

## **FINANCE ACT, 1986**

**13 of 1986**

**[27 May 1986]**

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## **FINANCE ACT, 1986**

**13 of 1986**

**[27 May 1986]**

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, Corporation Tax and Capital Gains Tax

**CHAPTER 1** Income Tax

**1. Amendment Of Section 2 (Age Exemption) Of Finance Act, 1980 :-**

Section 2 of the Finance Act, 1980 , is hereby amended, as respects the year 1986-87 and subsequent years of assessment, by the substitution in subsection (6) of "6,300" for "6,000" (inserted by the Finance Act, 1985 ), of "7,350" for "7,000" (inserted by the Finance Act, 1985 ), of "3,150" for "3,000" (inserted by the Finance Act, 1985 ) and of "3,675" for "3,500" (inserted by the Finance Act, 1985 ), and the said subsection (6), as so amended, is set out in the Table to this section.

TABLE

(6) In this section "the specified amount" means-

(a) in a case where the individual would, apart from this section, be entitled to a deduction specified in paragraph (a) of the said section 138, 6,300:

Provided that, if at any time during the year of assessment either the individual or his spouse was of the age of seventy-five years or upwards, "the specified amount" means 7,350;

(b) in any other case, 3,150:

Provided that, if at any time during the year of assessment the individual was of the age of seventy-five years or upwards, "the specified amount" means 3,675.

## **2. Alteration Of Rates Of Income Tax :-**

Section 2 of the Finance Act, 1984 , is hereby amended, as respects the year 1986-87 and subsequent years of assessment, by the substitution of the following Table for the Table to the said section:

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## **3. Personal Reliefs :-**

(1) Where a deduction falls to be made from the total income of an individual for the year 1986-87 or any subsequent year of assessment in respect of relief to which the individual is entitled under a provision mentioned in column (1) of the Table to this subsection and the amount of the deduction would, but for this section, be an amount specified in column (2) of the said Table, the amount of the deduction shall, in lieu of being the amount specified in the said column (2), be the amount specified in column (3) of the said Table opposite the mention of the amount in the said column (2).

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(2) Section 2 of the Finance Act, 1981 , section 2 of the Finance Act, 1982 , and sections 3 and 4 of the Finance Act, 1985 , shall have effect subject to the provisions of this section.

(3) The First Schedule shall have effect for the purposes of supplementing subsection (1).

## **4. Amendment Of Section 141 (Children) Of Income Tax Act, 1967 :-**

The Income Tax Act, 1967 , is hereby amended, as respects the

year 1986-87 and subsequent years of assessment, by the substitution of the following section for section 141:

"Incapacitated children.

141.-(1) If the claimant proves that he has living at any time during the year of assessment any child-

(a) who is under the age of 16 years and is permanently incapacitated by reason of mental or physical infirmity, or

(b) who, if over the age of 16 years at the commencement of that year, is permanently incapacitated by reason of mental or physical infirmity from maintaining himself and had become so permanently incapacitated before he had attained the age of 21 years or had become so permanently incapacitated after attaining the age of 21 years but while he had been in receipt of full-time instruction at any university, college, school or other educational establishment, he shall, subject to the provisions of this section, be entitled in respect of each such child to a deduction of 600:

Provided that-

(i) a child who is under the age of 16 years shall be regarded as permanently incapacitated by reason of mental or physical infirmity only if the infirmity is such that there would be a reasonable expectation that, if the child were over the age of 16 years, he would be incapacitated from maintaining himself,

(ii) in the case of a child to whom paragraph (b) applies, the deduction shall be 600 or the amount expended by the claimant in the year of assessment on the maintenance of the child, whichever is the lesser, and

(iii) any deduction under this subsection shall be in substitution for, and not in addition to, any deduction to which the claimant might be entitled in respect of the same child under section 142.

(2) If the claimant proves that for the year of assessment he has the custody of and maintains at his own expense any child who, but for the fact that he is not a child of the claimant, would be such a child as is referred to in subsection (1) and that neither he nor any other individual is entitled to a deduction in respect of the same child under subsection (1) or under any of the other provisions of this Part, or, if any other individual is entitled to such a deduction, that that other individual has relinquished his claim thereto, he shall be entitled in respect of the child to the same deduction as if the child were a child of his.

(3) (a) The reference in subsection (1) to a child receiving full-time instruction at an educational establishment shall include a reference to a child undergoing training by any person (hereafter in this

subsection referred to as the employer) for any trade or profession in such circumstances that the child is required to devote the whole of his time to the training for a period of not less than two years.

(b) For the purpose of a claim in respect of a child undergoing training the inspector may require the employer to furnish particulars with respect to the training of the child in such form as may be prescribed by the Revenue Commissioners.

(4) No deduction shall be allowed under this section in respect of any child who is entitled in his own right to an income exceeding 720 a year, except that, if the amount of the excess is less than the deduction which apart from this subsection would be allowable, a deduction reduced by that amount shall be allowed:

Provided that in calculating the income of the child for the purposes of the foregoing provision no account shall be taken of any income to which the child is entitled as the holder of a scholarship, bursary, or other similar educational endowment.

(5) If any question arises as to whether any person is entitled to an allowance under this section in respect of a child who is over the age of 21 years as being a child who had become permanently incapacitated by reason of mental or physical infirmity from maintaining himself after attaining that age but while in receipt of such full-time instruction as aforesaid, the Revenue Commissioners may consult the Minister for Education.

(6) Where, for any year of assessment, two or more individuals are or would, but for the provisions of this subsection, be entitled under this section to relief in respect of the same child, the following provisions shall have effect, that is to say:-

(a) only one deduction under this section shall be allowed in respect of such child;

(b) where such child is maintained by one parent only, that parent only shall be entitled to claim such deduction;

(c) where such child is maintained jointly by both parents, each parent shall be entitled to claim such part of such deduction as is proportionate to the amount expended by him or her on the maintenance of such child; and

(d) in ascertaining for the purposes of this subsection whether a parent maintains a child and, if so, to what extent, any payment made by such parent for or towards the maintenance of such child which such parent is entitled to deduct in computing his or her total income for the purposes of this Act shall be deemed not to be a payment for or towards the maintenance of such child.

(7) In the preceding provisions of this section child includes a

stepchild and an illegitimate child whose parents have married each other after his birth and a child in respect of whom an adoption order under the Adoption Acts, 1952 to 1976, is in force."

**5. Amendment Of Section 12 (Relief For Health Expenses) Of Finance Act, 1967 :-**

Section 12 of the Finance Act, 1967 , is hereby amended, as respects the year 1986-87 and subsequent years of assessment, by the insertion, in the definition of "dependant" in subsection (1), of the following after paragraph (b):

"and

(c) a child who, for the year of assessment-

(i) (I) is under the age of 16 years, or

(II) if over the age of 16 years at the commencement of the year of assessment, is receiving full-time instruction at any university, college, school or other educational establishment, and

(ii) is a child of the individual or, not being such a child, is in the custody of the individual and is maintained by the individual at his own expense for the whole or part of the year of assessment:

Provided that the provisions of subsections (3), (4), (5) and (7) of section 141 (inserted by the Finance Act, 1986) shall, with any necessary modifications, apply for the purposes of determining whether relief is to be granted under this section as they apply in determining whether a deduction is to be allowed under that section, except that in a case where the child's income exceeds the amount specified in the said subsection (4) relief under this section shall not be allowed;"

**6. Amendment Of Section 6 (Special Allowance In Respect Of P.R.S.I. For 1982-83) Of Finance Act, 1982 :-**

Section 6 of the Finance Act, 1982 , shall have effect for the purpose of ascertaining the amount of income on which an individual referred to therein is to be charged to income tax for the year 1986-87, as if in subsection (2)-

(a) "1986-87" were substituted for "1982-83", and

(b) "286" were substituted for "312", in each place where it occurs.

**7. Amendment Of Section 8 (Permanent Health Benefit Schemes) Of Finance Act, 1979 :-**

Section 8 of the Finance Act, 1979 , is hereby amended by the

insertion after subsection (5) of the following subsection:

"(6) (a) A policy of permanent health insurance, sickness insurance or other similar insurance issued in respect of an insurance made on or after the 6th day of April, 1986, shall be a permanent health benefit scheme within the meaning of this section if it conforms with a form which, at the time the policy is issued, is either-

(i) a standard form approved by the Revenue Commissioners as a standard form of permanent health benefit scheme; or

(ii) a form varying from a standard form so approved in no other respect than by making such alterations thereto as are, at the time the policy is issued, approved by the Revenue Commissioners as being compatible with a permanent health benefit scheme when made to that standard form and satisfying any conditions subject to which the alterations are so approved.

(b) In approving a policy as a standard form of permanent health benefit scheme in pursuance of paragraph (a), the Revenue Commissioners may disregard any provision of the policy which appears to them insignificant."

## **8. Relief For Gifts To Cospoir :-**

(1) In this section-

"Cospóir" means the National Sports Council (an Chomhairle Náisiúnta Spóirt) which was established by the Minister of State at the Department of Education on the 10th day of February, 1978;

"tax" means income tax or corporation tax, as the case may be.

(2) (a) This section applies to a gift of money which, on or after the 6th day of April, 1986, is made to the Minister for Education for the benefit of Cospóir and is not deductible in computing for the purposes of tax the profits or gains of a trade or profession or is not income to which the provisions of section 439 of the Income Tax Act, 1967 , apply.

(b) The Revenue Commissioners may consult with the Minister for Education in relation to any question which may arise in connection with paragraph (a).

(3) Where a person proves that he has made a gift to which this section applies and claims relief from tax by reference thereto, the provisions of subsection (4) or, as the case may be, subsection (5) shall apply:

Provided that, in determining the net amount of the gift for the purposes of those subsections, the amount or value of any consideration received by the said person as a result of making the

gift, whether received directly or indirectly from Cospóir or any other person, shall be deducted from the amount of the gift.

(4) For the purposes of income tax for the year of assessment in which a person makes a gift to which this section applies, the net amount thereof shall, subject to subsection (5), be deducted from or set off against any income of the person chargeable to income tax for that year and tax shall, where necessary, be discharged or repaid accordingly; and the total income of the person or, where the person is a wife whose husband is assessed to income tax in accordance with the provisions of section 194 (inserted by the Finance Act, 1980 ) of the Income Tax Act, 1967 , the total income of the husband shall be calculated accordingly:

Provided that relief under this section shall not be given to a person for a year of assessment-

(a) if the net amount of the gift (or the aggregate of the net amounts of gifts) made by him in that year, being a gift or gifts, as the case may be, to which this section applies, does not exceed 100, or

(b) to the extent to which the net amount of the gift (or the aggregate of the net amounts of gifts) made by him in that year, being a gift or gifts, as the case may be, to which this section applies, exceeds 10,000.

(5) Where a gift to which this section applies is made by a company-

(a) the net amount thereof shall, for the purposes of corporation tax, be deemed to be a loss incurred by the company in a separate trade in the accounting period of the company in which the gift is made, and

(b) the references in the proviso to subsection (4) to a year of assessment shall be construed as references to an accounting period of the company.

## **9. Tax Treatment Of Directors Of Companies And Employees Granted Rights To Acquire Shares Or Other Assets :-**

(1) (a) In this section, save where the context otherwise requires-  
"company" has the meaning assigned to it by section 1 of the Corporation Tax Act, 1976 ;

"director" and "employee" have the meanings respectively assigned to them by section 13 (1) of the Finance Act, 1972 ;

"right" means a right to acquire any asset or assets including shares in any company;

"market value" shall be construed in accordance with section 49 of the Capital Gains Tax Act, 1975 ;

"shares" includes securities (within the meaning of Part IX of the Corporation Tax Act, 1976 ) and stock.

(b) In this section-

(i) references to the release of a right include references to agreeing to the restriction of the exercise of the right;

(ii) any question whether a person is connected with another shall be determined in accordance with the provisions of section 157 of the Corporation Tax Act, 1976 ;

(iii) a person shall be regarded as acquiring a right as a director of a company or as an employee-

(I) if by reason of his office or employment it is granted to him, or to another person who assigns the right to him, and

(II) if section 76 (3) of the Income Tax Act, 1967 , does not apply in charging to tax the profits or gains of that office or employment, and clauses (I) and (II) shall apply to a right granted by reason of a persons office or employment before he has commenced to hold it or after he has ceased to hold it as they would apply if he had commenced to hold the office or employment or had not ceased to hold the office or employment, as the case may be.

(2) Where a person realises a gain by the exercise of, or by the assignment or release of, a right obtained by that person on or after the 6th day of April, 1986, as a director of a company or employee, he shall be chargeable to tax under Schedule E for the year of assessment in which the gain is so realised on an amount equal to the amount of his gain, as computed in accordance with this section.

(3) Subject to subsection (5), where tax may by virtue of this section become chargeable in respect of any gain which may be realised by the exercise of a right, tax shall not be chargeable under any other provision of the Tax Acts in respect of the receipt of the right.

(4) The gain realised by-

(a) the exercise of any right at any time shall be taken to be the difference between the market value of the asset or assets, as the case may be, at the time of acquisition and the aggregate amount or value of the consideration, if any, given for the asset or assets and for the grant of the right, and

(b) the assignment or release of any right shall be taken to be the difference between the amount or value of the consideration for the assignment or release and the amount or value of the

consideration, if any, given for the grant of the right, and for this purpose the inspector may make a just apportionment of any entire consideration given for the grant of the right or for the grant of the right and for something besides:

Provided that neither the consideration given for the grant of the right nor any such entire consideration shall be taken to include the performance of any duties in or in connection with an office or employment, and no part of the amount or value of the consideration given for the grant shall be deducted more than once under this subsection.

(5) (a) Where such a right as is mentioned in subsection (2) is obtained as mentioned therein, and the right is capable of being exercised later than seven years after it is obtained, subsection (3) shall not prevent the charging of tax under any other provisions of the Tax Acts in respect of the receipt of the right; but where tax is charged under any of those provisions it shall be deducted from any tax which, under subsection (2), is chargeable by reference to the gain realised by the exercise, assignment or release of the right.

(b) For the purpose of any charge to tax enabled to be made by this subsection, the value of a right shall be taken to be not less than the market value at the time the right is obtained of the asset or assets which may be acquired by the exercise of the right or of any asset or assets for which the asset or assets so acquired may be exchanged, reduced by the amount or value (or, if variable, the least amount or value) of the consideration for which the asset or assets may be so acquired.

(6) Subject to subsection (7), a person shall, in the case of a right granted by reason of his office or employment, be chargeable to tax under this section in respect of a gain realised by another person-

(a) if the right was granted to that other person, or

(b) if the other person acquired the right otherwise than by or under an assignment made by way of a bargain at arms length, or if the two are connected persons at the time when the gain is realised,

but in a case within paragraph (b) the gain realised shall be treated as reduced by the amount of any gain realised by a previous holder on an assignment of the right.

