

Finance Act, 1950

18 of 1950

[05 July 1950]

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SCHEDULE 1 :- FIRST SCHEDULE

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AN ACT TO CHARGE AND IMPOSE CERTAIN DUTIES OF CUSTOMS AND INLAND REVENUE (INCLUDING EXCISE), TO AMEND THE LAW RELATING TO CUSTOMS AND INLAND REVENUE (INCLUDING EXCISE) AND TO MAKE FURTHER PROVISIONS IN CONNECTION WITH FINANCE. BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:-

PART 1 INCOME TAX

1. Income Tax And Sur-Tax For The Year 1950-51 :-

(1) Income tax shall be charged for the year beginning on the 6th day of April, 1950, at the rate of six shillings and six pence in the pound.

(2) Sur-tax for the year beginning on the 6th day of April, 1950, shall be charged in respect of the income of any individual the total of which from all sources exceeds one thousand five hundred pounds and shall be so charged at the same rates as those at which it is charged for the year beginning on the 6th day of April, 1949.

(3) The several statutory and other provisions which were in force on the 5th day of April, 1950, in relation to income tax and sur-tax shall, subject to the provisions of this Act, have effect in relation to the income tax and sur-tax to be charged as aforesaid for the year beginning on the 6th day of April, 1950.

2. Amendment Of Section 3 Of The Finance Act, 1925 :-

Section 3 (which relates to exemption of certain military pensions and gratuities) of the Finance Act, 1925 (No. 28 of 1925), is hereby amended by the insertion therein of the following subsection in lieu of subsection (2) now (by virtue of section 3 of the Finance Act, 1946 (No. 15 of 1946)) contained in the said section 3:-

"(2) The wounds and disabilities pensions to which section 16 of the Finance Act, 1919, applies shall include and be deemed always to have included (a) all wound and disability pensions, and all increases in such pensions, granted under the Army Pensions Acts, 1923 to 1949, and (b) all gratuities in respect of wounds or disabilities similarly granted, and the said section 16 shall be construed and have effect accordingly."

3. Extension Of Section 8 Of The Finance Act, 1932 :-

Where the amount of an allowance to which section 8 (which relates to the exemption of certain allowances under the Army Pensions Acts, 1923 and 1927) of the Finance Act, 1932 (No. 20 of 1932), applied before the passing of the Army Pensions (Increase) Act, 1949 (No. 28 of 1949), has been increased by virtue of section 4 of the said Army Pensions (Increase) Act, 1949, the said section 8 of the Finance Act, 1932, shall apply, and be deemed always to have applied, to the whole of such allowance as so increased in amount.

4. Exemption Of Allowances: Griffith Settlement Act, 1923, And Army Pensions Act, 1937 :-

(1) Income to which this section applies shall be exempt from income tax (including sur-tax) and shall not be reckoned in computing income for the purposes of the Income Tax Acts.

(2) This section applies to-

(a) any yearly sum payable under section 1 of the Griffith Settlement Act, 1923 (No. 5 of 1923), and

(b) any allowance payable under section 3 of the Army Pensions Act, 1937 (No. 15 of 1937).

PART 2 CUSTOMS AND EXCISE

5. Cesser Of Preferential Rates Of Customs Duties On Unmanufactured Tobacco :-

Section 15 of the Finance Act, 1949 (No. 13 of 1949), shall cease

to have effect as on and from the 31st day of July, 1950, except in relation to-

(a) unmanufactured tobacco in a bonded warehouse on that date, and

(b) unmanufactured tobacco as respects which it is shown to the satisfaction of the Revenue Commissioners that such tobacco was purchased before that date for the purpose of being imported into the State.

6. Entertainments Duty-Entertainment Proceeds Of Which Are For Educational, Philanthropic, Or Charitable Purposes

:-

Subsection (4) of section 10 of the Finance Act, 1943 (No. 16 of 1943), is hereby amended, as respects entertainments held on or after the 1st day of August, 1950, by the substitution of the words "fifty per cent." for the words "thirty per cent."

7. Entertainments Duty-Entertainment Consisting Of Amateur Wrestling :-

Entertainments duty within the meaning of and chargeable under section 1 of the Finance (New Duties) Act, 1916, as amended by subsequent enactments shall not be charged or levied on payments for admission to any entertainment in respect of which it is proved to the satisfaction of the Revenue Commissioners that the entertainment is promoted by the Irish Amateur Wrestling Association or by a club affiliated to or under the direct control of that association, and that the entertainment consists solely of an exhibition of the sport of wrestling at or in connection with which no money is awarded or paid to any of the participants or contestants whether as a prize, remuneration, or otherwise.

