successor shall—

(I) where the successor is, apart from this subsection, required to deliver a statement (in this subsection referred to as the 'second-mentioned statement') pursuant to subsection (2) (including any case where the successor is so required by virtue of the prior operation of this subsection) in respect of the same quarter but has not done so before that acquisition, include in that second-mentioned statement the assessable amount that would have been required to have been

shown in the first-mentioned statement had the insurer not ceased to carry on the business concerned,

(II) where subparagraph (I) does not apply, deliver the first-mentioned statement as if the successor were the insurer.

(8) The delivery of any statement required by subsection (2) may be enforced by the Commissioners under section 47 of the Succession Duty Act 1853 in all respects as if such statement were such account as is mentioned in that section and the failure to deliver such statement were such default as is mentioned in that section.",

(*b*) in section 125(3) by substituting "3 per cent" for "2 per cent", and

(*c*) in section 126B(1) by substituting the following for the definition of "specified section":

" 'specified section' means section 123, 123A, 123B, 123C, 124, 124A, 124B or 125.".

(2) (*a*) In this subsection "assessable amount", "premiums" and "insurer" have, respectively, the meanings given to them in section 124B(1) (inserted by this section) of the Principal Act.

(*b*) *Subsection (1)(a)* applies as respects so much of the assessable amount as is comprised of premiums received on or after 1 August 2009 in respect of contracts of insurance whenever entered into by an insurer.

(3) (*a*) In this subsection "assessable amount", "premiums" and "insurer" have, respectively, the meanings given to them in section 125(1) of the Principal Act.

(*b*) *Subsection (1)(b)* applies as respects so much of the assessable amount as is comprised of premiums received on or after 1 June 2009 in respect of offers of insurance or notices of renewal of insurance issued by an insurer on or after 8 April 2009.

PART 5

Capital Acquisitions Tax

Amendment of Schedule 2 (computation of tax) to Capital Acquisitions Tax Consolidation Act 2003.

27.—(1) Schedule 2 to the Capital Acquisitions Tax Consolidation Act 2003 is amended—

(*a*) in the definition of "group threshold" in paragraph 1 of Part 1—

(i) in subparagraph (*a*) by substituting "€304,775" for "€381,000",

(ii) in subparagraph (*b*) by substituting "€30,478" for "€38,100", and

(iii) in subparagraph (*c*) by substituting "€15,239" for "€19,050",

and

(*b*) by substituting "25" for "22" in the Table in Part 2.

(2) This section applies to gifts and inheritances taken on or after 8 April 2009.

PART 6

Miscellaneous

Interpretation (*Part 6*).

28.—In this Part "Principal Act" means the Taxes Consolidation Act 1997.

Interest on certain overdue tax.

29.—(1) The Principal Act is amended—

(*a*) in section 172K(6) by substituting the following for paragraph (*b*):

"(*b*) Any amount of dividend withholding tax payable in accordance with this Chapter without the making of an assessment shall carry interest from the date when the amount becomes due and payable until payment—

(i) for any day or part of a day before 1 July 2009 during which the amount remains unpaid, at a rate of 0.0322 per cent, and

(ii) for any day or part of a day on or after 1 July 2009 during which the amount remains unpaid, at a rate of 0.0274 per cent.",

(*b*) in section 240(3) by substituting the following for paragraph (*a*):

"(*a*) Any tax payable in accordance with section 239 without the making of an assessment shall carry interest from the date when the amount becomes due and payable until payment—

(i) for any day or part of a day before 1 August 1978 during which the amount remains unpaid, at a rate of 0.0492 per cent,

(ii) for any day or part of a day on or after 1 August 1978 and before 1 April 1998 during which the amount remains unpaid, at a rate of 0.0410 per cent,

(iii) for any day or part of a day on or after 1 April 1998 and before 1 July 2009 during

which the amount remains unpaid, at a rate of 0.0322 per cent, and

(iv) for any day or part of a day on or after 1 July 2009 during which the amount remains unpaid, at a rate of 0.0274 per cent.",

(*c*) in section 258(9) by substituting the following for paragraph (*b*):

"(*b*) Any amount of appropriate tax or amount on account of appropriate tax payable in accordance with this Chapter without the making of an assessment shall carry interest from the date when the amount becomes due and payable until payment—

(i) for any day or part of a day before 1 July 2009 during which the amount remains unpaid, at a rate of 0.0322 per cent, and

(ii) for any day or part of a day on or after 1 July 2009 during which the amount remains unpaid, at a rate of 0.0274 per cent.",

(*d*) in section 531 by substituting the following for subsection (9):