(7) A person shall not be chargeable to tax by virtue of subsection (6) (b) in respect of any gain realised by another person if the first-mentioned person was divested of the right by operation of law on

his bankruptcy or otherwise, but the other person shall be chargeable to tax in respect of the gain under Case IV of Schedule D.

(8) If a right is assigned or released in whole or in part for a consideration which consists of or comprises another right, that other right shall not be treated as consideration for the assignment or release, but this section shall apply in relation to it as it applies in relation to the right assigned or released and as if the consideration for its acquisition did not include the value of the right assigned or released but did include the amount or value of the consideration given for the grant of the right assigned or released so far as that has not been offset by any valuable consideration for the assignment or release other than the consideration consisting of the other right.

(9) (a) If as a result of two or more transactions a person ceases to hold a right and he or a connected person comes to hold another right (whether or not acquired from the person to whom the other right was assigned) and any of those transactions was effected under arrangements to which two or more persons holding rights in respect of which tax may be chargeable under this section were parties, those transactions shall be treated for the purposes of subsection (8) as a single transaction whereby the one right is assigned for a consideration which consists of or comprises the other right.

(b) This subsection applies in relation to two or more transactions, whether they involve an assignment preceding, coinciding with, or subsequent to, an acquisition.

(10) If a gain chargeable to tax under subsection (2) or subsection (6) is realised by the exercise of a right, paragraph 3 of Schedule 1 of the Capital Gains Tax Act, 1975, shall apply as if a sum equal to the amount of the gain so chargeable to tax formed part of the consideration given by the person acquiring the shares for their acquisition by him.

(11) (a) Where, in the year 1986-87 or any subsequent year of assessment, a person grants a right in respect of which tax may become chargeable under this section, or allots any shares or transfers any asset in pursuance of such a right, or gives any consideration for the assignment or release in whole or in part of such a right, or receives written notice of the assignment of such a right, he shall deliver particulars thereof in writing to the inspector not later than thirty days after the end of that year.

(b) Schedule 15 of the Income Tax Act, 1967, is hereby amended

by the insertion in column 2 of "Finance Act, 1986, section 9 (11) (a)".

## **10. Approved Share Option Schemes :-**

(1) The provisions of this section shall apply where, on or after the 6th day of April, 1986, an individual obtains a right to acquire shares in a body corporate-

(a) by reason of his office or employment as a director or employee of that or any other body corporate; and

(b) in accordance with the provisions of a scheme approved under the Second Schedule .

(2) If the individual exercises the right in accordance with the provisions of the scheme at a time when it is approved under the Second Schedule -

(a) tax shall not be chargeable under section 9 in respect of any gain realised by the exercise of the right,

(b) if, but for this paragraph, section 9 of the Capital Gains Tax Act, 1975 , would apply, that section shall not apply in calculating the consideration for the acquisition of the shares by him or for any corresponding disposal of them to him, and

(c) as respects shares to which subsection (3) applies, and which were acquired by an individual by the exercise of the right, the period of ownership of those shares for the purposes of subsection (3) of section 3 of the Capital Gains Tax Act, 1975 , shall be construed, notwithstanding subsection (4) of that section, as if the shares were acquired by the individual on the date on which he acquired the right.

(3) (a) This subsection applies to shares which are acquired pursuant to the exercise of a right to acquire shares in a company which, at the time the right was obtained, was a qualifying company.

(b) For the purposes of this subsection, a company is a qualifying company at any time if, throughout the period of twelve months ending at that time or, if the company commenced to trade during that period, throughout the period of twelve months commencing on the date the company so commenced to trade, it existed solely for the carrying on of a specified trade.

(4) For the purposes of subsection (3), "specified trade" means a trade which consists wholly or mainly of-

(a) the manufacture of goods (including activities which would, if the company carrying on the trade were to make a claim for relief

in respect of the trade under Chapter VI of Part I of the Finance Act, 1980 , fall to be regarded for the purposes of that Chapter as the manufacture of goods), or

(b) exempted trading operations within the meaning of Part V (Profits from Trading within Shannon Airport) of the Corporation Tax Act, 1976 .

(5) For the purposes of subsections (3) and (4), a trade shall be regarded, as respects a period of twelve months, as consisting wholly or mainly of particular activities if, but only if, the total amount receivable by the company carrying on the trade from sales made or, as the case may be, in payment for services rendered in the course of those activities in the period of twelve months is not less than 75 per cent. of the total amount receivable by the company from all sales made or, as the case may be, in payment for all services rendered in the course of the trade in that period.

(6) Schedule 15 of the Income Tax Act, 1967 , is hereby amended by the insertion in Column 2 of "Finance Act, 1986, paragraph 14 of the Second Schedule ".

### **11. Profit Sharing Schemes :-**

Section 52 of the Finance Act, 1982 , is hereby amended, as respects the year 1986-87 and subsequent years of assessment, by the substitution of the following subsections for subsections (7) and (8):

"(7) In this Chapter the release date, in relation to any of a participants shares, means the fifth anniversary of the date on which the shares were appropriated to him.

(8) Subject to section 56 (4), for the purposes of provisions of this Chapter charging an individual to income tax under Schedule E by reason of the occurrence of an event relating to any of his shares, any reference to the appropriate percentage in relation to those shares shall be determined according to the time of that event, as follows:-

(a) if the event occurs before the fourth anniversary of the date on which the shares were appropriated to the participant and paragraph (c) does not apply, the appropriate percentage is 100 per cent.;

(b) if the event occurs on or after the fourth anniversary and before the fifth anniversary of the date on which the shares were appropriated to the participant and paragraph (c) does not apply, the appropriate percentage is 75 per cent.; and

(c) if, in a case where at the time of the event the participant-  
(i) has ceased to be an employee or director of a relevant company as mentioned in subsection (5) (a), or  
(ii) has reached pensionable age, as defined in section 2 of the Social Welfare (Consolidation) Act, 1981 ,  
the event occurs before the fifth anniversary of the date on which the shares were appropriated to him, the appropriate percentage is 50 per cent."

## **12. Relief For New Shares Purchased On Issue By Employees :-**

(1) (a) In this section-

"director" has the same meaning as in Chapter III of Part V of the Income Tax Act, 1967 ;

"eligible employee" in relation to a qualifying company means-

(i) where the company is a trading company, a full-time director or full-time employee of the company, or

(ii) where the company is a holding company, a full-time director or full-time employee of the company or of a company which is its 75 per cent. subsidiary;

"eligible shares", in relation to a qualifying company, means new shares forming part of the ordinary share capital of the company which-

(i) are issued on or after the 6th day of April, 1986,

(ii) are fully paid up,

(iii) throughout the period of five years beginning with the date on which they are issued, carry no present or future preferential right to dividends or to the companys assets on its winding up and no present or future preferential right to be redeemed,

(iv) are not subject to any restrictions other than restrictions which attach to all shares of the same class, and

(v) are issued to and acquired by an eligible employee in relation to the company at not less than their market value at the time of issue;

"full-time director" and "full-time employee" have respectively the same meanings as in section 8 of the Finance Act, 1978 ;

"holding company" means a company whose business consists wholly or mainly of the holding of shares or securities of trading companies which are its 75 per cent. subsidiaries;

"market value" shall be construed in accordance with section 49 of the Capital Gains Tax Act, 1975 ;

"ordinary share capital" has the meaning assigned to it by section 155 (5) of the Corporation Tax Act, 1976 ;

"qualifying company" means a company which is at the time the eligible shares are issued-

(i) incorporated in the State,

(ii) resident in the State and not resident elsewhere, and

(iii) (I) a trading company, or

(II) a holding company;

"trading company" means a company whose business consists wholly or mainly of the carrying on wholly or mainly in the State of a trade or trades.

(b) In this section "75 per cent. subsidiary", in relation to a company, has the meaning assigned to it for the purposes of the Corporation Tax Acts by section 156 of the Corporation Tax Act, 1976 , as applied for the purposes of section 107 of that Act by subsections (6) and (7) of that section.

(c) References in this section to a disposal of shares include references to a disposal of an interest or right in or over the shares and an individual shall be treated for the purposes of this section as disposing of any shares which he is treated by virtue of paragraph 5 of Schedule 2 to the Capital Gains Tax Act, 1975 , as exchanging for other shares.

(d) Shares in a company shall not be treated for the purposes of this section as being of the same class unless they would be so treated if dealt in on a stock exchange in the State.

(2) Subject to the subsequent provisions of this section, where, in the year 1986-87 or any subsequent year of assessment, an eligible employee in relation to a qualifying company subscribes for eligible shares in the qualifying company, he shall be entitled, in estimating the amount of his total income for the year of assessment in which the shares are issued, to have a deduction made of an amount equal to the amount of the subscription:

Provided that a deduction shall not be given to the extent to which the amount subscribed by an eligible employee for eligible shares issued to him in all years of assessment exceeds 750.

(3) Subsection (2) shall not apply as respects any amount subscribed for eligible shares if within the period of five years from the date of their acquisition-

(a) they are disposed of, or

(b) the eligible employee who made the subscription receives in respect of the shares any money or moneys worth which does not constitute income in his hands for the purposes of income tax,

and there shall be made all such assessments, additional assessments or adjustments of assessments as are necessary to withdraw any relief from income tax already given under subsection (2) in respect of the amount subscribed:

Provided that where an event mentioned in paragraph (a) or (b) occurs after the fourth anniversary of the date on which the shares were issued to the eligible employee relief shall be withdrawn only to the extent of 75 per cent. of the amount which would otherwise be withdrawn.

(4) Except where the shares are in a company whose ordinary share capital, at the time of acquisition of the shares by the eligible employee, consists of shares of one class only the majority of the issued shares of the same class as the eligible shares must be shares other than-

(a) eligible shares, and

(b) shares held by persons who acquired their shares in pursuance of a right conferred on them or an opportunity afforded to them as a director or employee of the qualifying company or any of its 75 per cent. subsidiaries.

(5) In relation to shares in respect of which relief has been given under subsection (2) and not withdrawn, any question-

(a) as to which (if any) such shares issued to an eligible employee at different times a disposal relates, or

(b) whether a disposal relates to such shares or to other shares, shall for the purposes of this section be determined as for the purposes of section 17 of the Finance Act, 1984 .

(6) Where there occurs in relation to any of the eligible shares of an eligible employee (hereinafter referred to as "the original holding") a transaction which results in a new holding, as defined in paragraph 2 (1) (b) of Schedule 2 to the Capital Gains Tax Act, 1975 , being equated with the original holding for the purposes of capital gains tax, then for the purposes of subsection (3)-

(a) the new holding shall be treated as shares in respect of which relief under this section has been given,

(b) the transaction shall not be treated as involving a disposal of the original holding,

(c) the consideration for the disposal of the original holding to the extent that it consists of the new holding shall not be treated as money or moneys worth, and

(d) a disposal of the whole or a part of the new holding shall be treated as a disposal of the whole or a corresponding part of the shares in respect of which relief has been given under this section.

(7) Any amount in respect of which relief is allowed under subsection (2) and not withdrawn shall be treated as a sum which, by reason of paragraph 4 of Schedule 1 to the Capital Gains Tax Act, 1975 , is to be excluded from the sums allowable under paragraph 3 of that Schedule.

(8) An eligible employee shall not be entitled to relief under subsection (2) in respect of any shares unless the shares are subscribed for and issued for bona fide commercial reasons and not as part of a scheme or arrangement the main purpose or one of the main purposes of which is the avoidance of tax.

(9) All such provisions of the Income Tax Acts as apply in relation to the deductions specified in sections 138 to 143 of the Income Tax Act, 1967 , shall, with any necessary modifications, apply in relation to relief under this section.

### **13. Amendment Of Provisions Relating To Relief For Investment In Corporate Trades :-**

Section 12 of the Finance Act, 1984 , is hereby amended by the substitution in subsection (11) of "any of the six years" for "either of the two years", and the said subsection (11), as so amended, is set out in the Table to this section.

#### **TABLE**

(11) This section applies only where the shares concerned are issued in the year 1984-85 or any of the six years of assessment immediately following.

### **14. Taxation Treatment Of Certain Dividends :-**

(1) A dividend which is paid on or after the 6th day of April, 1986, by a company resident in the State and which is a relevant distribution for the purposes of section 45 of the Finance Act, 1980 , shall be a qualifying dividend for the purposes of this section.

(2) Where an individual who is resident in the State and is not resident elsewhere claims and proves that for any year of assessment (being the year 1986-87 or any subsequent year of assessment) he is beneficially entitled to qualifying dividends he shall, for all the purposes of the Income Tax Acts, apart from this section, be entitled, in computing the amount of his total income for that year of assessment, to have the amount of his income for that year which is represented by the qualifying dividends reduced by 50 per cent. of that amount, but the amount of any tax credit to which he is entitled in respect of any qualifying dividend included in

his income for that year shall be determined in accordance with section 45 (3) of the Finance Act, 1980 , as if this section had not been enacted:

Provided that the amount by which the income of an individual which is represented by qualifying dividends is reduced in accordance with this section for any year of assessment shall not exceed 7,000.

(3) All such provisions of the Income Tax Acts as apply in relation to the deductions specified in sections 138 to 143 of the Income Tax Act, 1967 , shall, with any necessary modifications, apply in relation to relief under this section.

(4) Section 198 (1) (inserted by the Finance Act, 1980 ) of the Income Tax Act, 1967 , is hereby amended by the insertion in paragraph (a) of the following subparagraph after subparagraph (viii):

"(ix) so far as it flows from relief under section 14 of the Finance Act, 1986, in the proportions in which they are beneficially entitled to the income from the qualifying dividends giving rise to the relief,".

## **CHAPTER 2** Taxation of Farming Profits

### **15. Farming: Amendment Of Provisions Relating To Relief In Respect Of Increase In Stock Values :-**

(1) Section 31A (inserted by the Finance Act, 1976 ) of the Finance Act, 1975 , is hereby amended by the substitution of "1986" for "1985" (inserted by the Finance Act, 1985 )-

(a) in paragraph (iv) (inserted by the Finance Act, 1979 ) of the proviso to subsection (4) (a), and

(b) in each place where it occurs in subsections (7) and (9) (inserted by the Finance Act, 1984 ),

and the said paragraph (iv), the said subsection (7) (apart from the proviso) and the said subsection (9) (apart from the proviso), as so amended, are set out in the Table to this subsection.

#### TABLE

(iv) a deduction shall not be allowed under the provisions of this section in computing a companys trading income for any accounting period which ends on or after the 6th day of April, 1986.