8. Appraisers Licences-Exemption :-

(1) On and after the 6th day of July, 1950, a person who is authorised to conduct auctions by virtue of-

(a) an auctioneers licence granted under section 8 of the Auctioneers and House Agents Act, 1947 (No. 10 of 1947), and for the time being in force, or

(b) an auction permit granted under section 9 of that Act and for the time being in force,

may act as an appraiser within the meaning of the Appraisers

Licences Act, 1806, without being licensed under that Act.

(2) Section 7 of the Appraisers Licences Act, 1806, shall be repealed as on and from the 6th day of July, 1950.

9. Regulations In Relation To Aerodromes, Aircraft, Etc :-

(1) The Minister for Finance may by regulations make such provision as appears to him to be requisite or expedient for all or any of the following purposes:-

(a) applying any of the provisions of the Customs Acts, subject to such modifications as he considers appropriate, in relation to aerodromes and to aircraft and persons, goods, mails, stores and baggage carried therein, disembarked or unladen therefrom or embarked or laden thereon;

(b) adapting or modifying any of the provisions of the statutes which relate to the duties of excise and the management of those duties in relation to aerodromes and to aircraft and persons, goods, mails, stores and baggage carried therein, disembarked or unladen therefrom or embarked or laden thereon;

(c) preventing smuggling by air;

(d) carrying out, in so far as they relate to the Customs, the provisions of the Chicago Convention.

In this subsection, the expression "the Chicago Convention" has the same meaning as it has in Part II of the Air Navigation and Transport Act, 1946 (No. 23 of 1946), as amended by section 9 of the Air Navigation and Transport Act, 1950 (No. 4 of 1950).

(2) If any person contravenes, whether by act or omission, any regulation under this section, he shall, in addition to any other penalty to which he may be liable, be guilty of an offence against the Customs Acts and shall be liable on summary conviction thereof to a Customs penalty not exceeding one hundred pounds, and he may either be detained or proceeded against by summons.

(3) Any goods in respect of which an offence under this section may have been committed, together with all aircraft, ships, boats, vehicles, animals and other things used in their conveyance, shall be forfeited.

(4) On the making of the first regulations under this section for the purposes specified in paragraph (d) of subsection (1) of this section, regulations 61 and 63 of the Air Navigation (General) Regulations, 1930 (S.R. & O., No. 26 of 1930), shall cease to have effect.

PART 3 DEATH DUTIES

10. Confirmation Of Convention Set Forth In First Schedule

:-

(1) The convention set forth in the First Schedule to this Act and concluded on the 13th day of September, 1949, between the Government and the Government of the United States of America (in this section referred to as the Convention) is hereby confirmed and shall have the force of law.

(2) Subsection (4) of section 7 of the Finance Act, 1894 (which provides for relief in respect of duty payable in a foreign country) shall not have effect in relation to estate tax chargeable under the laws of the United States of America to which the provisions of the Convention apply.

PART 4 CORPORATION PROFITS TAX

11. Continuance Of Certain Exemptions From Corporation Profits Tax :-

(1) The exemptions from corporation profits tax specified in subsection (1) of section 33 of the Finance Act, 1929 (No. 32 of 1929), as amended by section 30 of the Finance Act, 1931 (No. 31 of 1931), paragraph (b) of subsection (1) of section 47 of the Finance Act, 1932 (No. 20 of 1932), and subsection (2) of this section shall be given in respect of the period beginning on the 1st day of January, 1950, and ending on the 31st day of December, 1952.

(2) Subsection (1) of section 33 of the Finance Act, 1929 , as amended by section 30 of the Finance Act, 1931 , and paragraph (b) of subsection (1) of section 47 of the Finance Act, 1932 , is hereby further amended by the insertion at the end of that subsection of the following word and paragraph:-

"or

(f) in the case of a company which carries on a railway undertaking, to any profits of that company."

PART 5 RELIEF OF DOUBLE TAXATION INCOME TAX, SUR-TAX AND CORPORATION PROFITS TAX

12. Confirmation Of Convention Set Forth In Second Schedule :-

(1) The convention set forth in Part I of the Second Schedule to this Act and concluded on the 13th day of September, 1949,

between the Government and the Government of the United States of America (in this section referred to as the Convention) is hereby confirmed and shall have the force of law.

(2) For the purpose of giving effect to the Convention, the provisions set forth in Part II of the Second Schedule to this Act shall have effect.