"(9) Where the amount of tax which a person who is or is deemed to be a principal of the kind referred to in subsection (1) is liable under this section and any regulations under subsection (6) to pay to the Collector-General is not so paid, simple interest on the amount shall be paid by the person to the Collector-General and shall be calculated from the date on which the amount became due and payable until payment—

(*a*) for any day or part of a day before 1 August 1978 during which the amount remains unpaid, at a rate of 0.0492 per cent,

(*b*) for any day or part of a day on or after 1 August 1978 and before 1 April 1998 during which the amount remains unpaid, at a rate of 0.0410 per cent,

(*c*) for any day or part of a day on or after 1 April 1998 and before 1 July 2009 during which the amount remains unpaid, at a rate of 0.0322 per cent, and

(*d*) for any day or part of a day on or after 1 July 2009 during which the amount remains unpaid, at a rate of 0.0274 per cent.",

(*e*) in section 730G(7) by substituting the following for paragraph (*b*):

"(*b*) Any amount of appropriate tax shall carry interest from the date when the amount becomes due and payable until payment—

(i) for any day or part of a day before 1 July 2009 during which the amount remains unpaid, at a rate of 0.0322 per cent, and

(ii) for any day or part of a day on or after 1 July 2009 during which the amount remains unpaid, at a rate of 0.0274 per cent.",

(*f*) in section 739F(7) by substituting the following for paragraph (*b*):

"(*b*) Any amount of appropriate tax shall carry interest from the date when the amount becomes due and payable until payment—

(i) for any day or part of a day before 1 July 2009 during which the amount remains unpaid, at a rate of 0.0322 per cent, and

(ii) for any day or part of a day on or after 1 July 2009 during which the amount remains unpaid, at a rate of 0.0274 per cent.",

(*g*) in section 991 by substituting the following for subsection (1):

"(1) Where an amount of tax which an employer is liable under this Chapter and any regulations under this Chapter to pay to the Revenue Commissioners is not so paid, simple interest on the amount shall be paid by the employer to the Revenue Commissioners, and such interest shall be calculated from the expiration of the period specified in the regulations for the payment of the amount until payment—

(*a*) for any day or part of a day before 1 August 1978 during which the amount remains unpaid, at a rate of 0.0492 per cent,

(*b*) for any day or part of a day on or after 1 August 1978 and before 1 April 1998 during which the amount remains unpaid, at a rate of 0.0410 per cent,

(*c*) for any day or part of a day on or after 1 April 1998 and before 1 July 2009 during which the amount remains unpaid, at a rate of 0.0322 per cent, and

(*d*) for any day or part of a day on or after 1 July 2009 during which the amount remains unpaid, at a rate of 0.0274 per cent.",

and

(*h*) in section 1080 by substituting the following for the Table to subsection (2):

"Table

(Period) (1)	(Percentage) (2)
From 6 April 1963 to 31 July 1971	0.0164%
From 1 August 1971 to 30 April 1975	0.0246%
From 1 May 1975 to 31 July 1978	0.0492%
From 1 August 1978 to 31 March 1998	0.0410%
From 1 April 1998 to 31 March 2005	0.0322%
From 1 April 2005 to 30 June 2009	0.0273%
From 1 July 2009 to the date of payment	0.0219%

".

(2) Section 159D of the Stamp Duties Consolidation Act 1999 is amended—

(*a*) in subsection (1) by inserting the following after the definition of "period of delay":

" 'relevant period', in relation to a period of delay which falls into more than one of the periods specified in column (1) of the Table to subsection (2), means any part of the period of delay which falls into, or is the same as, a period specified in that column;",

and

(*b*) by substituting the following for subsection (2):

"(2) The amount of interest charged, chargeable, payable or recoverable in respect of any unpaid duty or other amount due and payable or recoverable under a specified provision—

(*a*) where one of the periods specified in column (1) of the Table to this subsection includes or is the same as the period of delay, shall be the amount determined by the formula—

$$A \times D \times P$$

where—

A is the duty or other amount due and payable under the specified provision which remains unpaid,

D is the number of days (including part of a day) forming the period of delay, and

P is the appropriate percentage in column (2) of the Table to this subsection opposite the period specified in column (1) of the said Table within which the period of delay falls or which is the same as the period of delay,

and

(*b*) where a continuous period formed by more than one period specified in column (1) of the Table to this subsection, but not (as in subsection (*a*)) only one such period, includes or is the same as the period of delay, shall be the aggregate of the amounts due in respect of each relevant period which forms part of the period of delay, and the amount due in respect of each such relevant period shall be determined by the formula—

$$A \times D \times P$$

where—

A is the duty or other amount due and payable under the specified provision which remains unpaid,

D is the number of days (including part of a day) forming the relevant period, and

P is the appropriate percentage in column (2) of the Table to this subsection opposite the period specified in column (1) of the said Table within which the period of delay falls or which is the same as the relevant period.