(7) Where in relation to an accounting period a companys opening stock value exceeds its closing stock value, the amount of the excess (in this section referred to as the companys "decrease in stock value") shall, if the accounting period ends on a date before

the 6th day of April, 1986, be treated in the computation of the companys trading income for the purposes of corporation tax, as a trading receipt of the companys trade for that accounting period:

(9) In the computation of a companys trading income for the purposes of corporation tax for any accounting period which ends on or after the 6th day of April, 1986, in which there is a decrease in stock value, there shall be treated as a trading receipt of the companys trade for that accounting period the amount (if any) by which A exceeds the aggregate of B and C

where-

A is the aggregate amount of the companys decreases in stock value in all accounting periods which ended on or after the 6th day of April, 1986,

B is the aggregate amount of the companys increases in stock value in all accounting periods which ended on or after the 6th day of April, 1986, and

C is the aggregate of the amounts which under this subsection are treated as trading receipts of the companys trade for preceding accounting periods:

(2) Section 12 of the Finance Act, 1976 , is hereby amended-

(a) by the substitution in subsection (3) of "1986-87" for "1985-86" (inserted by the Finance Act, 1985 ), and

(b) by the substitution of "1986" for "1985" (inserted by the Finance Act, 1985 ) in each place where it occurs in subsections (5) and (6) (inserted by the Finance Act, 1984 ),

and the said subsection (3), the said subsection (5) (apart from the proviso) and the said subsection (6) (apart from the proviso), as so amended, are set out in the Table to this subsection.

TABLE

(3) Any deduction allowed by virtue of this section in computing a persons trading profits for an accounting period shall not have effect for any purpose of the Income Tax Acts for any year of assessment prior to the year 1974-75 or later than the year 1986-87.

(5) In the computation of a persons trading profits for an accounting period in which there is a decrease in stock value and which ends on a date in the period from the 6th day of April, 1976, to the 5th day of April, 1986, the amount of that decrease shall be treated as a trading receipt of the trade for that accounting period:

(6) In the computation of a persons trading profits for any accounting period in which there is a decrease in stock value and which ends on or after the 6th day of April, 1986, there shall be

treated as a trading receipt of the trade for that accounting period the amount (if any) by which A exceeds the aggregate of B and C where-

A is the aggregate amount of the persons decreases in stock value in all accounting periods which ended on or after the 6th day of April, 1986,

B is the aggregate amount of the persons increases in stock value in all accounting periods which ended on or after the 6th day of April, 1986, and

C is the aggregate of the amounts which are treated as trading receipts of the persons trade for preceding accounting periods which ended on or after the 6th day of April, 1986:

(3) This section shall have effect only as respects a trade of farming.

### **16. Credit For Farm Tax :-**

(1) Subject to the following provisions of this section, where, for the year 1986-87 or any subsequent year of assessment, an individual is chargeable to income tax in respect of profits or gains from farming and on any date within that year of assessment he is liable, in accordance with the provisions of section 9 of the Farm Tax Act, 1985 , for the payment of farm tax in respect of a taxable farm, the amount of income tax so chargeable shall be reduced by-

(a) where paragraph (a) of subsection (2) of the said section 9 applies, the amount of farm tax paid by him in that year of assessment in accordance with the provisions of that paragraph,

(b) where paragraph (b) of the said subsection (2) applies-

(i) if each person jointly and severally liable for payment of the farm tax under that paragraph pays his separate share of the farm tax, the amount of farm tax so paid by him in that year of assessment,

(ii) if each person so liable for payment does not pay his separate share of that farm tax, such portion of the total farm tax payable under that paragraph as may reasonably be regarded as borne by him in that year of assessment, and

(c) where paragraph (c) of the said subsection (2) applies-

(i) if each person jointly and severally liable under that paragraph for payment of the farm tax in respect of so much of the farm as is not apportioned under section 3 (2) of the said Act pays his separate share of that farm tax, the amount of that farm tax so paid by him in that year of assessment,

(ii) if each person so liable for payment of such farm tax does not pay his separate share of that farm tax, such portion of the total farm tax payable under that paragraph in respect of so much of the farm as is not so apportioned as may reasonably be regarded as borne by him:

Provided that-

(a) the amount of the reduction granted for any year of assessment under this subsection shall not exceed-

(i) the amount of the farm tax payable by the individual for the calendar year ending in the year of assessment, and

(ii) the tax appropriate to the profits or gains from farming in relation to the said individual for that year of assessment, and

(b) in determining the income chargeable to income tax for any year of assessment no sum shall be deducted in respect of farm tax.

(2) Subsection (1) shall apply in the case of a husband who is chargeable to tax in accordance with the provisions of section 194 (inserted by the Finance Act, 1980 ) of the Income Tax Act, 1967 , as if references to profits or gains from farming included any such profits or gains of his wife and references to farm tax paid or payable included references to farm tax paid or payable by his wife.

(3) For the purposes of subsection (1) the tax appropriate to the profits or gains from farming in relation to an individual for a year of assessment shall be determined in accordance with the Third Schedule .

(4) In this section "farm tax" and "taxable farm" have the meanings respectively assigned to them by section 1 (1) of the Farm Tax Act, 1985 .

### **CHAPTER 3** Relief for Investment in Research and Development

#### **17. Interpretation (Chapter Iii) :-**

(1) In this Chapter-

"associate" has the same meaning in relation to a person as it has by virtue of section 103 (3) of the Corporation Tax Act, 1976 , in relation to a participator;

"control", except in section 20 (7), shall be construed in accordance with subsections (2) to (6) of section 102 of the Corporation Tax Act, 1976 ;

"director" shall be construed in accordance with section 103 (5) of the Corporation Tax Act, 1976 ;

"market value" shall be construed in accordance with section 49 of

the Capital Gains Tax Act, 1975 ;

"ordinary shares" means shares forming part of a company's ordinary share capital;

"the project period", in relation to a qualifying research and development project, means the period commencing on the date on which the work in connection with the project commences to be carried out and ending on the date on which-

(a) all work in connection with the project has ceased, and

(b) all amounts of the type referred to in section 24 (b) relating to that project have been received by the qualifying research and development company which carried out the project;

"qualifying research and development project" means a project which-

(a) has as its sole object the development of new or improved industrial processes, methods or products, and

(b) is carried out wholly or mainly in the State;

"qualifying trade" means a trade which-

(a) consists wholly or mainly of the manufacture of goods within the meaning of Chapter VI of Part I of the Finance Act, 1980 ;

(b) is conducted on a commercial basis and is carried on with a view to the realisation of profits,

and references to a trade in this Chapter shall be construed without regard to so much of the definition of "trade" in section 1 (1) of the Income Tax Act, 1967 , as relates to adventures or concerns in the nature of a trade:

Provided that a trade which during a relevant period consists partly of the manufacture of goods within the said meaning and partly of other trading operations shall be regarded for the purposes of this definition as a trade which consists wholly or mainly of the manufacture of goods within the said meaning if, but only if, the total amount receivable in the relevant period from sales of such goods is not less than 75 per cent. of the total amount receivable by the company from all sales made and services rendered in the course of the trade in the relevant period;

"the relevant period" has the meaning assigned to it by section 18 (7);

and

"the relief" and "relief" mean relief under section 18 and references to the amount of the relief shall be construed in accordance with subsection (3) of that section.

(2) Section 157 of the Corporation Tax Act, 1976 , applies for the purposes of the provisions of this Chapter other than section 20 .

(3) References in this Chapter to a disposal of shares include references to a disposal of an interest or right in or over the shares and an individual shall be treated for the purposes of this Chapter as disposing of any shares which he is treated by virtue of paragraph 5 of Schedule 2 to the Capital Gains Tax Act, 1975, as exchanging for other shares.

(4) References in this Chapter to the reduction of any amount include references to its reduction to nil.

### **18. The Relief :-**

(1) This Chapter has effect for affording relief from income tax where-

(a) an individual who qualifies for the relief subscribes for eligible shares in a qualifying research and development company, and

(b) those shares are issued to him for the purposes of raising money for a qualifying research and development project which is being carried out by the company or which it intends to carry out.

(2) In this Chapter "eligible shares" means new ordinary shares which, throughout the period of five years beginning on the date on which they are issued, carry no present or future preferential right to dividends or to a company's assets on its winding up and no present or future preferential right to be redeemed.

(3) The relief in respect of the amount subscribed by an individual for any eligible shares shall be given as a deduction of that amount from his total income for the year of assessment in which the shares are issued, and references in this Chapter to the amount of the relief are references to the amount of that deduction.

(4) The relief shall be given on a claim and shall not be allowed-

(a) unless and until the company has carried out for a period of not less than four months, or for the project period if that is shorter, the qualifying research and development project for which the money was raised by the issue of the shares in respect of which relief is claimed, and

(b) if the company is not carrying out that qualifying research and development project at the time when the shares are issued, unless the company begins to carry it out within two years after that time.

(5) A claim for the relief may be allowed at any time after the qualifying research and development project has been carried out by the company for the period referred to in subsection (4) (a) if the conditions for the relief are then satisfied; but no claim shall be allowed before the 1st day of January, 1987.

(6) In the case of a claim allowed before the end of the relevant period, the relief shall be withdrawn if by reason of any subsequent event it appears that the claimant was not entitled to the relief allowed.

(7) In this Chapter "the relevant period", in relation to relief in respect of any eligible shares issued by a qualifying research and development company for the purpose of raising money for a qualifying research and development project, means-

(a) as respects sections 20 and 25 the period beginning on the incorporation of the qualifying sponsoring company on behalf of which the research and development company carries out, or intends to carry out, the qualifying research and development project (or, if the qualifying sponsoring company was incorporated more than two years before the date on which the shares were issued, beginning two years before that date) and ending on the earlier of the following dates, that is to say-

(i) the date which is five years after the issue of the shares, and

(ii) the date on which the project period (hereafter in this subsection referred to as "the relevant project period") in relation to the qualifying research and development project for which the money raised by the issue of the shares was, or is to be, expended comes to an end,

(b) as respects section 21 the period which corresponds to the relevant project period or to the period beginning on the date on which the shares were issued and ending on the date which is five years after the issue of the shares, whichever period comes to an end first, and

(c) as respects section 22 the period beginning on the date the shares were issued and ending on the later of the following dates, that is to say-

(i) the date which is three years after the commencement of the relevant project period, and

(ii) the date on which the relevant project period comes to an end.

(8) Where by reason of its being wound up, or dissolved without winding up, the company carries out the qualifying research and development project for a period of less than that referred to in subsection (4) (a), the said subsection (4) (a) shall have effect as if it referred to that lesser period but only if it is shown that the winding up or dissolution was for bona fide commercial reasons and not as part of a scheme or arrangement the main purpose or one of the main purposes of which was the avoidance of tax.

(9) All such provisions of the Income Tax Acts as apply in relation

to the deductions specified in sections 138 to 143 of the Income Tax Act, 1967 , shall, with any necessary modifications, apply in relation to relief under this Chapter.

(10) Subject to the provisions of section 30 , no account shall be taken of the relief, in so far as it is not withdrawn, in determining whether any sums are excluded by virtue of paragraph 4 of Schedule 1 to the Capital Gains Tax Act, 1975 , from the sums allowable as a deduction in the computation of gains and losses for the purposes of the Capital Gains Tax Acts.

(11) This section applies only where the shares concerned are issued in the year 1986-87 or any of the four years of assessment immediately following that year.

### **19. Limits On Relief :-**

(1) The relief shall not be given in respect of any amounts subscribed by an individual for eligible shares issued to him by any qualifying research and development company in any year of assessment unless the amount or total amount subscribed by him for the eligible shares issued to him by the company in that year is 200 or more:

Provided that in the case of an individual who is a husband assessed to tax for a year of assessment in accordance with the provisions of section 194 (inserted by the Finance Act, 1980 ) of the Income Tax Act, 1967 , any amount subscribed by his spouse for eligible shares issued to her in that year of assessment by the company shall, for the purposes of determining whether this subsection applies, be deemed to have been subscribed by him for eligible shares issued to him by the company.

(2) The relief shall not be given to the extent to which the amount or total amount subscribed by an individual for eligible shares issued to him in any year of assessment (whether or not by the same company) exceeds 25,000.

(3) Section 198 (1) (inserted by the Finance Act, 1980 ) of the Income Tax Act, 1967 , is hereby amended by the insertion in paragraph (a) of the following subparagraph after subparagraph (ix) (inserted by section 14 ):

"(x) so far as it flows from relief under Chapter III of Part I of the Finance Act, 1986, in the proportions in which they subscribed for the eligible shares giving rise to the relief,".

### **20. Individuals Qualifying For Relief :-**

(1) (a) An individual qualifies for the relief if he subscribes on his own behalf for the eligible shares in a qualifying research and development company and is not at any time in the relevant period connected with a qualifying sponsoring company on behalf of which the qualifying research and development company carries out a qualifying research and development project.

(b) For the purposes of this section any question whether an individual is connected with a qualifying sponsoring company shall be determined in accordance with the following provisions of this section.

(2) An individual is connected with a qualifying sponsoring company if he, or an associate of his, is-

(a) an employee of the company or of a partner of the company,

(b) a partner of the company, or

(c) subject to subsection (3), a director of the company or of another company which is a partner of that company.

(3) An individual is not connected with a qualifying sponsoring company by reason only that he, or an associate of his, is a director of the company or of another company which is a partner of that company unless he or his associate (or a partnership of which he or his associate is a member) receives a payment from either company during the period of five years beginning on the date on which the shares are issued or is entitled to receive such a payment in respect of that period or any part of it; but for that purpose there shall be disregarded-

(a) any payment or reimbursement of travelling or other expenses wholly, exclusively and necessarily incurred by him or his associate in the performance of his duties as such director,

(b) any interest which represents no more than a reasonable commercial return on money lent to either company,

(c) any dividend or other distribution paid or made by either company which does not exceed a normal return on the investment,

(d) any payment for the supply of goods to either company which does not exceed their market value, and

(e) any reasonable and necessary remuneration which-

(i) is paid for services rendered to either company in the course of a trade or profession (not being secretarial or managerial services or services of a kind provided by the company itself), and

(ii) is taken into account in computing the profits or gains of the trade or profession under Case I or II of Schedule D or would be so taken into account if it fell in a period on the basis of which those

profits or gains are assessed under that Schedule.

(4) An individual is connected with a qualifying sponsoring company if he directly or indirectly possesses or is entitled to acquire more than 30 per cent. of-

- (a) the issued ordinary share capital of the company, or
- (b) the loan capital and issued share capital of the company, or
- (c) the voting power in the company.