(3) The necessary apportionments shall be made for the purpose of giving effect to the terms of the Convention as respects corporation profits tax in the case of accounting periods beginning before the 1st day of April in the year in which the Convention first has effect and ending on or after that date, and any such apportionment shall be made in proportion to the number of months or fractions of months in the part of the relevant accounting period before the said 1st day of April and in the remaining part of the said relevant accounting period respectively.

(4) The Revenue Commissioners may from time to time make regulations in relation to the granting of the reliefs specified in the Convention and may, in particular, by those regulations provide-

(a) for securing that no such reliefs from taxation imposed by the laws of the United States of America as are provided for in the Convention shall enure to the benefit of persons not entitled thereto, and

(b) for authorising, in cases where tax deductible from any periodical payment has, in order to comply with the terms of the Convention, not been deducted and it is discovered that the Convention does not apply to that payment, the recovery of the tax by assessment on the person entitled to the payment or by deduction from subsequent payments.

13. Provision As To Dividends :-

(1) This section applies to any dividend payable after the passing of this Act, being a dividend from which deduction of tax is authorised by Rule 20 of the General Rules.

(2) In this section-

the expression "the company" means a body of persons paying a dividend to which this section applies;

the expression "double taxation relief" means any credit for tax (other than British income tax) payable in any territory outside the State, which is allowable against Irish income tax by virtue of any international agreement having the force of law, including any such credit which has been taken into account in relation to any

dividends receivable by the company;

the expression "the reduced Irish rate" means the rate of Irish income tax payable directly or by deduction by the company after taking double taxation relief into account.

(3) (i) Notwithstanding anything in the Income Tax Acts, no relief or repayment in respect of the tax deducted or authorised to be deducted from any dividend to which this section applies shall, in a case in which there is double taxation relief, be allowed at a rate exceeding the reduced Irish rate.

(ii) Where the reduced Irish rate falls to be computed in relation to a dividend, the particulars to be given by the company in the statement required by section 13 of the Finance Act, 1925 (No. 28 of 1925), and section 5 of the Finance Act, 1940 (No. 14 of 1940), shall (in addition to the particulars required to be given apart from this section) include particulars of the reduced Irish rate.

(4) Where a dividend has been paid before the passing of this Act, and any double taxation relief would have fallen to be taken into account in relation to that dividend if this section had applied thereto, that relief shall be taken into account as far as possible in determining the reduced Irish rate in relation to the first dividend payable by the company to which this section applies, and any part of that relief which cannot be so taken into account shall as far as possible be taken into account in relation to the next succeeding dividend, and so on.

(5) Where the whole or any part of any annual payment is payable out of a dividend to which this section applies, and the rate of relief or repayment allowable in respect of the tax deducted or authorised to be deducted from the dividend is affected by double taxation relief, the annual payment, or that part thereof, as the case may be, shall be deemed to be paid out of profits or gains not brought into charge to tax and Rule 21 of the General Rules shall apply accordingly, but the tax recoverable under the said Rule from the person making the payment shall be reduced by an amount equal to tax on the payment or part of the payment at the reduced Irish rate applicable to the dividend.

14. Determination Of Reduced Irish Rate :-

(1) In this section, the expressions "the reduced Irish rate", "double taxation relief" and "the company" have the same meaning as in the last preceding section and the word "dividend" means a dividend to which that section applies.

(2) The reduced Irish rate in relation to any dividend shall be taken to be the rate which is produced by deducting-

(a) the rate of double taxation relief for the period for which the dividend is paid, from

(b) the rate of tax authorised to be deducted from the dividend by Rule 20 of the General Rules.

(3) Subject to any adjustment which is required by subsection (4) of the last preceding section or by subsection (4) of this section, the rate of double taxation relief for the period for which the dividend is paid shall be taken to be-

(a) in the case of a dividend paid for a period which falls wholly within any year of assessment, the rate which is produced by dividing the double taxation relief for that year of assessment by a sum consisting of the total income of the company as computed for income tax purposes for that year reduced by the amount of any income the income tax upon which the company is entitled, otherwise than under Rule 20 of the General Rules, to charge against any other person;

(b) in the case of a dividend paid for a period which falls partly within one year of assessment and partly within another year of assessment or other years of assessment, the rate which is produced by determining, in relation to each of those years,-

(i) the rate which would have been applicable if the dividend had been paid for a period falling wholly within that year, and

(ii) the portion of that rate which bears the same proportion to that rate as the part of the period for which the dividend is paid which falls within that year bears to the whole period,

and then aggregating the portions so determined.