Table

(Period) (1)	(Percentage) (2)
From 1 April 2005 to 30 June 2009	0.0273%
From 1 July 2009 to the date of payment	0.0219%

".

(3) Section 51 of the Capital Acquisitions Tax Consolidation Act 2003 is amended in subsection (2) by substituting the following for the Table to that subsection:

"Table

Part 1

(Period) (1)	(Percentage) (2)
From 31 March 1976 to 31 July 1978	0.0492%
From 1 August 1978 to 31 March 1998	0.0410%
From 1 April 1998 to 31 March 2005	0.0322%
From 1 April 2005 to 30 June 2009	0.0273%
From 1 July 2009 to the date of payment	0.0219%

Part 2

(1)	(2)
From 8 February 1995 to 31 March 1998	0.0307%
From 1 April 1998 to 31 March 2005	0.0241%
From 1 April 2005 to 30 June 2009	0.0204%
From 1 July 2009 to the date of payment	0.0164%

".

(4) Section 21(1) of the Value-Added Tax Act 1972 is amended—

(*a*) in paragraph (*a*) by substituting "0.0274" for "0.0322", and

(*b*) in paragraph (*b*) by substituting "0.0274" for "0.0322".

(5) Section 103(2) of the Finance Act 2001 is amended by substituting the following for paragraph (*a*):

"(*a*) Without prejudice to the provisions of section 74 of the Finance Act 2002 concerning betting duty, where any amount of excise duty becomes payable under subsection (1) or under any other provision of the statutes which relate to the duties of excise, or any instrument relating to the duties of excise made under statute, and is not paid, simple interest on the amount shall be paid by the person liable to pay the duty and such interest shall be calculated from the date on which the amount became payable—

(i) for any day or part of a day before 1 July 2009 during which the amount remains unpaid, at a rate of 0.0322 per cent, and

(ii) for any day or part of a day on or after 1 July 2009 during which the amount remains unpaid, at a rate of 0.0274 per cent.".

(6) Section 74 of the Finance Act 2002 is amended by substituting the following for subsection (1):

"(1) Where any amount of betting duty becomes payable under section 67 and is not paid, simple interest on the amount shall be paid by the person liable to pay the duty and such interest shall be calculated from the date on which the amount becomes payable—

(*a*) for any day or part of a day before 1 July 2009 during which the amount remains unpaid, at a rate of 0.0322 per cent, and

(*b*) for any day or part of a day on or after 1 July 2009 during which the amount remains unpaid, at a rate of 0.0274 per cent.".

(7) (*a*) *Subsections (1), (2), (3), (5)* and *(6)* shall apply as respects any unpaid tax or duty, as the case may be, that has not been paid before 1 July 2009 regardless of whether that tax or duty became due and payable before, on or after that date.

(*b*) *Subsection (4)* shall apply as respects interest payable under section 21 of the Value-Added Tax Act 1972 for any day or part of a day commencing on or after 1 July 2009, in respect of an amount of value-added tax due to be paid or an amount of value-added tax refunded which was not properly refundable, as the case may be, whether before, on or after that date.

Miscellaneous technical amendments in relation to tax.

30.—(1) Part 11D (inserted by section 21 of the Finance (No. 2) Act 2008) of the Principal Act is amended—

(*a*) in section 380Q(1), in the definition of "dangerous substance", by substituting "Regulation 3" for "section 3",

(*b*) in section 380Q by substituting the following for subsection (2):

"(2) This Part shall apply to any expenditure incurred on or after 1 January 2009 and before 1 January 2014.",

(*c*) in section 380S(2) by substituting "section 380R(5)(*a*)(ii)" for "section 380R(5)(*b*)",

(*d*) in section 380V(2)—

(i) by substituting "a relevant trade" for "that trade", and

(ii) by substituting "380U(*b*)" for "380U(1)(*b*)",

and

(*e*) in section 380W—

(i) in subsection (1) by substituting "380U(*b*)" for "380U(1)(*b*)", and

(ii) in subsection (3) by substituting "Tax" for "Taxes".

(2) Section 1077C(2)(*b*) (inserted by the Finance (No. 2) Act 2008) of the Principal Act is amended by substituting "person" for "individual".

