

DÁIL ÉIREANN

AN BILLE AIRGEADAIS 2010 —ROGHCHOISTE

FINANCE BILL 2010 —SELECT COMMITTEE

*Leasuithe
Amendments*

SECTION 36

In page 54, to delete lines 24 to 39 and substitute the following:

“(c) in subsection (1)(b)(i) by inserting “and have effect in accordance with the provisions of those arrangements” after “have been made”, and

(d) by substituting the following for subsection (1)(c)(ii):

“(ii) a company shall not be chargeable to income tax in respect of interest paid by a relevant person (within the meaning of section 246) in the ordinary course of a trade or business carried on by that person—

(I) if the company is not resident in the State but is regarded for the purposes of this subsection as being a resident of a relevant territory which imposes a tax that generally applies to interest receivable in that territory by companies from sources outside that territory, or

(II) where the interest—

(A) is exempted from the charge to income tax under arrangements made with the government of a territory outside the State having the force of law under the procedures set out in section 826(1), or

(B) would be exempted from the charge to income tax if arrangements made, on or before the date of payment of the interest, with the government of a territory outside the State, that do not have the force of law under the procedures set out in section 826 (1), had the force of law when the interest was paid.”.

—An tAire Airgeadais.

In page 54, to delete lines 42 and 43, and in page 55, to delete lines 1 to 16 and substitute the following:

“(h) interest, other than interest referred to in paragraphs (a) to (g), paid by a relevant person in the ordinary course of a trade or business carried on by that person to a company—

[SECTION 36]

- (I) which, by virtue of the law of a relevant territory, is resident in the relevant territory for the purposes of tax and that relevant territory imposes a tax that generally applies to interest receivable in that territory by companies from sources outside that territory, or
- (II) where the interest—
 - (A) is exempted from the charge to income tax under arrangements made with the government of a territory outside the State having the force of law under the procedures set out in section 826(1), or
 - (B) would be exempted from the charge to income tax if arrangements made, on or before the date of payment of the interest, with the government of a territory outside the State, that do not have the force of law under the procedures set out in section 826 (1), had the force of law when the interest was paid,

except where such interest is paid to that company in connection with a trade or business which is carried on in the State by that company through a branch or agency.”.”.

—An tAire Airgeadais.

In page 55, lines 17 and 18, to delete subsection (3) and substitute the following:

“(3) This section applies to interest paid on or after the date of passing of this Act, other than interest paid under an agreement entered into before that date.”.

—An tAire Airgeadais.

SECTION 61

In page 92, subsection (3), line 4, to delete “the Minister” and substitute “the Minister for Finance”.

—An tAire Airgeadais.

SECTION 85

In page 99, before section 85, to insert the following new section:

“Amendment of section 98A (Relief for Biofuel) of Finance Act 1999.

85.—Section 98A of the Finance Act 1999 is amended—

- (a) in subsection (1) by substituting “a relief from mineral oil tax shall, subject to such conditions as may be imposed by the Minister or by the Commissioners, apply to such biofuel” for “a relief from mineral oil tax shall, subject to such conditions as the Commissioners may impose, apply to such biofuel”,

- (b) by inserting the following after subsection (1):

“(1A) The power of the Minister under subsection (1) to impose conditions includes the power to impose such conditions as the Minister considers necessary or appropriate for the purpose of ensuring that an approved project is conducted in accordance with the terms of its approval.”.

[SECTION 85]

(c) by inserting the following after subsection (3):

“(3A) Where the total quantity of biofuel specified under subsection (3) (a) in the approval for any particular project exceeds 50 million litres, relief under subsection (1) shall not be granted in respect of any quantity of biofuel, produced or supplied (as the case may be) during the period from 1 July 2010 to 31 December 2010, that exceeds 20 per cent of that total quantity.”.

—An tAire Airgeadais.

SECTION 100

In page 139, between lines 16 and 17, to insert the following subsection:

“(2) *Subsection (1)* comes into operation on 1 January 2011.”.

—An tAire Airgeadais.

SECTION 102

In page 141, line 14, to delete “purpose.” and substitute “purpose.”.

—An tAire Airgeadais.

In page 141, between lines 14 and 15, to insert the following subsection:

“(5) For the purposes of subsection (2)(c) and (h), any reference to ‘person’ may, in the application of those provisions, be construed by the Commissioners as a reference to the person concerned or to that person’s spouse.”.

—An tAire Airgeadais.