(4) Where any matter affecting the calculation of the rate of double taxation relief has not been fully determined at the time when the reduced Irish rate falls to be determined in relation to any dividend, the rate of double taxation relief shall be estimated according to the best of the information available at the time, and, if it is subsequently found that the rate so estimated was excessive or deficient, the appropriate adjustment shall be made in determining the reduced Irish rate applicable to the next subsequent dividend on the occasion of which it is practicable to make the adjustment, and shall be made by reducing or, as the case may be, increasing the rate of double taxation relief, as calculated for the purposes of that subsequent dividend in accordance with the foregoing subsection, by a rate which bears the same proportion to the excess or deficiency in the rate

applicable to the first-mentioned dividend as the total amount of the first-mentioned dividend bears to the total amount of that subsequent dividend.

(5) Where the double taxation relief for any year of assessment includes any credit which has been taken into account for the purposes of determining the reduced Irish rate applicable to any dividends received by the company, the amount of that credit shall be taken to be the sum of the amounts which are produced by applying to each such dividend the rate which represents the excess of the rate of tax authorised to be deducted from that dividend by Rule 20 of the General Rules over the reduced Irish rate applicable to that dividend.

(6) For the purposes of this section, a dividend which is not expressed to be paid for any specified period shall be deemed to be paid for the last period for which accounts of the company were made up which ended before the dividend became payable.

15. Construction Of This Part Of This Act :-

This Part of this Act and the Second Schedule to this Act shall, so far as they relate to income tax (including sur-tax), be read and construed together with the Income Tax Acts and shall, so far as they relate to corporation profits tax, be read and construed together with Part V of the Finance Act, 1920, as amended or extended by subsequent enactments.

PART 6 STAMP DUTIES

16. Exception From Application Of Sections 24 And 25 Of Finance Act, 1949 :-

(1) Subject to subsection (2) of this section, sections 24 and 25 of the Finance Act, 1949 (No. 13 of 1949), shall not apply and shall be deemed never to have applied in the case of a lease by a local authority under the provisions of the Housing of the Working Classes Acts, 1890 to 1931, or the Labourers Acts, 1883 to 1941, or any Acts amending or extending those Acts, or of a lease by a society registered under the Industrial and Provident Societies Acts, 1893 to 1936, and made, in accordance with a scheme for the provision of houses for its members, to a member or to such member and the spouse of the member, and any amount of duty paid before the passing of this Act in respect of any such lease in excess of the amount chargeable under paragraph (3) of the

heading "Lease or Tack" in the First Schedule to the Stamp Act, 1891, as amended by subsequent enactments other than the Finance Act, 1949, may be repaid.

(2) Subsection (1) of this section shall apply if, but only if-

(a) as respects section 24 of the Finance Act, 1949 -the lease contains a statement by the lessee certifying that the person who becomes entitled to the entire beneficial interest in the lessee's interest under the lease (or, where more than one person becomes entitled to a beneficial interest therein, each of them) is a person falling within a specified one of the classes set out in paragraphs (a) to (f) of subsection (4) of section 24 of the Finance Act, 1949, and

(b) as respects section 25 of the Finance Act, 1949 -either the lease contains a statement such as aforesaid or the Revenue Commissioners are satisfied that it could properly have contained such a statement as aforesaid.

17. Stamp Duties On Certain Instruments In Cases Of Reduction Of Rent :-

(1) Whenever and so often as the rent for the time being payable in respect of any lease first executed on or after the 3rd day of May, 1950, is reduced on or after that date in consideration of any money, stock or security moving either to the lessor or to any other person, the instrument (in the subsequent subsections of this section referred to as the said instrument) on or after that date acknowledging the receipt of the consideration for the reduction (or, where the consideration is payable by instalments, of the instalment after payment of which the reduction becomes effective) or recording directly or indirectly that the rent has been reduced shall, notwithstanding anything in any other Act, be charged with the same stamp duty, and be subject to the provisions of the Stamp Act, 1891 (as amended by subsequent enactments), as if, instead of being such instrument, it were-

(a) a lease of lands, tenements or hereditaments which had been made in consideration of the rent reduced as aforesaid and the consideration for the reduction, and for an indefinite term, and under which the person beneficially entitled at the date of the taking effect of the reduction of the rent to the lessee's interest in the property out of which the rent so reduced issues was the lessee, or

(b) in the case specified in subsection (2) of this section, a lease

such as is referred to in the foregoing paragraph and containing such a statement as is referred to in subsection (4) of section 24 of the Finance Act, 1949 (No. 13 of 1949).