(5) For the purposes of subsection (4) (b) and section 21 (7) (b) the loan capital of a company shall be treated as including any debt, other than a debt referred to in subsection (9), incurred by the company-

- (a) for any money borrowed or capital assets acquired by the company, or
- (b) for any right to receive income created in favour of the company, or
- (c) for consideration the value of which to the company was (at the time when the debt was incurred) substantially less than the amount of the debt (including any premium thereon).

(6) An individual is connected with a qualifying sponsoring company if he directly or indirectly possesses or is entitled to acquire such rights as would, in the event of the winding up of the company or in any other circumstance, entitle him to receive more than 30 per cent. of the assets of the company which would at that time be available for distribution to equity holders of the company, and for the purposes of this subsection-

- (a) the persons who are equity holders of the company, and
- (b) the percentage of the assets of the company to which the individual would be entitled,

shall be determined in accordance with sections 109 and 111 of the Corporation Tax Act, 1976, taking references in the said section 111 to the first company as references to an equity holder and references to a winding up as including references to any other circumstance in which assets of the company are available for distribution to its equity holders.

(7) An individual is connected with a qualifying sponsoring company if he has control of it within the meaning of section 158 of the Corporation Tax Act, 1976.

(8) For the purposes of this section an individual shall be treated as entitled to acquire anything which he is entitled to acquire at a future date or will at a future date be entitled to acquire; and there shall be attributed to any person any rights or powers of any other person who is an associate of his.

(9) In determining, for the purposes of this section, whether an individual is connected with a qualifying sponsoring company, no debt incurred by the company by overdrawing an account with a person carrying on a business of banking shall be treated as loan capital of the company if the debt arose in the ordinary course of that business.

## **21. Qualifying Research And Development Company :-**

(1) A company (hereafter in this section and in section 23 referred to as a "research and development company") is a qualifying research and development company if it is incorporated in the State and complies with the requirements of this section and of section 23 .

(2) The research and development company shall, throughout the relevant period-

(a) be resident in the State and not resident elsewhere, and

(b) exist solely for the carrying out of a qualifying research and development project.

(3) Without prejudice to the generality of subsection (2) but subject to subsection (4), a research and development company ceases to comply with subsection (2) if before the end of the relevant period a resolution is passed, or an order is made, for the winding up of the company (or, in the case of a winding up otherwise than under the Companies Act, 1963 , any other act is done for the like purpose) or the company is dissolved without winding up.

(4) A research and development company shall not be regarded as ceasing to comply with subsection (2) if it does so by reason of being wound up or dissolved without winding up and it is shown that the winding up or dissolution was for bona fide commercial reasons and not part of a scheme or arrangement the main purpose or one of the main purposes of which was the avoidance of tax.

(5) The research and development company's issued share capital may not, at any time in the relevant period, include any shares which are not eligible shares.

(6) (a) The research and development company may not at any time in the relevant period-

(i) control (or together with any person connected with it control) another company or be under the control of another company (or of another company and any person connected with that other company), or

(ii) be a 51 per cent. subsidiary of another company or itself have a 51 per cent. subsidiary, and no arrangements may be in existence at any time in that period by virtue of which the company could fall within subparagraph (i) or (ii).

(b) In this subsection "51 per cent. subsidiary", in relation to any company, has the meaning assigned to it, for the purposes of the Corporation Tax Acts, by section 156 of the Corporation Tax Act, 1976 .

(7) Any qualifying sponsoring company in respect of which the research and development company carries out a qualifying research and development project may not in the relevant period, directly or indirectly, possess or be entitled to acquire more than 49 per cent. of-

( a ) the issued ordinary share capital of the research and development company, or

(b) the loan capital and issued share capital of the research and development company, or

(c) the voting power in the research and development company.

(8) Where at any time a research and development company is or may become entitled to receive any amount by reason of its having carried out a qualifying research and development project it shall, at that time, be treated as existing for the carrying out of that project.

## **22. Qualifying Sponsoring Company :-**

(1) A company is a qualifying sponsoring company if it is incorporated in the State and complies with the requirements of this section.

(2) The company shall, throughout the relevant period-

(a) be resident in the State and not resident elsewhere, and

(b) exist wholly for the purpose of carrying on wholly or mainly in the State one or more qualifying trades.

(3) As respects any qualifying research and development project, a company shall be a qualifying sponsoring company only if it provides satisfactory evidence and it appears to the satisfaction of the Revenue Commissioners after such consultation, if any, as may seem to them necessary with such person or body of persons as in their opinion may be of assistance to them that any benefits accruing to the company from the qualifying research and development project will be applied by the company wholly or

mainly for the purposes of a qualifying trade or trades carried on by the company.

(4) Without prejudice to the generality of subsection (2) but subject to subsection (5), a company ceases to comply with subsection (2) if before the end of the relevant period a resolution is passed, or an order is made, for the winding up of the company (or, in the case of a winding up otherwise than under the Companies Act, 1963, any other act is done for the like purposes) or the company is dissolved without winding up.

(5) A company shall not be regarded as ceasing to comply with subsection (2) if it does so by reason of being wound up or dissolved without winding up and it is shown that the winding up or dissolution was for bona fide commercial reasons and not part of a scheme or arrangement the main purpose or one of the main purposes of which was the avoidance of tax.

### **23. Carrying Out Of A Qualifying Research And Development Project :-**

(1) Subject to the requirements of this section, a research and development company shall be regarded as carrying out a qualifying research and development project only if it carries out that project on behalf of a qualifying sponsoring company.

(2) A qualifying research and development project is carried out on behalf of a qualifying sponsoring company only if it is carried out in such circumstances that the benefits of the project accrue wholly or mainly to that company.

(3) A research and development company shall be regarded, for the purposes of this section, as carrying out a qualifying research and development project on behalf of a qualifying sponsoring company if, and only if-

(a) any money expended by the research and development company in the course of carrying out that project is so expended at the risk of that research and development company and, without prejudice to the generality of the foregoing, for this purpose money shall not be regarded as expended at the risk of a research and development company if the qualifying sponsoring company on behalf of which the qualifying research and development project is carried out, or any person connected with that qualifying sponsoring company, is or may become, directly or indirectly, liable-

(i) for any expenditure incurred or any losses sustained by the

research and development company in the carrying out of the qualifying research and development project, or

(ii) to acquire any shares or assets of the research and development company for a price which is greater than the market value of the shares or assets when acquired, and

(b) it provides satisfactory evidence and it appears to the Revenue Commissioners after such consultation, if any, as may seem to them necessary with such person or body of persons as in their opinion may be of assistance to them and subject to such conditions as to the verification of the purposes for which money is actually expended as they may impose, either on the research and development company or the qualifying sponsoring company, that all money raised by the research and development company from subscriptions for eligible shares by individuals who qualify for relief in respect of such shares was used, is being used or is intended to be used, for a qualifying research and development project.

(4) References to the carrying out of a qualifying research and development project by a research and development company include references to the carrying out of such a project, or of any work comprised in such a project, by any other person, including the qualifying sponsoring company, under a contract between that person and the research and development company.

(5) Notwithstanding paragraph (b) of subsection (3), where the Revenue Commissioners are satisfied that any money which appeared to them under the terms of the said paragraph (b) to be intended for use for a qualifying research and development project was not used for such a project and was not intended for such use, they may give notice in writing to that effect to the research and development company and thereupon the company shall be deemed not to be carrying out and never to have carried out the qualifying research and development project.

## **24. Taxation Of A Qualifying Research And Development Company :-**

The carrying out of a qualifying research and development project by a qualifying research and development company shall be deemed, for all the purposes of the Tax Acts other than the purposes of section 22, to be the carrying on of a trade (hereafter in this section referred to as "the manufacturing trade"), separate from any other trade which the company may at any time carry on, which consists wholly of the manufacture of goods within the

meaning of Chapter VI of Part I of the Finance Act, 1980 , and, notwithstanding anything to the contrary in the Tax Acts or elsewhere-

(a) any amount expended by the company in the course of the carrying out of a qualifying research and development project and for which an allowance, relief or deduction would not otherwise be available, directly or indirectly, under the Tax Acts on the basis that the carrying out of the qualifying research and development project is the carrying on of a trade, shall be deemed to be an amount expended for the purposes of the manufacturing trade, and

(b) any amount received by the company, no matter in what form and no matter how described, by reason of the carrying out of, or in consequence of the carrying out of, or otherwise in connection with the carrying out of, the qualifying research and development project shall be deemed to be a trading receipt of the manufacturing trade for the accounting period in which it is received, and the manufacturing trade shall be deemed to be carried on by the company so long as it is entitled to receive any amount referred to in paragraph (b).

## **25. Disposal Of Shares :-**

(1) Where an individual disposes of any eligible shares before the end of the relevant period, then-

(a) in a case where the disposal is otherwise than by way of a bargain made at arms length, he shall not be entitled to any relief in respect of those shares, and

(b) in any other case, the amount of relief to which he is entitled in respect of those shares shall be reduced by the amount or value of the consideration which he receives for them.

(2) Subsection (1) shall not apply to a disposal made by a wife to her husband at a time when she is treated as living with him for income tax purposes as provided in section 192 (inserted by the Finance Act, 1980 ) of the Income Tax Act, 1967 , or to a disposal made at such a time by him to her; but where shares issued to one of them have been transferred to the other by a transaction inter vivos-

(a) that subsection shall apply on the disposal of the shares by the transferee to a third person, and

(b) if at any time the wife ceases to be treated as living with her husband for the aforementioned purposes, and any of those shares have not been disposed of by the transferee before that time, any

assessment for withdrawing relief in respect of those shares shall be made on the transferee.

(3) Where an individual holds ordinary shares of any class in a qualifying research and development company and the relief has been given in respect of some shares of that class but not others, any disposal by him of ordinary shares of that class in the company shall be treated for the purposes of this section as relating to those in respect of which relief has been given under this Chapter rather than to others.

(4) Where relief has been given to an individual in respect of shares of any class in a qualifying research and development company which have been issued to him at different times, any disposal by him of shares of that class shall be treated for the purposes of this section as relating to those issued earlier rather than to those issued later.

(5) Where shares in respect of which the relief was given have by virtue of any such allotment as is mentioned in subparagraph (1) (a) (i) of paragraph 2 of Schedule 2 to the Capital Gains Tax Act, 1975 (not being an allotment for payment) fallen to be treated under subparagraph (2) of that paragraph as the same asset as a new holding-

(a) the new holding shall be treated for the purposes of subsection (3) as shares in respect of which the relief has been given, and

(b) a disposal of the whole or part of the new holding shall be treated for the purposes of this section as a disposal of the whole or a corresponding part of those shares.

(6) Shares in a company shall not be treated for the purposes of this section as being of the same class unless they would be so treated if dealt in on a stock exchange in the State.

(7) Where a qualifying research and development company is wound up or dissolved, it shall, for the purposes of this section, in the case of any individual, be treated as a disposal before the end of the relevant period of the individuals eligible shares in the company for an arms length price equal to the amount to which the individual is entitled on the winding up or dissolution in respect of any money subscribed for eligible shares in so far as that money has not been used for a qualifying research and development project.

## **26. Prevention Of Misuse :-**

An individual is not entitled to relief in respect of any shares unless

the shares were subscribed for and issued for bona fide commercial purposes and not as part of a scheme or arrangement the main purpose or one of the main purposes of which was the avoidance of tax.

## **27. Claims :-**

(1) A claim for the relief in respect of eligible shares issued by a qualifying research and development company in any year of assessment shall be made-

(a) not earlier than the 1st day of January, 1987, or, if later, the end of the period mentioned in section 18 (4) (a), and

(b) not later than two years after the end of that year of assessment or, if the period mentioned in section 18 (4) (a) ended after the end of that year, not later than two years after the end of that period.

(2) A claim for relief in respect of eligible shares in a qualifying research and development company shall not be allowed unless it is accompanied by a certificate issued by the company in such form as the Revenue Commissioners may direct and certifying that the conditions for the relief, so far as applying to the qualifying research and development company, the qualifying sponsoring company and the qualifying research and development project, are satisfied in relation to those shares.

(3) Before issuing a certificate for the purposes of subsection (2) a qualifying research and development company shall furnish the inspector with a statement to the effect that it satisfies the conditions for relief, so far as they apply in relation to the company, the qualifying sponsoring company and the qualifying research and development project, and has done so at all times since the beginning of the relevant period.

(4) No such certificate shall be issued without the authority of the inspector or where the qualifying research and development company or the qualifying sponsoring company, or a person connected with either company, has given notice to the inspector under section 29 (2).

(5) Any statement under subsection (3) shall contain such information as the Revenue Commissioners may reasonably require, shall be in such form as the Revenue Commissioners may direct and shall contain a declaration that it is correct to the best of the qualifying research and development company's knowledge and belief.

(6) Where a qualifying research and development company has issued a certificate for the purposes of subsection (2) or furnished a statement under subsection (3) and-

(a) the certificate or statement was made fraudulently or negligently, or

(b) the certificate was issued in contravention of subsection (4), the company shall be liable to a penalty not exceeding 500 or, in the case of fraud, 1,000, and such penalty may, without prejudice to any other method of recovery, be proceeded for and recovered summarily in the same manner as in summary proceedings for recovery of any fine or penalty under any Act relating to the excise.

(7) For the purpose of regulations made under section 127 of the Income Tax Act, 1967 , no regard shall be had to the relief unless a claim for it has been duly made and admitted.

(8) For the purposes of section 550 of the Income Tax Act, 1967 , tax charged by an assessment-

(a) shall be regarded as due and payable notwithstanding that relief from the tax (whether by discharge or repayment) is subsequently given on a claim for the relief, but

(b) shall, unless paid earlier or due and payable later, be regarded as paid, to the extent that relief from tax is due under this Chapter, on the date of the making of the claim on which the relief is given, and section 551 of that Act shall not apply in consequence of any discharge or repayment for giving effect to the relief.

## **28. Assessments For Withdrawing Relief :-**

(1) Where any relief has been given which is subsequently found not to have been due, it shall be withdrawn by the making of an assessment to tax under Case IV of Schedule D for the year of assessment for which the relief was given.

(2) Where any relief given in respect of shares for which either a husband or his wife has subscribed and which were issued while he was assessed in accordance with the provisions of section 194 (inserted by the Finance Act, 1980 ) of the Income Tax Act, 1967 , falls to be withdrawn by virtue of a subsequent disposal of those shares by the person who subscribed for them and at the time of the disposal the husband is not so assessable, any assessment for withdrawing that relief shall be made on the person making the disposal and shall be made by reference to the reduction of tax flowing from the amount of the relief regardless of any allocation of that reduction under section 198 (1) or (2) (inserted by the Finance

Act, 1980 ) of the Income Tax Act, 1967 , or any allocation of a repayment of tax under section 195A (inserted by the Finance Act, 1983 ) of the Income Tax Act, 1967 .