SECTION 106

In page 144, lines 12 and 13, to delete subsection (2) and substitute the following:

“(2) *Subsection (1)* applies to policies of insurance (within the meaning of section 142A (inserted by *subsection (1)*) of the Finance Act 1992) issued on or after the date of the passing of this Act.”.

—An tAire Airgeadais.

SECTION 109

In page 145, line 32, after “supply” to insert the following:

“(in this Act referred to as a ‘joint option for taxation’).”.

—An tAire Airgeadais.

SECTION 110

In page 146, before section 110, to insert the following new section:

110.—Section 4C of the Principal Act is amended by substituting the following for subsection (10)—

“Amendment of section 4C (transitional measures for supplies of immovable goods) of Principal Act.

[SECTION 110]

“(10) In the application of section 12E to immovable goods and interests in immovable goods to which this section applies, subsections (4), (5) and (6) of that section shall be disregarded in respect of the person who, on 1 July 2008, owns those immovable goods or holds an interest in those immovable goods, but—

(a) if that person develops those immovable goods and that development is a refurbishment, within the meaning of section 12E, that is completed on or after 1 July 2008, subsections (4), (5) and (6) of that section shall not be disregarded in respect of that refurbishment;

(b) if, on or after 23 February 2010, that person—

(i) first uses those immovable goods (in this subsection referred to as the ‘first use’), or

(ii) changes the use of those immovable goods (in this subsection referred to as the ‘changed use’),

and the first use, or the changed use, as the case may be, is a use of those immovable goods for a purpose other than the provision of a letting of the type referred to in paragraph 11(1) of Schedule 1, then subsection (6)(a) of section 12E shall not be disregarded for the remainder of the adjustment period applicable to those immovable goods.”.

—An tAire Airgeadais.

SECTION 113

In page 149, line 7, to delete “and”.

—An tAire Airgeadais.

In page 149, line 42, to delete “stock-in-trade,” and substitute “stock-in-trade”.

—An tAire Airgeadais.

In page 149, between lines 48 and 49, to insert “and”.

—An tAire Airgeadais.

In page 150, line 24, after “paragraph (a)” to insert “or section 12B(11)(a)”.

—An tAire Airgeadais.

SECTION 114

In page 150, lines 48 and 49, to delete “stock-in-trade,” and substitute “stock-in-trade”.

—An tAire Airgeadais.

SECTION 116

In page 151, to delete lines 12 to 15 and substitute the following:

“(d) This subsection, other than paragraph (e), does not apply on or after the date of the passing of the *Finance Act 2010*.”

[SECTION 116]

- (e) Where on the date of the passing of the *Finance Act 2010* a taxable dealer has a means of transport in respect of which prior to that date the taxable dealer had not claimed deductibility in the circumstances referred to in paragraph (c), then, when that taxable dealer supplies that means of transport to another person, that supply shall be treated as a supply of margin scheme goods for the purposes of section 10A and section 10A(14)(b) shall apply for the purpose of the calculation of the profit margin (within the meaning of section 10A) in relation to that supply.”,

and”.

—An tAire Airgeadais.

SECTION 123

In page 156, lines 18 and 19, to delete all words from and including “(renamed” in line 18 down to and including “Act)” in line 19 and substitute the following:

“which is renamed “Schedule 6” by virtue of *section 125*”.

—An tAire Airgeadais.

In page 156, line 37, to delete “shops” and substitute “staff shops”.

—An tAire Airgeadais.

SECTION 124

In page 161, lines 17 and 18, to delete all words from and including “Entering” in line 17 down to and including “by” in line 18 and substitute the following:

“Supplying insurance and reinsurance services, and supplying related services by”.

—An tAire Airgeadais.

[*Note: A Printer error has resulted in incorrect line references in page 161 of the Bill. The line references in this amendment refer to the actual number of lines of text in page 161 of the Bill.*]

In page 161, to delete lines 20 to 27 and substitute the following:

“(2) For the purposes of this paragraph ‘related services’, in relation to insurance services, includes—

(a) collecting insurance premiums and selling insurance, and

(b) handling claims and providing claims settlement services where the supplier of the insurance services delegates authority to an agent and is bound by the agent’s decision in relation to claims.”.

—An tAire Airgeadais.

[*Note: A Printer error has resulted in incorrect line references in page 161 of the Bill. The line references in this amendment refer to the actual number of lines of text in page 161 of the Bill.*]

In page 175, line 19, to delete “or”.

—An tAire Airgeadais.