(2) The case referred to in paragraph (b) of subsection (1) of this section is that in which the said instrument contains a statement, by the person entitled at the date of the taking effect of the reduction of the rent to the beneficial interest in the lessees interest in the property out of which the rent so reduced issues, that he is within one of the classes specified in paragraphs (a) to (f) of subsection (4) of section 24 of the Finance Act, 1949 , or, where two or more persons were so entitled, contains a statement by each of them such as aforesaid.

(3) (a) The said instrument, if executed before the passing of this Act, shall be deemed for the purposes of this Act to have been first executed on the passing of this Act, and shall be charged with the stamp duty specified in subsection (1) of this section accordingly.

(b) the provisions of paragraph (a) of this subsection shall have effect in relation to the said instrument, if executed before the passing of this Act, notwithstanding that, before such passing, it may have been stamped with a particular stamp denoting either that it is not chargeable with any duty or is duly stamped.

(c) Notwithstanding any of the foregoing provisions of this subsection, the total stamp duty chargeable on the said instrument, if executed before the passing of this Act, shall not exceed the amount with which it would have been charged if it had in fact been executed after the passing of this Act.

(d) Where, at the expiration of thirty days after the passing of this Act, the said instrument, if executed before such passing, is not stamped with the stamp duty charged thereon by virtue of this Act, a sum equal to twice the unpaid stamp duty shall thereupon be a debt due to the Minister for Finance for the benefit of the Central Fund by the person beneficially entitled at the date of the taking effect of the reduction of the rent to the lessees interest in the property out of which the rent so reduced issues or, where two or more persons were so entitled, by those persons jointly and severally, and the said sum shall be recoverable at the suit of the Attorney General in any court of competent jurisdiction.

(e) The Revenue Commissioners may, if they think fit, mitigate or remit any sum recoverable under the provisions of paragraph (d) of this subsection.

18. Exemption From Stamp Duty Of Certain Receipts :-

Stamp duty shall not be chargeable on any receipt given for any payment of a pension under the Old Age Pensions Acts, 1908 to 1948.

19. Agreements As To Stamp Duty On Industrial Assurance Policies :-

(1) Where, in the opinion of the Revenue Commissioners, any body of persons carrying on industrial assurance business so carries on that business as to render it impracticable or inexpedient to require that the stamp duties chargeable on policies issued by the body in the course of that business should be charged and paid thereon, the Revenue Commissioners may enter into an agreement with that body for the delivery to the Revenue Commissioners of periodical accounts giving such particulars as may be required of the policies so issued by the body.

(2) The agreement shall be in such form and shall contain such terms and conditions as the Revenue Commissioners think proper.

(3) Where an agreement has been entered into under this section between the Revenue Commissioners and any body of persons, any policy which, during the period for which the agreement is in force, is issued by that body in the course of its industrial assurance business and which contains a statement that the appropriate stamp duty has been or will be paid to the Revenue Commissioners in accordance with the provisions of this section, shall not be chargeable with any stamp duty, but in lieu thereof and by way of composition there shall be charged, in respect of the policies issued during the period to which any such account as is mentioned in subsection (1) of this section relates, a stamp duty of an amount equal to the aggregate of the amounts of stamp duty which, but for the provisions of this section, would have been chargeable upon those policies, and the stamp duty chargeable under this subsection by way of such composition as aforesaid shall be paid by the body to the Revenue Commissioners on the delivery of the account.

(4) Where a body makes default in delivering any account required by any such agreement or in paying the duty payable on the delivery of any such account, the body shall be liable to a fine not exceeding fifty pounds for every day during which the default continues and shall also be liable to pay, in addition to the duty, interest thereon, which shall be recoverable in the same manner as if it were part thereof, at the rate of five per cent. per annum from

the date when the default begins.

(5) In this section, the expression "industrial assurance business" has the same meaning as in the Insurance Act, 1936 (No. 45 of 1936).

PART 7 MISCELLANEOUS AND GENERAL

20. The Foreign Exchange Account :-

(1) In this section, the expressions "the Minister", "the Account", "foreign exchange" and "foreign security" and the words "gold" and "security" have the same meanings respectively as they have in section 49 of the Finance Act, 1941 (No. 14 of 1941).

(2) The Minister may invest any foreign exchange for the time being held for the credit of the Account by placing such exchange on interest-bearing deposit with a banking institution or purchasing securities which have been issued or guaranteed by the government of the country in which such exchange is held.