(3) Subject to the following provisions of this section, any assessment for withdrawing relief which is made by reason of an event occurring after the date of the claim may be made within ten years after the end of the year of assessment in which that event occurs.

(4) No assessment for withdrawing relief in respect of shares issued to any person shall be made by reason of any event occurring after his death.

(5) Where a person has, by a disposal or disposals to which section 25 (1) (b) applies, disposed of all the ordinary shares issued to him by a qualifying research and development company, no assessment for withdrawing relief in respect of any of those shares shall be made by reason of any subsequent event unless it occurs at a time when he is connected with the qualifying sponsoring company within the meaning of section 20 .

(6) Subsection (3) is without prejudice to the proviso to section 186 (2) (a) of the Income Tax Act, 1967 .

(7) In its application to an assessment made by virtue of this section, section 550 of the Income Tax Act, 1967 , shall have effect as if the date on which the tax charged by the assessment becomes due and payable were-

(a) in the case of relief withdrawn by virtue of section 20 , 21 , 22 or 23 in consequence of any event after the grant of the relief, the date of that event,

(b) in the case of relief withdrawn by virtue of section 25 (1) in consequence of a disposal after the grant of the relief, the date of the disposal,

(c) in the case of relief withdrawn by virtue of section 26 -

(i) so far as effect has been given to the relief in accordance with regulations under section 127 of the Income Tax Act, 1967 , the 5th day of April in the year of assessment in which effect was so given, and

(ii) so far as effect has not been so given, the date on which the relief was granted.

(8) For the purposes of subsection (7) the date on which the relief is granted is the date on which a repayment of tax for giving effect to the relief was made or, if there was no such repayment, the date on which the inspector issued a notice to the claimant showing the amount of tax payable after giving effect to the relief.

## **29. Information :-**

(1) Where an event occurs by reason of which any relief given to an individual falls to be withdrawn by virtue of section 20 or 25 , the individual shall, within sixty days of his coming to know of the event, give a notice in writing to the inspector containing particulars of the event.

(2) Where an event occurs by reason of which any relief in respect of any shares in a company falls to be withdrawn by virtue of section 21 , 22 , 23 or 26 -

(a) the qualifying research and development company or the qualifying sponsoring company, as the case may be, and

(b) any person connected with that company who has knowledge of that matter,

shall within sixty days of the event or, in the case of a person within paragraph (b), of his coming to know of it, give a notice in writing to the inspector containing particulars of the event.

(3) If the inspector has reason to believe that a person has not given a notice which he is required to give under subsection (1) or (2) in respect of any event, the inspector may by notice in writing require that person to furnish him within such time (not being less than sixty days) as may be specified in the notice with such information relating to the event as the inspector may reasonably require for the purposes of this Chapter.

(4) Where relief is claimed in respect of shares in a qualifying research and development company and the inspector has reason to believe that it may not be due by reason of any such arrangement or scheme as is mentioned in section 21 (6) or 26 , he may by notice in writing require any person concerned to furnish him within such time (not being less than sixty days) as may be specified in the notice with-

(a) a declaration in writing stating whether or not, according to the information which that person has or can reasonably obtain, any such arrangement or scheme exists or has existed, and

(b) such other information as the inspector may reasonably require for the purposes of the provision in question and as that person has or can reasonably obtain.

(5) References in subsection (4) to the person concerned are, in relation to section 26 , references to the claimant and, in relation to section 21 (6) and 26 , references to the qualifying research and development company or the qualifying sponsoring company, as the case may be, and to any person controlling that company.

(6) Where relief has been claimed in respect of shares in a qualifying research and development company, any person who holds or has held shares in the company and any person on whose behalf any such shares are or were held shall, if so required by the inspector, state whether the shares which are or were held by him or on his behalf are or were held on behalf of any person other than himself and, if so, the name and address of that person.

(7) No obligation as to secrecy imposed by statute or otherwise shall preclude the inspector from disclosing to a qualifying research and development company that relief has been given or claimed in respect of a particular number or proportion of its shares.

(8) Schedule 15 to the Income Tax Act, 1967 , is hereby amended by the insertion-

(a) in column 2 of "Finance Act, 1986, section 29 (3) and (4)"; and

(b) in column 3 of "Finance Act, 1986, section 29 (1) and (2)".

### **30. Capital Gains Tax :-**

(1) The sums allowable as deductions from the consideration in the computation for the purposes of capital gains tax of the gain or loss accruing to an individual on the disposal of shares in respect of which any relief has been given and not withdrawn shall be determined without regard to that relief, except that where those sums exceed the consideration they shall be reduced by an amount equal to-

(a) the amount of that relief, or

(b) the excess,

whichever is the less, but the foregoing provisions of this subsection shall not apply to a disposal falling within section 13 (5) of the Capital Gains Tax Act, 1975 .

(2) In relation to shares in respect of which relief has been given and not withdrawn, any question-

(a) as to which of any such shares issued to a person at different times a disposal relates, or

(b) whether a disposal relates to such shares or to other shares,

shall for the purposes of capital gains tax be determined as for the purposes of section 25 .

(3) Where an individual holds ordinary shares in a company and the relief has been given in respect of some but not others, then, if there is within the meaning of paragraph 2 (1) of Schedule 2 to the Capital Gains Tax Act, 1975 , a reorganisation affecting those shares, paragraph 2 (2) of that Schedule shall apply separately to

the shares in respect of which the relief has been given and to the other shares (so that the shares of each kind are treated as a separate holding of original shares and identified with a separate new holding).

(4) There shall be made all such adjustments of capital gains tax, whether by way of assessment or by way of discharge or repayment of tax, as may be required in consequence of the relief being given or withdrawn.

## **CHAPTER 4** Interest Payments by Certain Deposit Takers

### **31. Interpretation (Chapter Iv ) :-**

(1) In this Chapter-

"amount on account of appropriate tax" shall be construed in accordance with section 33 (4);

"appropriate tax", in relation to a payment of relevant interest, means a sum representing income tax on the amount of that payment at the standard rate in force at the time of the payment;

"building society" means a society within the meaning of the Building Societies Acts, 1976 to 1983;

"deposit" means a sum of money paid to a relevant deposit taker on terms under which it will be repaid with or without interest and either on demand or at a time or in circumstances agreed by or on behalf of the person making the payment and the person to whom it is made;

"interest" means any interest of money whether yearly or otherwise, including any amount whether or not described as interest paid in consideration of the making of a deposit, and, as respects a building society, includes any dividend or other distribution in respect of shares in the society:

Provided that any amount consisting of an excess of the amount received on the redemption of any holding of A.C.C. Bonus Bonds - First Series, issued by the Agricultural Credit Corporation, p.l.c., over the amount paid for the holding shall not be treated as interest for the purposes of this Chapter;

"relevant deposit" means a deposit held by a relevant deposit taker other than a deposit-

(a) which is made by, and the interest on which is beneficially owned by-

(i) a relevant deposit taker,

(ii) the Central Bank of Ireland, or

(iii) the Insurance Corporation of Ireland, p.l.c.,

(b) which is a debt on a security which is issued by the relevant deposit taker and is listed on a stock exchange,  
(c) which, in the case of a relevant deposit taker resident in the State for the purposes of corporation tax, is held at a branch of the relevant deposit taker situated outside the State,  
(d) which, in the case of a relevant deposit taker not resident in the State for the purposes of corporation tax, is held otherwise than at a branch of the relevant deposit taker situated in the State,  
(e) which is a deposit denominated in a foreign currency,  
(f) in respect of which-

(i) no person who is ordinarily resident in the State is beneficially entitled to any interest, and

(ii) a declaration of the kind mentioned in section 37 has been made to the relevant deposit taker, or

(g) (i) the interest on which is exempt-

(I) from income tax under Schedule D by virtue of paragraph (b) of section 333 (1) of the Income Tax Act, 1967 , or

(II) from corporation tax by virtue of the exemption conferred by the said paragraph (b) of the said section 333 (1) as it has effect for the purposes of corporation tax under section 11 (6) of the Corporation Tax Act, 1976 ,

as the case may be, and

(ii) in respect of which a declaration of the kind mentioned in section 38 has been made to the relevant deposit taker;

"relevant deposit taker" means any of the following persons, that is to say:

(a) a person who is a holder of a licence granted under section 9 of the Central Bank Act, 1971 ,

(b) a building society,

(c) a trustee savings bank within the meaning of the Trustee Savings Banks Acts, 1863 to 1979,

(d) the Agricultural Credit Corporation, p.l.c.,

(e) the Industrial Credit Corporation, p.l.c.,

and

(f) the Post Office Savings Bank;

"relevant interest" means interest paid on or after the 6th day of April, 1986, in respect of a relevant deposit;

"return" means a return under section 33 (2).

(2) For the purposes of this Chapter-

(a) any amount which is credited as interest in respect of a relevant deposit shall be treated as a payment of interest, and references in this Chapter to relevant interest being paid shall be construed

accordingly,

(b) any reference in this Chapter to the amount of a payment of relevant interest shall be construed as a reference to the amount which would be the amount of that payment if no appropriate tax were to be deducted therefrom, and

(c) a deposit is held at a branch of a relevant deposit taker if it is recorded in its books as a liability of that branch.

### **32. Deduction Of Tax From Relevant Interest :-**

(1) Where a relevant deposit taker makes a payment of relevant interest it shall deduct out of the amount of the payment the appropriate tax in relation to the payment; and the person to whom such payment is made shall allow such deduction upon the receipt of the residue of the payment; and the relevant deposit taker shall be acquitted and discharged of so much money as is represented by the deduction as if that amount of money had actually been paid to the person.

(2) A relevant deposit taker shall treat every deposit made with it as a relevant deposit unless satisfied that it is not a relevant deposit; but where it has satisfied itself that a deposit is not a relevant deposit it shall be entitled to continue to so treat the deposit until such time as it is in possession of information which can reasonably be taken to indicate that the deposit is, or may be, a relevant deposit.

(3) Any payment of relevant interest which is within subsection (1) shall be treated as not being within section 31 of the Finance Act, 1974 .

### **33. Returns And Collection Of Appropriate Tax :-**

(1) Notwithstanding any other provision of the Tax Acts, this section shall have effect for the purpose of regulating the time and manner in which appropriate tax in relation to a payment of relevant interest shall be accounted for and paid.

(2) Subject to subsection (5), a relevant deposit taker shall, for the year 1986-87 and for each subsequent year of assessment, make, within 15 days from the end of the year of assessment, a return to the Collector-General of the relevant interest paid by it in that year and of the appropriate tax in relation to the payment of that interest.

(3) The appropriate tax in relation to a payment of relevant interest which is required to be included in a return shall be due at the time

by which the return is to be made and shall be paid by the relevant deposit taker to the Collector-General, and the appropriate tax so due shall be payable by the relevant deposit taker without the making of an assessment; but appropriate tax which has become due as aforesaid may be assessed on the relevant deposit taker without the making of an assessment; but appropriate tax which has become due as aforesaid may be assessed on the relevant deposit taker (whether or not it has been paid when the assessment is made) if that tax or any part of it is not paid on or before the due date.

(4) Notwithstanding subsection (3), a relevant deposit taker shall, for each year of assessment (being the year 1986-87 or any subsequent year of assessment) pay to the Collector-General within 15 days from the 5th day of October in that year of assessment an amount on account of appropriate tax which shall be not less than the amount of appropriate tax which would be due and payable by it for that year of assessment in accordance with the said subsection (3) if the total amount of the relevant interest which had accrued (interest being, for this purpose, treated, if not otherwise so treated, as accruing from day to day) in the period commencing on the 6th day of April and ending on the 5th day of October in that year of assessment on all relevant deposits held by the relevant deposit taker in that period (and no more) had been paid by it in that year of assessment; and any amount on account of appropriate tax so paid by the relevant deposit taker for a year of assessment shall be treated as far as may be as a payment on account of any appropriate tax due and payable by it for that year of assessment under the said subsection (3):

Provided that, where the amount on account of appropriate tax paid by a relevant deposit taker for a year of assessment under this subsection exceeds the amount of appropriate tax due and payable by it for that year of assessment under the said subsection (3), the excess shall be carried forward and shall be set off against any amount due and payable under this subsection or the said subsection (3) by the relevant deposit taker for any subsequent year of assessment (any such set-off being effected as far as may be against an amount so due and payable at an earlier date rather than at a later date).

(5) (a) Any amount on account of appropriate tax payable by a relevant deposit taker under subsection (4) shall be so payable without the making of an assessment,

(b) all the provisions of this Chapter relating to the collection and

recovery of appropriate tax shall apply with any necessary modifications to the collection and recovery of any amount on account of appropriate tax, and

(c) a return required to be made by a relevant deposit taker for a year of assessment shall contain a statement of the amount of interest in respect of which an amount on account of appropriate tax is due and payable by the relevant deposit taker for that year of assessment and of the amount on account of appropriate tax so due and payable; and a return shall be so required to be made by a relevant deposit taker for a year of assessment notwithstanding that no relevant interest was paid by it in that year of assessment.

(6) If it appears to the inspector that there is any amount of appropriate tax in relation to a payment of relevant interest which ought to have been and has not been included in a return, or if the inspector is dissatisfied with any return, he may make an assessment on the relevant deposit taker to the best of his judgment; and any amount of appropriate tax in relation to a payment of relevant interest due under an assessment made by virtue of this subsection shall be treated for the purposes of interest on unpaid tax as having been payable at the time when it would have been payable if a correct return had been made.

(7) Where any item has been incorrectly included in a return as a payment of relevant interest, the inspector may make such assessments, adjustments or set-offs as may in his judgment be required for securing that the resulting liabilities to tax (including interest on unpaid tax) whether of the relevant deposit taker or any other person are, so far as possible, the same as they would have been if the item had not been so included.

(8) (a) Any appropriate tax assessed on a relevant deposit taker under this Chapter shall be due within one month after the issue of the notice of assessment (unless that tax or any amount treated as an amount on account of it is due earlier under subsection (3) or (4)) subject to any appeal against the assessment, but no such appeal shall affect the date when any amount is due under the said subsection (3) or (4), and

(b) on the determination of an appeal against an assessment under this Chapter any appropriate tax overpaid shall be repaid.