[SECTION 124]

[Note: A Printer error has resulted in incorrect line references in page 175 of the Bill. The line references in this amendment refer to the actual number of lines of text in page 175 of the Bill.]

In page 178, line 10, to delete “an existing hiring” and substitute “a previous hiring”.

—An tAire Airgeadais.

SECTION 139

In page 187, between lines 24 and 25, to insert the following subsection:

“(2) Subsection (3) shall not apply where a liability to inheritance tax arises by virtue of the fact that a person referred to in subsection (1)(a) has not disclosed that he or she has received a taxable gift or a taxable inheritance prior to the taxable inheritance or taxable inheritances, as the case may be, consisting of property referred to in that paragraph and the personal representative or solicitor referred to in section 48(10), as the case may be, has made reasonable enquiries regarding such gifts or inheritances and has acted in good faith.”.

—An tAire Airgeadais.

In page 187, line 25, to delete “(2)” and substitute “(3)”.

—An tAire Airgeadais.

In page 187, line 35, to delete “(3)” and substitute “(4)”.

—An tAire Airgeadais.

In page 187, line 36, to delete “(2)” and substitute “(3)”.

—An tAire Airgeadais.

SECTION 141

In page 193, between lines 40 and 41, to insert the following:

“ ‘discretionary trust’ means any disposition whereby, or by virtue or in consequence of which, property is held on trust to apply, or with a power to apply, the income or capital or part of the income or capital of the property for the benefit of any person or persons or of any one or more of a number or of a class of persons whether at the discretion of trustees or any other person and notwithstanding that there may be a power to accumulate all or any part of the income and for the purposes of this definition ‘disposition’ includes any disposition whether by deed or otherwise and any covenant, agreement or arrangement whether effected with or without writing;”.

—An tAire Airgeadais.

[Note: A Printer error has resulted in incorrect line references in page 193 of the Bill. The line references in this amendment refer to the actual number of lines of text in page 193 of the Bill.]

In page 194, between lines 4 and 5, to insert the following:

“ ‘foundation’ means any legal entity, wherever established, to which an individual disposes of, or transfers, property, irrespective of—

(a) how that entity is described in the place of establishment, and

(b) the name by which that entity is called in the place of establishment;”.

—An tAire Airgeadais.

[SECTION 141]

In page 194, between lines 30 and 31, to insert the following:

“ ‘minor child’ means a child who has not attained the age of 18 years and is not and has not been married;”.

—An tAire Airgeadais.

In page 196, between lines 2 and 3, to insert the following:

“(2) Subject to subsection (3), for the purposes of the definition of ‘Irish property’ in subsection (1), an individual shall be deemed to be beneficially entitled in possession on the valuation date to—

- (a) all property situate in the State which the individual has transferred to his or her spouse or minor children, for less than market value, on or after 18 February 2010,
- (b) all property situate in the State which the individual has disposed of, or transferred, to a discretionary trust, for less than market value, on or after 18 February 2010, and
- (c) all property situate in the State which the individual has disposed of, or transferred, to a foundation, for less than market value, on or after 18 February 2010.

(3) (a) Subsection (2)(a) shall not apply to a maintenance arrangement (within the meaning of section 1025).

(b) Subsection (2)(b) and (c) shall not apply to a discretionary trust or a foundation, as the case may be, which is shown, to the satisfaction of the Revenue Commissioners, to have been created exclusively—

(i) for purposes which, in accordance with the law of the State, are charitable, or

(ii) for the benefit of one or more named individuals and for the reason that such individual, or all such individuals, is or are, because of age or improvidence, or of physical, mental or legal incapacity, incapable of managing that individual’s or those individuals’ affairs.”.

—An tAire Airgeadais.

In page 196, lines 26 and 27, to delete all words from and including “before” in line 26 down to and including “payable” in line 27 and substitute the following:

“at the same time as, or before, domicile levy for that year is paid”.

—An tAire Airgeadais.

[Note: A Printer error has resulted in incorrect line references in page 196 of the Bill. The line references in this amendment refer to the actual number of lines of text in page 196 of the Bill.]

In page 197, to delete lines 9 to 26 and substitute the following:

“Delivery of returns. 531AF.—(1) A relevant individual shall, as respects a tax year, on or before 31 October in the year after the valuation date, prepare and deliver to the Revenue Commissioners a full and true return, together with the payment of domicile levy, of all such matters and particulars in relation to the determination of liability to domicile levy as the Revenue Commissioners may require.