(3) Income arising from any investment under subsection (2) of this section shall be held for the credit of the Account.

(4) The Minister may, if he thinks proper, pay into the Account any sum received by him in respect of the net proceeds of any sale or disposal of any gold, foreign exchange or foreign security effected on his behalf or by his direction or authority in accordance with any provision made by or under statute.

(5) Each of the references in subsection (10) of section 49 of the Finance Act, 1941, to the foregoing provisions of that section shall be construed as including a reference to the foregoing provisions of this section.

(6) Subsections (1) to (5) of this section shall be deemed to have come into operation on the establishment of the Account.

21. Transition Development Fund :-

(1) The latest date for winding-up the Transition Development Fund shall be the 31st day of March, 1951, in lieu of the date, the 31st day of March, 1950, stipulated in section 29 of the Finance Act, 1949 (No. 13 of 1949).

(2) There shall be paid into the Transition Development Fund, out of moneys provided by the Oireachtas, in the financial year ending on the 31st day of March, 1951, a sum not exceeding two million pounds.

(3) Subsection (1) of this section shall be deemed to have come

into operation on the 31st day of March, 1950.

22. Capital Services Redemption Account :-

(1) In this section-

the expression "the Minister" means the Minister for Finance;

the expression "the Account" means the Capital Services Redemption Account established pursuant to subsection (2) of this section;

the expression "the annuity" means the sum charged on the Central Fund under subsection (3) of this section;

the expression "capital services" means voted services which are to be met out of borrowings.

(2) There shall be established an account under the control of the Minister to be known as the Capital Services Redemption Account.

(3) A sum of £655,432 to redeem borrowings, and interest thereon, in respect of capital services shall be charged annually on the Central Fund or the growing produce thereof in the thirty successive financial years commencing with the financial year ending on the 31st day of March, 1951.

(4) The annuity shall be paid into the Account in equal half-yearly instalments.

(5) Any amount of the annuity, not exceeding £423,979 in any financial year, may be applied towards defraying the interest on the public debt.

(6) The balance of the annuity shall be applied in any one or more of the following ways:

(a) application towards the purchase of government stock for cancellation,

(b) repayment of ways and means advances or other temporary borrowings of the Exchequer,

(c) payment into the Principal Reserve Account of the Savings Certificates Reserve Fund,

(d) application in any other way towards meeting the principal liability in respect of the public debt,

(e) investment in government securities or in any other manner in which moneys of the Post Office Savings Bank may be invested.

(7) Investments held for the Account may be sold or otherwise disposed of and the net proceeds of the sale or disposal shall be applied in any one or more of the ways specified in subsection (6) of this section.

(8) Income arising from any investment held for the Account shall

be applied in any one or more of the ways specified in subsection (6) of this section.

(9) As soon as may be after each financial year, an account of the Account in respect of that year shall be prepared and shall be audited by the Comptroller and Auditor General and laid by the Minister before each House of the Oireachtas.

23. Transfer Of Money From The Road Fund To The Exchequer :-

With a view to providing moneys to meet general charges which will fall upon the Central Fund, the sum of three hundred thousand pounds shall be transferred and paid from the Road Fund to the Exchequer at such time or times in the financial year ending on the 31st day of March, 1951, and in such manner as the Minister for Finance shall direct.

24. Care And Management Of Taxes And Duties :-

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

25. Short Title, Construction And Commencement :-

(1) This Act may be cited as the Finance Act, 1950.

(2) Part I of this Act shall be construed together with the Income Tax Acts.

(3) Part II of this Act, so far as it relates to duties of customs, shall be construed together with the Customs Acts and, so far as it relates to duties of excise, shall be construed together with the Statutes which relate to the duties of excise and the management of those duties.

(4) Part VI of this Act shall be construed together with the Stamp Act, 1891, and the enactments amending or extending that Act.

(5) Part I of this Act shall be deemed to come into force on and shall take effect as on and from the 6th day of April, 1950.

SCHEDULE 1

FIRST SCHEDULE

CONVENTION BETWEEN THE GOVERNMENT OF IRELAND AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON THE ESTATES OF DECEASED PERSONS.

The Government of Ireland and the Government of the United States of America, Desiring to conclude a Convention for the avoidance of double taxation and the

prevention of fiscal evasion with respect to taxes on estates of deceased persons,
Have appointed for that purpose as their Plenipotentiaries:

The Government of Ireland:

Patrick McGilligan, Minister for Finance;

Seán MacBride, Minister for External Affairs;

and

The Government of the United States of America:

George A. Garrett, Envoy Extraordinary and Minister Plenipotentiary of the United States of America at Dublin;

Who, having exhibited their respective full powers, found in good and due form, have agreed as follows:-

ARTICLE I.