(3) The Stamp Duties Consolidation Act 1999 is amended—

(*a*) in section 87(3) by substituting "payment of that sum and, by means of a penalty," for "payment of that sum and",

(*b*) in section 87A(4)(*b*) by substituting "by means of a penalty, a sum equal to 1 per cent" for "a sum equal to 1 per cent", and

(*c*) in section 134A—

(i) in subsection (7) by substituting "subsection (3)(*a*) and paragraphs (*a*)(i) and (*b*)(i) of subsection (5)" for "subsections (3)(*a*) and (5)(*a*)",

(ii) in subsection (8) by substituting "subsection (3)(*b*) and paragraphs (*a*)(ii) and (*b*)(ii) of subsection (5)" for "subsections (3)(*b*) and (5)(*b*)", and

(iii) in subsection (9) by substituting "subsection (3)(*c*) and paragraphs (*a*)(iii) and (*b*)(iii) of subsection (5)" for "subsections (3)(*c*) and (5)(*c*)".

(4) The Finance (No. 2) Act 2008 is amended—

(*a*) in section 6(1)(*c*) by deleting subparagraph (ii), other than clause (II), and inserting the following paragraph after that clause:

"(ii*a*) in paragraph (*c*)(ii)—

(I) by substituting 'Table to this subsection' for 'Table to this section', and

(II) by substituting '24,000' for '15,000',

and",

and

(*b*) in section 98(2) by substituting "subparagraph (*as*) of paragraph 2 of Schedule 5" for "subparagraph (*ar*) of paragraph 2 of Schedule 5".

(5) (*a*) For the purposes of section 21(2) of the Finance (No. 2) Act 2008, the amendments to the Principal Act effected by section 21(1) of that Act shall be read as amended by *subsection (1)* of this section.

(*b*) *Subsection (2)* is deemed to have come into force and have taken effect as on and from 24 December 2008.

(*c*) In *subsection (3)*—

(i) *paragraphs (a)* and *(b)* are deemed to have come into force and have taken effect as on and from 24 December 2008,

(ii) *subparagraphs (i)* and *(ii)* of *paragraph (c)* have effect as respects penalties incurred on or after the passing of this Act, and

(iii) *subparagraph (iii)* of *paragraph (c)* has effect as on and from 24 December 2008 and, accordingly, the provisions of paragraph 6(*b*) of Schedule 5 to the Finance (No. 2) Act 2008 relating to references to subsections (2)(*c*) and (4)(*c*) of section 134A of the Stamp Duties Consolidation Act 1999 apply to the provisions concerned as amended by that subparagraph.

(*d*) Subsection (2) of section 6 of the Finance (No. 2) Act 2008 applies to subsection (1) of that section as amended by *subsection (4)(a)* of this section.

(*e*) *Subsection (4)(b)* has effect as on and from the passing of this Act.

Care and management of taxes and duties.

31.—All taxes and duties imposed by this Act are placed under the care and management of the Revenue Commissioners.

Short title, construction and commencement.

32.—(1) This Act may be cited as the Finance Act 2009.

(2) *Part 1* shall be construed together with—

(*a*) in so far as it relates to income tax and income levy, the Income Tax Acts,

(*b*) in so far as it relates to corporation tax, the Corporation Tax Acts, and

(*c*) in so far as it relates to capital gains tax, the Capital Gains Tax Acts.

(3) *Part 2*, in so far as it relates to duties of excise, shall be construed together with the statutes which relate to those duties and to the management of those duties.

(4) *Part 3* shall be construed together with the Value-Added Tax Acts.

(5) *Part 4* shall be construed together with the Stamp Duties Consolidation Act 1999 and the enactments amending or extending that Act.

(6) *Part 5* shall be construed together with the Capital Acquisitions Tax Consolidation Act 2003 and the enactments amending or extending that Act.

(7) *Part 6* in so far as it relates to—

(*a*) income tax, shall be construed together with the Income Tax Acts,

(*b*) corporation tax, shall be construed together with the Corporation Tax Acts,

(*c*) capital gains tax, shall be construed together with the Capital Gains Tax Acts,

(*d*) duties of excise, shall be construed together with the statutes which relate to duties of excise and the management of those duties,

(*e*) value-added tax, shall be construed together with the Value-Added Tax Acts,

(*f*) stamp duty, shall be construed together with the Stamp Duties Consolidation Act 1999 and the enactments amending or extending that Act, and

(*g*) gift tax or inheritance tax, shall be construed together with the Capital Acquisitions Tax Consolidation Act 2003 and the enactments amending or extending that Act.

(8) Except where otherwise expressly provided in *Part 1*, that Part is deemed to have come into force and takes effect as on and from 1 January 2009.

(9) Except where otherwise expressly provided for, where a provision of this Act is to come into operation on the making of an order by the Minister for Finance, that provision shall come into operation on such day or days as the Minister for Finance shall appoint either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.