(9) (a) All the provisions of the Income Tax Acts relating to-

(i) assessments to income tax,

(ii) appeals against such assessments (including the rehearing of appeals and the statement of a case for the opinion of the High Court), and

- (iii) the collection and recovery of income tax, shall, so far as they are applicable, apply to the assessment, collection and recovery of appropriate tax;
- (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 at the rate of 1.25 per cent. for each month or part of a month from the date when the amount becomes due and payable until payment;
- (c) the provisions of subsections (3) to (5) of section 550 of the Income Tax Act, 1967 , shall apply in relation to interest payable under paragraph (b) as they apply in relation to interest payable under the said section 550;
- (d) in its application to any appropriate tax charged by any assessment made in accordance with this Chapter, section 550 of the Income Tax Act, 1967 , shall have effect with the omission of the proviso to subsection (1) and subsections (2) and (2A); and
- (e) notwithstanding anything in the Income Tax Acts, the provisions of section 419 of the Income Tax Act, 1967 , and section 30 of the Finance Act, 1976 , shall not apply in relation to any appropriate tax which is charged by an assessment made in accordance with this Chapter.
- (10) Every return shall be in a form prescribed by the Revenue Commissioners and shall include a declaration to the effect that the return is correct and complete.

#### **34. Amendment Of Section 31 (Building Societies) Of Corporation Tax Act, 1976 :-**

As respects the year 1986-87 and any subsequent year of assessment-

- (a) subsections (1) to (3) and (6) of section 31 of the Corporation Tax Act, 1976 , shall cease to have effect, and
- (b) subsections (4) and (9) of that section shall have effect as if the references therein to arrangements made under that section being in force or being entered into by a building society were omitted.

#### **35. Taxation Of Relevant Interest, Etc :-**

(1) Notwithstanding anything in the Tax Acts-

- (a) no part of any interest paid by a building society on or after the 6th day of April, 1986, in respect of any shares in the society shall be treated for the purposes of the Corporation Tax Acts as a

distribution of the society or as franked investment income of any company resident in the State,

(b) save as is otherwise provided for in section 39 , no repayment of appropriate tax in respect of any relevant interest shall be made to any person receiving or entitled to the payment of the relevant interest who is not a company within the charge to corporation tax in respect of the payment,

(c) the amount of any payment of relevant interest shall be regarded as income chargeable to tax under Case IV of Schedule D and under no other Case or Schedule and shall be taken into account in computing the total income of the person entitled to that amount, but, subject to paragraph (d), no assessment to income tax shall be made in respect of any relevant interest on the person receiving or entitled to the payment of the relevant interest,

(d) paragraph (c) shall not prevent an assessment in respect of income tax at the higher rates or in respect of a surcharge under section 13 of the Finance Act, 1976 , on any relevant interest in respect of which appropriate tax is deductible, and

(e) section 4 of the Finance Act, 1974 , shall have effect as if a reference to appropriate tax deductible by virtue of this Chapter were contained in paragraph (a) of that section.

(2) Where a deposit which is a source of income of any person (hereafter in this section referred to as the "lender") who is chargeable to income tax in respect of any interest payable on the deposit is not a taxed-interest deposit within the meaning of subsection (4) but at any time becomes such a deposit, then, notwithstanding section 75 of the Income Tax Act, 1967 , section 77 (3) of that Act shall apply as if the deposit were a source of income which is directed to be separately computed under subsection (2) of the said section 75 and as if the deposit were a source of income which the lender ceased to possess immediately before it became such a taxed-interest deposit:

Provided that, in the case of a deposit which becomes a taxed-interest deposit on the 6th day of April, 1986, the said section 77 (3) shall not apply so as to require any adjustment of the total income of a lender in so far as that income includes any interest paid in respect of that deposit for any year of assessment prior to the year 1985-86.

(3) Where a deposit which is a source of income of a lender ceases to be a taxed-interest deposit within the meaning of subsection (4) then, notwithstanding section 75 of the Income Tax Act, 1967 , subsections (1) and (2) of section 77 of that Act shall apply, as

respects the year of assessment in which it so ceases and the next subsequent year of assessment, as if the deposit were a source of income which is directed to be separately computed under subsection (2) of the said section 75 and as if the deposit were a new source of income acquired by the lender immediately after it ceased to be such a taxed-interest deposit.

(4) For the purposes of subsections (2) and (3), a deposit is at any time a taxed-interest deposit if, were the relevant deposit taker who holds it to make a payment of interest in respect of it at that time, the said relevant deposit taker would be required to deduct the appropriate tax out of the payment.

(5) Section 344 of the Income Tax Act, 1967 , shall not have effect as respects any relevant interest.

### **36. Statement Furnished By Relevant Deposit Taker :-**

A relevant deposit taker shall, when requested to do so by any person entitled to any relevant interest on a relevant deposit held by the relevant deposit taker, furnish to that person, as respects any payment of such relevant interest, a statement showing-

- (a) the amount of that payment,
- (b) the amount of appropriate tax deducted therefrom,
- (c) the net amount of the payment, and
- (d) the date of the payment.

### **37. Declarations Relating To Deposits Of Non-Residents :-**

(1) The declaration referred to in paragraph (f) (ii) of the definition of "relevant deposit" in section 31 (1) is a declaration in writing to a relevant deposit taker which-

- (a) is made by a person (hereafter in this section referred to as "the declarer") to whom any interest on the deposit in respect of which the declaration is made is payable by the relevant deposit taker, and is signed by the declarer,
- (b) is made in such form as may be prescribed or authorised by the Revenue Commissioners,
- (c) declares that at the time when the declaration is made the person who is beneficially entitled to the interest in relation to the said deposit is not, or, as the case may be, all of the persons who are so entitled are not, ordinarily resident in the State,
- (d) contains as respects the person, or, as the case may be, each of the persons, mentioned in paragraph (c)-
  - (i) the name of the person,

- (ii) the address of his principal place of residence, and
- (iii) the name of the country in which he is ordinarily resident at the time the declaration is made,
- (e) contains an undertaking by the declarer that if the person, or, as the case may be, any of the persons, referred to in paragraph (c) becomes ordinarily resident in the State, the declarer will notify the relevant deposit taker accordingly, and
- (f) contains such other information as the Revenue Commissioners may reasonably require for the purposes of this Chapter:

Provided that-

- (i) subject to subsections (3) and (4), where, in relation to a deposit, a notice was served, on or before the 29th day of January, 1986, on a relevant deposit taker under section 175 (4) of the Income Tax Act, 1967, the notice shall, at all times before the 6th day of April, 1987, be deemed for the purposes of this Chapter, apart from subsection (2), to be, as respects that deposit, a declaration of the kind mentioned in this section, and
- (ii) a declaration made before the passing of this Act in a form authorised by the Revenue Commissioners under paragraph (22) of Financial Resolution No. 12 passed by Dáil Éireann on the 30th day of January, 1986, shall be deemed for all the purposes of this Chapter to be a declaration of the kind mentioned in this section.

(2) (a) A relevant deposit taker shall-

(i) keep and retain for the longer of the following periods, that is to say-

(I) a period of six years, and

(II) a period which, in relation to the deposit in respect of which the declaration is made, ends not earlier than three years after the date on which the deposit is repaid or, as the case may be, becomes a relevant deposit, and

(ii) on being so required by notice given to it in writing by an inspector, make available to the inspector, within the time specified in the notice,

all declarations of the kind mentioned in this section which have been made in respect of deposits held by the relevant deposit taker.

(b) The inspector may examine or take extracts from or copies of any declarations made available to him under paragraph (a).

(3) Where, on a day (hereafter in this subsection referred to as "the relevant day") after the 29th day of January, 1986, the amount of a deposit is reduced to less than three-quarters of the amount of the deposit on the 29th day of January, 1986, paragraph

(i) of the proviso to subsection (1), if it would, apart from this subsection, have effect as respects the deposit, shall not so have effect at any time on or after the relevant day.

(4) Where a notice (hereafter in this subsection referred to as "the relevant notice") of the kind mentioned in paragraph (i) of the proviso to subsection (1) was served on a relevant deposit taker on or before the 29th day of January, 1986, in relation to a deposit and, at any time after the 5th day of April, 1986, but before a declaration of the kind mentioned in this section has been made in respect of the deposit, the deposit ceases to be held by the relevant deposit taker, then a declaration of the kind mentioned in this section shall be made, in respect of that deposit, to the relevant deposit taker by the person to whom any interest on the deposit was payable at any time after the 29th day of January, 1986 (or, if there is more than one such person, the declaration may be made by any one of those persons):

Provided that, if a declaration is not so made in respect of the deposit, the relevant notice shall be deemed, for the purposes of subsection (2), to be, as respects the deposit, a declaration of the kind mentioned in this section.

### **38. Declarations Relating To Deposits Of Charities :-**

(1) The declaration referred to in paragraph (g) (ii) of the definition of "relevant deposit" in section 31 (1) is a declaration in writing to a relevant deposit taker which-

(a) is made by a person (hereafter in this section referred to as "the declarer") to whom any interest on the deposit in respect of which the declaration is made is payable by the relevant deposit taker, and is signed by the declarer,

(b) is made in such form as may be prescribed or authorised by the Revenue Commissioners,

(c) declares that at the time when the declaration is made the interest on the deposit in respect of which the declaration is made-

(i) (I) forms part of the income of a body of persons or trust which is treated by the Revenue Commissioners as a body or trust established for charitable purposes only, or

(II) is, according to the rules or regulations established by statute, charter, decree, deed of trust or will, applicable to charitable purposes only and is so treated by the Revenue Commissioners, and

(ii) will be applied to charitable purposes only,

(d) contains the name and address of the person, or, as the case may be, of each of the persons entitled, in respect of the interest in relation to the deposit, to exemption-

(i) from income tax under Schedule D by virtue of paragraph (b) of section 333 (1) of the Income Tax Act, 1967 , or

(ii) as the case may be, from corporation tax by virtue of the exemption conferred by the said paragraph (b) of the said section 333 (1) as it has effect for the purposes of corporation tax under section 11 (6) of the Corporation Tax Act, 1976 ,

(e) contains an undertaking by the declarer that if the person, or, as the case may be, any of the persons, referred to in paragraph (d) ceases to be so exempt in respect of that interest, the declarer will notify the relevant deposit taker accordingly, and

(f) contains such other information as the Revenue Commissioners may reasonably require for the purposes of this Chapter.

(2) Subsection (2) of section 37 shall have effect as respects declarations of the kind mentioned in this section as it has effect as respects declarations of the kind mentioned in that section.

### **39. Repayment Of Appropriate Tax In Certain Cases :-**

(1) Notwithstanding section 35 (1) (b), repayment of appropriate tax in respect of any relevant interest shall be made to a person who is entitled to exemption in respect of that interest-

(a) from income tax under Schedule D by virtue of paragraph (b) of section 333 (1) of the Income Tax Act, 1967 , or

(b) as the case may be, from corporation tax by virtue of the exemption conferred by the said paragraph (b) of the said section 333 (1) as it has effect for the purposes of corporation tax under section 11 (6) of the Corporation Tax Act, 1976 .

(2) Where, in the year 1986-87 or any subsequent year of assessment (hereafter in this section referred to as "the relevant year"), the total income of a relevant person includes any relevant interest and, apart from section 35 (1) (b), the relevant person would be entitled to repayment of the whole or any part of the appropriate tax deducted from the relevant interest, then, notwithstanding section 35 (1) (b), the repayment to which the relevant person would be so entitled may be made to him on the making by him to the inspector, not earlier than the end of the relevant year, of a claim in that behalf.

(3) In subsection (2) "relevant person" means an individual who proves to the satisfaction of the inspector, or, on appeal, to the

Appeal Commissioners, that-

(a) at some time during the relevant year he or his spouse was of the age of sixty-five years or upwards, or

(b) throughout the relevant year he or his spouse was, or as on and from some time during the relevant year he or his spouse became, permanently incapacitated by reason of mental or physical infirmity from maintaining himself or herself.

#### **40. Penalties :-**

(1) Schedule 15 to the Income Tax Act, 1967 , is hereby amended by the insertion-

(a) in column 2 of "Finance Act, 1986, section 33 (2)", and

(b) in column 3 of "Finance Act, 1986, section 32 (1)".

(2) Section 94 (2) of the Finance Act, 1983 , is hereby amended by the insertion after paragraph (d) of the following paragraph:

"(dd) (i) fails to make any deduction required to be made by him under section 32 (1) of the Finance Act, 1986,

(ii) fails, having made the deduction, to pay the sum deducted to the Collector-General within the time specified in that behalf in section 33 (3) of that Act, or

(iii) fails to pay to the Collector-General an amount on account of appropriate tax (within the meaning of Chapter IV of Part I of that Act) within the time specified in that behalf in section 33 (4) of that Act,".

**CHAPTER 5** Urban Renewal: Relief from Income Tax and Corporation Tax

#### **41. Interpretation (Chapter V ), Etc :-**

(1) In this Chapter-

"the Custom House Docks Area" means the area described in Part II of the Fourth Schedule ;

"designated area" means the Custom House Docks Area or any other area described in Part III , IV , V , VI or VII of the Fourth Schedule , and a reference to a designated area of a county borough shall, save where otherwise specifically provided, be construed as a reference to the part or parts of that county borough described in the appropriate Part or Parts of that Schedule.

(2) As respects the application of this Chapter to any expenditure incurred in relation to, or rent payable in respect of, any premises the site of which is wholly within the Custom House Docks Area-

"the specified day" means the day appointed by the Minister for Finance by order to be the specified day for the purposes of this Chapter;

"the specified period" means the period of five years commencing on the specified day.

(3) The Fourth Schedule shall have effect for the purposes of supplementing this Chapter.

## **42. Allowance In Relation To Construction Of Certain Commercial Premises :-**

(1) In this section-

"multi-storey car-park" has the meaning given to it by section 25 of the Finance Act, 1981 ;

"qualifying period" means the period commencing on the 23rd day of October, 1985, and ending on the 31st day of May, 1989, or, where section 41 (2) applies, the specified period;

"qualifying premises" means a building or structure the site of which is wholly within a designated area and which-

(a) apart from this section is not an industrial building or structure within the meaning of section 255 (1) of the Income Tax Act, 1967 , and

(b) (i) is in use for the purposes of a trade or profession, or

(ii) whether or not it is so used, is let on bona fide commercial terms for such consideration as might be expected to be paid in a letting of the building or structure which was negotiated on an arms length basis,

but does not include any building or structure in use as, or as part of, a dwelling-house;

references to sections 254 , 264 and 265 of the Income Tax Act, 1967 , are references to those sections as inserted by the Corporation Tax Act, 1976 .