(1) The taxes which are the subject of the present Convention are:

(a) In the United States of America, the Federal estate tax, and

(b) In Ireland, the estate duty imposed in that territory.

(2) The present Convention shall also apply to any other taxes of a substantially similar character imposed by either Contracting Party subsequently to the date of signature of the present Convention.

ARTICLE II.

(1) In the present Convention, unless the context otherwise requires:

(a) The term "United States" means the United States of America, and when used in a geographical sense means the States, the Territories of Alaska and of Hawaii, and the District of Columbia.

(b) The term "Ireland" means the Republic of Ireland.

(c) The term "territory" when used in relation to one or the other Contracting Party means the United States or Ireland, as the context requires.

(d) The term "tax" means the estate duty imposed in Ireland or the United States Federal estate tax, as the context requires.

(2) In the application of the provisions of the present Convention by one of the Contracting Parties, any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting Party relating to the taxes which are the subject of the present Convention.

ARTICLE III.

(1) For the purposes of the present Convention, the question whether a decedent was domiciled in any part of the territory of one of the Contracting Parties at the time of his death shall be determined in accordance with the law in force in that territory.

(2) Where a person dies domiciled in any part of the territory of one Contracting Party, the situs of any rights or interests, legal or equitable, in or over any of the following classes of property which for the purposes of tax form part of the estate of such person or pass on his death, shall, for the purposes of the imposition of tax and for the purposes of the credit to be allowed under Article V, be determined exclusively in accordance with the following rules, but in cases not within such rules the situs of any such rights or interests shall be determined for those purposes in accordance with the law relating to tax in force in the territory of the other Contracting Party:

(a) Immovable property shall be deemed to be situated at the place where such property is located;

(b) Tangible movable property (other than such property for which specific provision is hereinafter made) and bank or currency notes, other forms of currency recognised as legal tender in the place of issue, negotiable bills of exchange and

negotiable promissory notes, shall be deemed to be situated at the place where such property, notes, currency or documents are located at the time of death, or, if in transitu, at the place of destination;

(c) Debts, secured or unsecured, other than the forms of indebtedness for which specific provision is made herein, shall be deemed to be situated at the place where the decedent was domiciled at the time of death;

(d) Shares or stock in a corporation other than a municipal or governmental corporation (including shares or stock held by a nominee where the beneficial ownership is evidenced by scrip certificates or otherwise) shall be deemed to be situated at the place in or under the laws of which such corporation was created or organized; but, if such corporation was created or organized under the laws of the United Kingdom of Great Britain and Northern Ireland or under the laws of Northern Ireland, and if the shares or stock of such corporation when registered on a branch register of such corporation kept in Ireland are deemed under the laws of the United Kingdom or of Northern Ireland and of Ireland to be assets situated in Ireland, such shares or stock shall be deemed to be assets situated in Ireland;

(e) Moneys payable under a policy of assurance or insurance on the life of the decedent shall be deemed to be situated at the place where the decedent was domiciled at the time of death;

(f) Ships and aircraft and shares thereof shall be deemed to be situated at the place of registration or documentation of the ship or aircraft;

(g) Goodwill as a trade, business or professional asset shall be deemed to be situated at the place where the trade, business or profession to which it pertains is carried on;

(h) Patents, trade-marks and designs shall be deemed to be situated at the place where they are registered;

(i) Copyright, franchises, and rights or licences to use any copyrighted material, patent, trademark or design shall be deemed to be situated at the place where the rights arising therefrom are exercisable;

(j) Rights or causes of action ex delicto surviving for the benefit of an estate of a decedent shall be deemed to be situated at the place where such rights or causes of action arose;

(k) Judgment debts shall be deemed to be situated at the place where the judgment is recorded:

provided that if, apart from this paragraph, tax would be imposed by one Contracting Party on any property which is situated in its territory, this paragraph shall not apply to such property unless, by reason of its application or otherwise, tax is imposed or would but for some specific exemption be imposed thereon by the other Contracting Party.

ARTICLE IV.

(1) In determining the amount on which tax is to be computed, permitted deductions shall be allowed in accordance with the law in force in the territory in which the tax is imposed.