[SECTION 141]

(2) A return under this section shall—

- (a) be in such form as the Revenue Commissioners may require,
- (b) be signed by the relevant individual, and
- (c) include a declaration by the individual who signed the return that the return is, to the best of that individual's knowledge, information and belief, correct and complete.

Opinion of Revenue
Commissioners.

531AG.—(1) On an application to the Revenue Commissioners by an individual who is considering the making of a significant investment in the State, they may give an opinion to the individual as to whether or not, in the tax year in which the application is made, the individual would be likely to be regarded as an individual to whom paragraph (a) of the definition of 'relevant individual' in section 531AA (1) applies.

(2) An application for an opinion under subsection (1) shall be in such form and contain such information and particulars as the Revenue Commissioners may require in relation to such an application.

(3) Nothing in this section shall be construed as obliging the Revenue Commissioners to give the opinion referred to in subsection (1)."

—An tAire Airgeadais.

[Note: A Printer error has resulted in incorrect line references in page 197 of the Bill. The line references in this amendment refer to the actual number of lines of text in page 197 of the Bill.]

In page 198, subsection (2)(a), line 27, before "is" to insert "of the Principal Act".

—An tAire Airgeadais.

[Note: A Printer error has resulted in incorrect line references in page 198 of the Bill. The line references in this and subsequent amendments to this page refer to the actual number of lines of text in page 198 of the Bill.]

In page 198, subsection (2)(b), line 30, before "is" to insert "of the Principal Act".

—An tAire Airgeadais.

In page 198, subsection (2)(b), line 31, to delete "subparagraph (iii)" and substitute "subparagraph (iii a)".

—An tAire Airgeadais.

In page 198, subsection (2)(c), line 33, before "is" to insert "of the Principal Act".

—An tAire Airgeadais.

In page 198, subsection (2)(d), line 36, before "is" to insert "of the Principal Act".

—An tAire Airgeadais.

SCHEDULE 2

In page 213, to delete lines 22 to 26.

—An tAire Airgeadais.

[SCHEDULE 2]

[*Note: A Printer error has resulted in incorrect line references in page 213 of the Bill. The line references in this and subsequent amendments to this page refer to the actual number of lines of text in page 213 of the Bill.*]

In page 213, to delete lines 27 to 31 and substitute the following:

“(c) In subsection (10)—

(i) substitute “paragraph 1(1) of Schedule 2” for “paragraph (i)(b) of the Second Schedule”, and

(ii) substitute “that Schedule” for “the Second Schedule”, where secondly occurring.”.

—An tAire Airgeadais.

In page 213, to delete lines 36 to 40 and substitute the following:

“(a) In subsection (7)—

(i) substitute “paragraph 1(1) of Schedule 2” for “paragraph (i)(b) of the Second Schedule”, and

(ii) substitute “that Schedule” for “the Second Schedule”, where secondly occurring.”.

—An tAire Airgeadais.

SCHEDULE 3

In page 218, between lines 5 and 6, to insert the following:

“(a) by inserting in subsection (1) the following definition after the definition of “electronically supplied services”:

“ ‘enactment’ means an Act or statutory instrument or any part of an Act or statutory instrument;”.

—An tAire Airgeadais.

In page 222, line 4, after “12E” to insert “(inserted by the Finance Act 2008)”.

—An tAire Airgeadais.

[*Note: A Printer error has resulted in incorrect line references in page 222 of the Bill. The line references in this and subsequent amendments to this page refer to the actual number of lines of text in page 222 of the Bill.*]

In page 222, line 22, to delete “those goods” and substitute “the refurbishment”.

—An tAire Airgeadais.

In page 223, to delete lines 27 to 42 and substitute the following:

“(10A) Subsection (10) applies to a transfer of a capital good if—

(a) the transfer is of a kind referred to in section 3(5)(b)(iii), and

(b) but for the application of section 3(5)(b), that transfer would be a supply—

(i) that is exempt in accordance with section 4B(2) or section 4C(2) or (6)(b), or

(ii) in respect of which tax is chargeable in accordance with section 4C(6)(a).”.

—An tAire Airgeadais.

[SCHEDULE 3]

In page 224, to delete lines 23 to 27 and substitute the following:

“ “(4) A claim for a refund under this Act may be made only within 4 years after the end of the taxable period to which it relates.” ”.

—An tAire Airgeadais.

[Note: A Printer error has resulted in incorrect line references in page 224 of the Bill. The line references in this amendment refer to the actual number of lines of text in page 224 of the Bill.]