(2) Subject to the modifications provided for in subsections (3) to (7), all the provisions of the Tax Acts relating to the making of allowances or charges in respect of capital expenditure on the construction of an industrial building or structure shall, notwithstanding anything to the contrary therein, apply-

(a) as if a qualifying premises were, at all times at which it is a qualifying premises, a building or structure in respect of which an allowance falls to be made for the purposes of income tax or corporation tax, as the case may be, under Chapter II of Part XV or under Chapter I of Part XVI of the Income Tax Act, 1967 , by

reason of its use for a purpose specified in section 255 (1) (a) of that Act, and

(b) where any activity carried on in the qualifying premises is not a trade, as if it were a trade:

Provided that an allowance shall be given by reason of this subsection in respect of any capital expenditure incurred on the construction of a qualifying premises only in so far as that expenditure is incurred in the qualifying period.

(3) For the purposes of subsection (2) the references to the 1st day of April, 1988 (as provided for by section 20 of the Finance Act, 1985 ) in the provisions of the Income Tax Act, 1967 , specified in the Table to this subsection, shall be deemed to be references to the 1st day of June, 1989, or, where section 41 (2) applies, to the day next following the end of the specified period.

#### TABLE

Subsection (2A) (a) of section 254 (industrial building allowance)

Paragraph (ii) of the proviso to subsection (1) and paragraph (ii) of the proviso to subsection (3) of section 264 (annual allowances)

Paragraph (iii) of the proviso to subsection (1) of section 265 (balancing allowances and balancing charges)

(4) As respects a qualifying premises the site of which is wholly within a designated area of Dublin other than the Custom House Docks Area, any allowance or charge which, apart from this subsection, would fall to be made under subsection (2) in respect of capital expenditure on the construction of the qualifying premises shall be reduced to one-half of the amount which, apart from this subsection, would be the amount of that allowance or charge; and for the purposes of this subsection the amount of an allowance or charge so falling to be reduced to one-half thereof shall be computed as if-

(a) this subsection had not been enacted, and

(b) effect had been given to all allowances taken into account in so computing that amount:

Provided that nothing in this section shall affect the operation of section 265 (5) of the Income Tax Act, 1967 .

(5) Subject to subsection (6), section 25 of the Finance Act, 1981 , shall not have effect as respects a qualifying premises which is a multi-storey car-park in relation to which any allowance in respect of expenditure incurred on its construction falls to be made under subsection (2).

(6) Subsections (2) and (4) shall not apply as respects any capital expenditure which-

(a) is incurred before the 1st day of April, 1988, on the construction of a multi-storey car-park the site of which is wholly within a designated area of Dublin other than the Custom House Docks Area, and

(b) is relevant expenditure within the meaning of section 25 of the Finance Act, 1981 .

(7) For the purposes only of determining, in relation to a claim for an allowance by virtue of subsection (2), whether and to what extent capital expenditure incurred on the construction of a qualifying premises is incurred in the qualifying period, only such an amount of that capital expenditure as is determined by the inspector, according to the best of his knowledge and judgment, to be properly attributable to work on the construction of the premises which was actually carried out during the qualifying period shall (notwithstanding 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 in that period:

Provided that any amount which, by virtue of this subsection, is determined by the inspector may be amended by the Appeal Commissioners or by the Circuit Court on the hearing, or the rehearing, of an appeal against that determination.

### **43. Deduction For Certain Expenditure On The Provision Of Rented Residential Accommodation :-**

(1) In this section-

"construction or conversion expenditure" means expenditure in respect of which, if it were incurred in the qualifying period, relief would fall to be given under subsection (2) of the principal section otherwise than by virtue of section 21 of the Finance Act, 1985 ;

"expenditure to which this section applies" means construction or conversion expenditure incurred in the specified period in relation to a qualifying premises the site of which is wholly within the Custom House Docks Area; and, for the purposes of determining whether and to what extent such expenditure was so incurred in the specified period, subsection (1) (b) of the principal section shall have effect as if the references in subparagraph (i) thereof to the qualifying period were references to the specified period and with any other necessary modifications;

"the principal section" means section 23 of the Finance Act, 1981 .

(2) This section shall be construed together with the principal section.

(3) The principal section and section 24 of the Finance Act, 1981 , shall have effect as respects expenditure to which this section applies as if-

(a) the following definition were substituted for the definition of "qualifying period" in subsection (1) (a) of the principal section:

"qualifying period means the specified period within the meaning of section 41 of the Finance Act, 1986;"

(b) for the purposes of the definition of "qualifying premises" in the said subsection (1) (a), the reference in subsection (2) of section 29 of the Finance Act, 1983 , to expenditure to which that section applies were a reference to expenditure to which this section applies,

(c) in subsections (1) and (2) of section 22 of the Finance Act, 1985 , the specified period were substituted for the period mentioned therein, and

(d) the provisions of the Tax Acts set out in the Table to this subsection had not been enacted.

#### TABLE

Subsections (3) and (4) of section 29 of the Finance Act, 1983

The said subsections (3) and (4) as they are applied by section 30 (1) of the Finance Act, 1983

Section 21 of the Finance Act, 1985

#### **44. Allowance To Owner-Occupiers In Respect Of Certain Premises :-**

(1) (a) In this section-

"qualifying expenditure", in relation to an individual, means, subject to paragraph (c), an amount equal to the amount of the expenditure incurred by the individual in the qualifying period on the construction of a qualifying premises which is a qualifying owner-occupied dwelling in relation to the individual after deducting from that amount of expenditure any sum in respect of or by reference to that expenditure, or in respect of or by reference to the qualifying premises or construction work in respect of which it was incurred, which the individual has received, or is entitled to receive, directly or indirectly, from the State, any board established by statute or any public or local authority;

"qualifying owner-occupied dwelling", in relation to an individual, means a qualifying premises, the site of which is wholly within a designated area other than the Custom House Docks Area and which is first used, after the qualifying expenditure has been

incurred, by that individual as his only or main residence;  
"qualifying premises" shall be construed in accordance with paragraph (b);  
"qualifying period" means the period commencing on the 23rd day of October, 1985, and ending on the 31st day of May, 1989;  
"refurbishment" has the same meaning as in section 21 of the Finance Act, 1985 .

(b) A premises which would be a qualifying premises for the purposes of section 23 of the Finance Act, 1981 , as it applies to expenditure to which section 29 of the Finance Act, 1983 , applies, if-

(i) clause (iv) of the definition of "qualifying premises" in the said section 23 were deleted, and

(ii) subsection (8) of that section had not been enacted,  
shall be a qualifying premises for the purposes of this section, and all the provisions of the said section 23 in so far as they apply for the purpose of determining whether a premises is a qualifying premises shall, subject to the modifications mentioned in subparagraphs (i) and (ii) and with any other necessary modifications, apply for the purposes of this section.

(c) A person shall be regarded as having incurred expenditure in the qualifying period on the construction of a qualifying premises to the extent that he would be regarded as having incurred expenditure on the construction or refurbishment of that premises for the purposes of section 23 of the Finance Act, 1981 , if for the definition of "qualifying period" in that section and in section 21 of the Finance Act, 1985 , there were substituted the definition of "qualifying period" in this section, and all the provisions of the said sections 23 and 21 in so far as they apply for the purpose of determining the amount of expenditure incurred in the qualifying period on the construction or refurbishment of a qualifying premises shall, subject to the aforesaid modification of the definition of "qualifying period" and with any other necessary modifications, apply for the purposes of this section.

(d) For the purposes of this section, other than for the purposes of determining whether and to what extent expenditure on the construction or refurbishment of a qualifying premises is incurred in the qualifying period, expenditure incurred on the construction or refurbishment of a qualifying premises shall be deemed to have been incurred on the earliest date after the expenditure was actually incurred that the premises is in use as a dwelling.

(e) (i) Where the qualifying expenditure in relation to a qualifying

premises is incurred by two or more persons, each of those persons shall be treated as having incurred only such amount of the expenditure as the inspector, to the best of his knowledge and judgment, considers to be just and reasonable and the expenditure shall be apportioned accordingly.

(ii) An apportionment made under subparagraph (i) may be amended by the Appeal Commissioners or by the Circuit Court on the hearing, or the rehearing, of an appeal against any deduction granted on the basis of the apportionment.

(2) Where an individual, having made a claim in that behalf, proves that he has incurred qualifying expenditure in a year of assessment, he shall be entitled, for that year of assessment and for any of the nine immediately subsequent years of assessment in which the qualifying premises in respect of which the expenditure was incurred is the only or main residence of the individual, to have a deduction made from his total income of an amount equal to 5 per cent. of the amount of the qualifying expenditure.

(3) An appeal to the Appeal Commissioners shall lie on any question arising under this section, other than a question on which an appeal lies under section 18 of the Housing (Miscellaneous Provisions) Act, 1979 , in like manner as an appeal would lie against an assessment to income tax and the provisions of the Income Tax Acts relating to appeals shall apply and have effect accordingly.

(4) All such provisions of the Income Tax Acts as apply in relation to the deductions specified in sections 138 to 143 of the Income Tax Act, 1967 , shall, with any necessary modifications, apply in relation to deductions under this section.

(5) Section 198 (1) (a) of the Income Tax Act, 1967 , is hereby amended by the insertion of the following subparagraph after subparagraph (x) (inserted by section 19 ):

"(xi) so far as it flows from relief under section 44 of the Finance Act, 1986, in the proportions in which they incurred the expenditure giving rise to the relief,".

#### **45. Double Rent Allowance As A Deduction In Computing Trading Income :-**

(1) (a) In this section-

"lease", "lessee", "lessor" and "rent" have the meanings respectively assigned to them by Chapter VI of Part IV of the Income Tax Act, 1967 ;

"qualifying lease" means a lease in respect of a qualifying premises granted in the qualifying period on bona fide commercial terms by a lessor to a lessee who is not connected with the lessor, or with any other person who is entitled to a rent in respect of the qualifying premises, whether under that lease or any other lease;

"qualifying period" means the period commencing on the 23rd day of October, 1985, and ending on the 31st day of May, 1989, or, where section 41 (2) applies, the specified period;

"qualifying premises" means a building or structure the site of which is wholly within a designated area and-

(i) (I) which is an industrial building or structure within the meaning of section 255 (1) of the Income Tax Act, 1967 , or

(II) in respect of which an allowance falls to be made for the purposes of income tax or corporation tax, as the case may be, under Chapter II of Part XV or under Chapter I of Part XVI of that Act, by reason of section 42 , and

(ii) which is let on such terms as are referred to in paragraph (b)

(ii) of the definition of "qualifying premises" in the said section 42 ;

"relevant rental period", in relation to a qualifying premises, means the period of ten years commencing on the day on which rent in respect of that premises is first payable under any qualifying lease.

(b) A person shall be regarded for the purposes of this section as connected with another person if he would be so regarded for the purposes of section 16 of the Finance (Miscellaneous Provisions) Act, 1968 .

(2) Where, in the computation of the amount of the profits or gains of a trade or profession, a person is, apart from this section, entitled to any deduction (hereafter in this subsection referred to as "the first-mentioned deduction") on account of rent in respect of a qualifying premises occupied by him for the purposes of that trade or profession which is payable by him in the relevant rental period in relation to that qualifying premises under a qualifying lease, he shall be entitled in that computation to a further deduction equal to the amount of the first-mentioned deduction.

## **CHAPTER 6** Income Tax, Corporation Tax and Capital Gains Tax

### **46. Limited Partnerships: Relief Restrictions :-**

(1) In this section-

"the aggregate amount", in relation to a trade, means-

(a) in the case of an individual, the aggregate of amounts given or allowed to him at any time under any of the specified provisions-

(i) in respect of a loss sustained by him in the trade, or of interest paid by him by reason of his participation in the trade, in any relevant year of assessment, or

(ii) as an allowance falling to be made to him for any relevant year of assessment either in taxing the trade or by way of discharge or repayment of tax to which he is entitled by reason of his participation in the trade,

and

(b) in the case of a company, the aggregate of amounts given or allowed to the company (hereafter in this section referred to as the "partner company") or to another company at any time under any of the specified provisions-

(i) in respect of a loss incurred by the partner company in the trade, or of charges paid by it or another company by reason of its participation in the trade, in any relevant accounting period, or

(ii) as an allowance falling to be made to the partner company for any relevant accounting period either in taxing the trade or by way of discharge or repayment of tax to which it is entitled by reason of its participation in the trade;

"limited partner", in relation to a trade, means-

(a) a person who is carrying on the trade as a limited partner in a limited partnership registered under the Limited Partnerships Act, 1907,

(b) a person who is carrying on the trade as a general partner in a partnership, who is not entitled to take part in the management of the trade and who is entitled to have his liabilities, or his liabilities beyond a certain limit, for debts or obligations, incurred for the purposes of the trade, discharged or reimbursed by some other person, or

(c) a person who carries on the trade jointly with others and who, under the law of any territory outside the State, is not entitled to take part in the management of the trade and is not liable beyond a certain limit for debts or obligations incurred for the purposes of the trade;

"relevant accounting period" means an accounting period of the partner company which ends on or after the specified date and at any time during which it carried on the trade as a limited partner;

"the relevant time" means-

(a) in the case of an individual, the end of the relevant year of assessment in which the loss is sustained or the interest is paid, or for which the allowance falls to be made (except that where he ceased to carry on the trade during that year of assessment it is

the time when he so ceased), and

(b) in the case of a partner company, the end of the relevant accounting period in which the loss is incurred or the charges are paid, or for which the allowance falls to be made (except that where the partner company ceased to carry on the trade during that accounting period it is the time when it so ceased);

"relevant year of assessment" means a year of assessment which ends after the specified date and at any time during which the individual carried on the trade as a limited partner;

"the specified date" means the 22nd day of May, 1985;

"the specified provisions" means-

(a) in the case of an individual-

(i) section 296 of the Income Tax Act, 1967 ,

(ii) section 307 of that Act, and

(iii) Chapter III of Part I of the Finance Act, 1974 , and

(b) in the case of a company, the following provisions of the Corporation Tax Act, 1976 -

(i) section 10,

(ii) section 14 (6),

(iii) section 16 (2), and

(iv) subsections (1), (2) and (6) of section 116.

(2) (a) Where, in the case of an individual who is a limited partner in relation to a trade, an amount may, apart from this section, be given or allowed under any of the specified provisions-

(i) in respect of a loss sustained by him in the trade or of interest paid by him by reason of his participation in the trade, in a relevant year of assessment, or

(ii) as an allowance falling to be made to him for a relevant year of assessment either in taxing the trade or by way of discharge or repayment of tax to which he is entitled by reason of his participation in the trade,

such an amount may be given or allowed, otherwise than against income consisting of profits or gains arising from the trade, only to the extent that the amount given or allowed or, as the case may be, the aggregate amount in relation to that trade, does not exceed the amount of his contribution to the trade as at the relevant time.