(2) Where tax is imposed by one Contracting Party on the death of a person who at the time of his death was not domiciled in any part of the territory of that Contracting Party but was domiciled in some part of the territory of the other Contracting Party, no account shall be taken in determining the amount or rate of such tax of property situated outside the former territory: provided that this paragraph shall not apply as respects tax imposed-

(a) In the United States in the case of a United States citizen dying domiciled in any part of Ireland; or

(b) In Ireland in the case of property passing under a disposition governed by the

law of Ireland.

ARTICLE V.

(1) Where one Contracting Party imposes tax by reason of a decedents being domiciled in some part of its territory or being its national, that party shall allow against so much of its tax (as otherwise computed) as is attributable to property situated in the territory of the other Contracting Party, a credit (not exceeding the amount of the tax so attributable) equal to so much of the tax imposed in the territory of such other Party as is attributable to such property; but this paragraph shall not apply as respects any such property as is mentioned in paragraph (2) of this Article.

(2) Where each Contracting Party imposes tax by reason of a decedents being domiciled in some part of its territory, each Party shall allow against so much of its tax (as otherwise computed) as is attributable to property which is situated, or is deemed under paragraph (2) of Article III to be situated,

(a) in the territory of both Parties, or

(b) outside both territories,

a credit which bears the same proportion to the amount of its tax so attributable or to the amount of the other Party's tax attributable to the same property, whichever is the less, as the former amount bears to the sum of both amounts.

(3) Where Ireland imposes duty on property passing under a disposition governed by its law, that Party shall allow a credit similar to that provided by paragraph (1) of this Article.

(4) For the purposes of this Article, the amount of the tax of a Contracting Party attributable to any property shall be ascertained after taking into account any credit, allowance or relief, or any remission or reduction of tax, otherwise than in respect of tax payable in the territory of the other Contracting Party; and if, in respect of property situated outside the territories of both parties, a Contracting Party allows against its tax a credit for tax payable in the country where the property is situated, that credit shall be taken into account in ascertaining, for the purposes of paragraph (2) of this Article, the amount of the tax of that Party attributable to the property.

ARTICLE VI.

(1) Any claim for a credit or for a refund of tax founded on the provisions of the present Convention shall be made within six years from the date of the death of the decedent in respect of whose estate the claim is made, or, in the case of a reversionary interest where payment of tax is deferred until on or after the date on which the interest falls into possession, within six years from that date.

(2) Any such refund shall be made without payment of interest on the amount so refunded, save to the extent to which interest was paid on the amount so refunded when the tax was paid.

ARTICLE VII.

(1) The taxation authorities of the Contracting Parties shall exchange such information (being information available under the respective taxation laws of the Contracting Parties) as is necessary for carrying out the provisions of the present Convention or for the prevention of fraud or the administration of statutory provisions against legal avoidance in relation to the taxes which are the subject of the present Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any person other than those concerned with the assessment and collection of the taxes which are the subject of the present Convention. No information shall be exchanged which would disclose any trade secret or trade process.

(2) As used in this Article, the term "taxation authorities" means, in the case of the

United States, the Commissioner of Internal Revenue or his authorized representative; in the case of Ireland, the Revenue Commissioners or their authorized representative.

ARTICLE VIII.

(1) The present Convention shall be ratified and the instruments of ratification shall be exchanged at Washington, District of Columbia, as soon as possible.

(2) The present Convention shall come into force on the date of exchange of ratifications and shall be effective only as to

(a) the estates of persons dying on or after such date; and

(b) the estate of any person dying before such date and after the last day of the calendar year immediately preceding such date whose personal representative elects, in such manner as may be prescribed, that the provisions of the present Convention shall be applied to such estate.

ARTICLE IX.

(1) The present Convention shall remain in force for not less than three years after the date of its coming into force.

(2) If not less than six months before the expiration of such period of three years, neither of the Contracting Parties shall have given to the other Contracting Party, through diplomatic channels, written notice of its intention to terminate the present Convention, the Convention shall remain in force after such period of three years until either of the Contracting Parties shall have given written notice of such intention, in which event the present Convention shall not be effective as to the estates of persons dying on or after the date (not being earlier than the sixtieth day after the date of such notice) specified in such notice, or, if no date is specified, on or after the sixtieth day after the date of such notice.

IN WITNESS WHEREOF the above-named Plenipotentiaries have signed the present Convention and have affixed thereto their seals.

Done at Dublin, in duplicate, this 13th day of September, 1949.

For the Government of Ireland:

(Signed) PATRICK McGILLIGAN

SEÁN MacBRIDE

For the Government of the United States of America:

(Signed) GEORGE A. GARRETT.