(b) Where, in the case of a partner company which is a limited partner in relation to a trade, an amount may, apart from this section, be given or allowed under any of the specified provisions-

(i) in respect of a loss sustained by the partner company in the trade, or of charges paid by the partner company or another company by reason of its participation in the trade, in a relevant

accounting period, or

(ii) as an allowance falling to be made to the partner company for a relevant accounting period either in taxing the trade or by way of discharge or repayment of tax to which it is entitled by reason of its participation in the trade,

such an amount may be given or allowed to the partner company, otherwise than against profits or gains arising from the trade, or to another company, only to the extent that the amount given or allowed, or, as the case may be, the aggregate amount does not exceed the partner company's contribution to the trade as at the relevant time.

(3) (a) A person's contribution to a trade at any time is the aggregate of-

(i) the amount which he has contributed to it as capital and has not subsequently, either directly or indirectly, drawn out or received back from the partnership or from a person connected with the partnership (other than anything, in relation to expenditure which he has incurred on behalf of the partnership trade or in providing facilities for the partnership trade, which he is or may be entitled so to draw out or receive back at any time when he carries on the trade as a limited partner or which he is or may be entitled to require another person to reimburse to him), and

(ii) the amount of any profits or gains of the trade to which he is entitled but which he has not received in money or money's worth.

(b) A person shall, for the purposes of paragraph (a), be treated as having received back an amount which he has contributed to the partnership if-

(i) he received consideration of that amount or value for the sale of his interest, or any part of his interest, in the partnership,

(ii) the partnership or any person connected with the partnership repays that amount of a loan or an advance from him, or

(iii) the person receives that amount of value for assigning any debt due to him from the partnership or from any person connected with the partnership.

(4) To the extent that an allowance is taken into account in computing profits or gains or losses in the year of loss by virtue of section 318 of the Income Tax Act, 1967, it shall, for the purposes of this section, be treated as falling to be made in the year of loss (and not in the year of assessment for which the year of loss is the basis year).

(5) For the purposes of this section, a person shall be regarded as connected with a partnership if he would be so regarded for the

purposes of section 16 of the Finance (Miscellaneous Provisions) Act, 1968 .

**47. Amendment Of Section 16 (Gifts To Presidents Award Scheme) Of Finance Act, 1985 :-**

Section 16 of the Finance Act, 1985 , is hereby amended by the substitution in subsection (1) (b) (i) of "1987" for "1986" and the said subsection (1) (b) (i), as so amended, is set out in the Table to this section.

**TABLE**

(i) is made on or before the 5th day of April, 1987, to the trustees of the Presidents Award Scheme to be applied by them for the purposes of that scheme, and

**48. Surcharge For Late Submission Of Returns :-**

(1) (a) In this section-

"return of income" means a return, statement, declaration or list which a person is required to deliver to the inspector by reason of a notice which is given by the inspector under any one or more of the specified sections;

"specified date" means, in relation to a return of income for a year of assessment or accounting period-

(i) (I) as respects the year 1986-87, the 31st day of December, 1987,

(II) as respects the year 1987-88 or any subsequent year of assessment, the 31st day of December in the year,

(III) as respects accounting periods ending in the year beginning on the 6th day of April, 1986, and ending on the 5th day of April, 1987, the 31st day of December, 1987, and

(IV) as respects accounting periods ending on or after the 6th day of April, 1987, the last day of the period of nine months commencing on the day next after the end of the accounting period, or

(ii) the last day of the period of six months commencing on the day next after the date on which the person is required by notice to deliver the return of income,

whichever is the later;

"specified sections" means-

(i) sections 70 , 94 (a), 94 (d), 169 , 170 , 172 and 197 of the Income Tax Act, 1967 ,

(ii) section 11 of the Finance Act, 1976 , and

(iii) section 143 of the Corporation Tax Act, 1976 ;

"tax" means income tax, corporation tax or capital gains tax as may be appropriate.

(b) For the purposes of this section-

(i) where a person fraudulently or negligently delivers an incorrect return of income on or before the specified date in relation to the return of income, he shall be deemed to have failed to deliver the return of income on or before that date unless the error in the return of income is remedied on or before that date,

(ii) where a person delivers an incorrect return of income on or before the specified date in relation to that return of income but does so neither fraudulently nor negligently and it comes to his notice (or, if he has died, to the notice of his personal representatives) that it is incorrect, he shall be deemed to have failed to deliver the return of income on or before the specified date in relation to the return of income unless the error in the return of income is remedied without unreasonable delay,

(iii) where a person delivers a return of income on or before the specified date in relation to the return of income but the inspector, by reason of being dissatisfied with any statement of profits or gains arising to the person from any trade or profession which is contained in the return of income, requires the person, by notice in writing served on him under section 174 of the Income Tax Act, 1967 , to do any thing, the person shall be deemed not to have delivered the return of income on or before the specified date unless he does that thing within the time specified in the notice,

(iv) references to such of the specified sections as are applied, subject to any necessary modifications, in relation to capital gains tax by paragraph 3 of Schedule 4 to the Capital Gains Tax Act, 1975 , shall be construed as including references to those sections as so applied, and

(v) references to a return of income for a year of assessment or in relation to a year of assessment shall be construed as references to a return of income requiring a statement or particulars of any income of the year ended on the 5th day of April immediately preceding the commencement of that year of assessment.

(2) Where, in relation to a year of assessment (being the year 1986-87 or any subsequent year of assessment) or accounting period (being an accounting period ending on or after the 6th day of April, 1986), a person who is required to deliver a return of income to the inspector fails to deliver the return of income, on or before the specified date in relation to the return of income, any

amount of tax for that year of assessment or accounting period which, apart from this section, is or would be contained in an assessment to tax made or to be made on a person (hereafter in this subsection referred to as the "chargeable person") who is chargeable to tax for that year of assessment or accounting period on or by reference to the whole or any part of the income, profits or chargeable gains which is contained in or returned in the return of income, or which would be so contained in or returned in the return of income if it were delivered, shall be increased by an amount (hereafter in this subsection referred to as the "surcharge") equal to 10 per cent. of that amount of tax and, if the tax contained in the assessment to tax is not the amount of tax as so increased, all the provisions of the Tax Acts and the Capital Gains Tax Acts, apart from this section but including in particular those relating to the collection and recovery of tax and the payment of interest on unpaid tax, shall apply as if the tax contained in the assessment to tax were the amount of tax as so increased:

Provided that, in determining the amount of the surcharge, the tax contained in the assessment to tax shall be deemed to be reduced by the aggregate of-

- (a) any tax deducted by virtue of any of the provisions of the Tax Acts or the Capital Gains Tax Acts from any income, profits or chargeable gains, charged in the assessment to tax in so far as that tax has not been repaid or is not repayable to the chargeable person and in so far as the tax so deducted may be set off against the tax contained in the assessment to tax,
- (b) the amount of any tax credit to which the chargeable person is entitled in respect of any income, profits or chargeable gains charged in the assessment to tax, and
- (c) any other amounts which are set off in the assessment to tax against the tax contained therein.

**49. Amendment Of Section 30 (Appeals Against Assessments And Payments On Account) Of Finance Act, 1976 :-**

Section 30 of the Finance Act, 1976 , is hereby amended by the substitution, in subsection (1), of the following definition for the definition of "the appropriate amount" (inserted by the Finance Act, 1984 ):

"the appropriate amount means-

- (a) in the case of an assessment to income tax (other than an

assessment to an amount representing income tax for the purposes of section 31 (1) (a) of the Corporation Tax Act, 1976 ) for the year 1984-85 or 1985-86, 85 per cent. of the amount of tax found to be chargeable by the assessment on the determination of the appeal,

(b) in the case of-

(i) an assessment to income tax or capital gains tax for the year 1986-87 or any subsequent year of assessment, or

(ii) an assessment to corporation tax for an accounting period ending on or after the 6th day of April, 1986,

90 per cent. of the amount of the tax found to be chargeable by the assessment on the determination of the appeal, and

(c) in the case of any other assessment to tax, 80 per cent. of the amount of tax found to be chargeable by the assessment on the determination of the appeal;"

#### **50. Capital Allowances For, And Deduction In Respect Of, Vehicles :-**

(1) (a) Sections 25 to 29 of the Finance Act, 1973 , shall have effect, in relation to expenditure incurred on the provision or hiring of a vehicle to which those sections apply, as if for "2,500", in each place where it occurs in those sections, there were substituted "4,000".

(b) The reference in paragraph (a) to expenditure incurred on the provision or hiring of a vehicle does not include-

(i) as respects the said sections 25 to 27, a reference to expenditure incurred before the 6th day of April, 1986, or incurred within twelve months after that day under a contract entered into before that day, and

(ii) as respects subsections (2) and (3) of the said section 28 and the said section 29, a reference to expenditure under a contract entered into before the said 6th day of April, 1986.

(2) Section 32 of the Finance Act, 1976 , shall have effect, in relation to qualifying expenditure (within the meaning of that section) incurred in respect of a period subsequent to the 5th day of April, 1986, as if for "3,500", in each place where it occurs, there were substituted "4,000".

#### **51. Amendment Of Section 25 (Allowance For Certain Expenditure On Construction Of Multi-Storey Car-Parks) Of Finance Act, 1981 :-**

(1) Section 25 of the Finance Act, 1981 , is hereby amended by the

substitution in subsection (1), in the definition of "relevant expenditure", of "1988" for "1987" (inserted by the Finance Act, 1984 ), and the said definition, as so amended, is set out in the Table to this subsection.

TABLE

"relevant expenditure" means capital expenditure incurred on or after the 29th day of January, 1981, and before the 1st day of April, 1988, on the construction of a multi-storey car-park.

(2) The said section 25 is hereby further amended by the substitution of the following subsection for subsection (2) (inserted by the Finance Act, 1984 ):

"(2) All the provisions of the Tax Acts (other than section 25 of the Finance Act, 1978 ) relating to the making of allowances or charges in respect of capital expenditure on the construction of an industrial building or structure shall apply to relevant expenditure as if it were expenditure incurred on the construction of a building or structure in respect of which an allowance falls to be made for the purposes of income tax or corporation tax, as the case may be, under Chapter II of Part XV or under Chapter I of Part XVI of the Income Tax Act, 1967 , by reason of its use for a purpose specified in section 255 (1) (a) of that Act."

**52. Capital Allowances: Treatment Of Grants, Etc :-**

(1) (a) Subject to paragraph (b), where an allowance falls to be made for the purposes of income tax or corporation tax, as the case may be, under section 241 or 251 of the Income Tax Act, 1967 , and the capital expenditure incurred on the provision of the machinery or plant in respect of which the allowance falls to be made was incurred on or after the 29th day of January, 1986, the following provisions shall apply:-

(i) expenditure shall not be regarded as having been incurred by a person in so far as it has been or is to be met directly or indirectly by the State, by any board established by statute or by any public or local authority, and

(ii) the actual cost of any machinery or plant to any person shall, for the purposes of the said section 241, be taken to be the amount of capital expenditure incurred on the provision of such machinery or plant less any such expenditure as is referred to in subparagraph (i).

(b) Paragraph (a) shall not have effect in relation to any capital expenditure which is or is to be met in the manner mentioned in

paragraph (a) (i)-

(i) under the terms of an agreement finally approved on or before the 29th day of January, 1986, by a Department of State, any board established by statute or any public or local authority, or

(ii) under the terms of an agreement which-

(I) is the subject of negotiations which were in progress on the 29th day of January, 1986, with a Department of State, any board established by statute or any public or local authority, and

(II) is finally approved by such Department, board or authority not later than the 31st day of December, 1986.

(2) Section 264 of the Income Tax Act, 1967 , is hereby amended by the insertion after subsection (3) of the following subsection:

"(3A) In ascertaining the writing-down allowance falling to be made to a person under subsection (3), the residue of expenditure mentioned in that subsection shall, where it exceeds the amount of expenditure incurred by that person in respect of the sale, be taken to be the amount of expenditure so incurred."

### **53. Application Of Section 40 (Capital Allowances For Certain Leased Assets) Of Finance Act, 1984 :-**

Section 40 of the Finance Act, 1984 , is hereby amended, as respects machinery or plant provided for leasing on or after the 13th day of May, 1986-

(a) in subsection (1), by the insertion after the definition of "chargeable period or its basis period" of the following definition:

"lessee and lessor, in relation to machinery or plant provided for leasing, mean, respectively, the person to whom the machinery or plant is or is to be leased and the person providing the machinery or plant for leasing and lessee and lessor include, respectively, the successors in title of a lessee or a lessor;"

(b) in subsection (1), in the definition of "the specified capital allowances", by the insertion after "subsection (6)" of ", (7) or (8)", and the said definition, as so amended, is set out in the Table to this section,

(c) in subsection (5), by the insertion after "subsection (6)" of "or (7)", and the said subsection, as so amended, is set out in the Table to this section, and

(d) by the deletion of subsection (6) and the substitution therefor of the following subsections:

"(6) References in this section to machinery or plant to which this subsection applies are references to machinery or plant provided on

or after the 25th day of January, 1984, for leasing where the expenditure incurred on the provision of the machinery or plant was incurred under an obligation entered into by the lessor and the lessee-

(a) before the 25th day of January, 1984, or

(b) before the 1st day of March, 1984, pursuant to negotiations which were in progress between the lessor and the lessee before the 25th day of January, 1984.

(7) References in this section to machinery or plant to which this subsection applies are references to machinery or plant provided on or after the 25th day of January, 1984, for leasing where the expenditure incurred on the provision of the machinery or plant (or, in the case of a film to which section 6 or 7 of the Irish Film Board Act, 1980 , applies, the cost of the making of the film) has been or is to be met directly or indirectly, wholly or partly, by the Industrial Development Authority, the Irish Film Board, the Shannon Free Airport Development Company Limited, or Údarás na Gaeltachta:

Provided that this subsection shall not apply to machinery or plant provided for leasing on or after the 13th day of May, 1986, unless-

(a) the machinery or plant is a film to which section 6 or 7 of the Irish Film Board Act, 1980 , applies, or

(b) the expenditure incurred on the provision of the machinery or plant (not being a film of the kind mentioned in paragraph (a)) was incurred under an obligation entered into by the lessor and the lessee before-

(i) the 13th day of May, 1986, or

(ii) the 1st day of September, 1986, pursuant to negotiations which were in progress between the lessor and the lessee before the 13th day of May, 1986.

(8) (a) The reference in the definition of the specified capital allowances in subsection (1) to machinery or plant to which this subsection applies is a reference to machinery or plant (not being a film of the kind mentioned in paragraph (a) of the proviso to subsection (7)) provided on or after the 13th day of May, 1986, for leasing by a lessor to a lessee (who is not a person connected with the lessor) under a lease the terms of which include an undertaking given by the lessee that, during a period (hereafter in this section referred to as the relevant period) which is not less than three years and which commences on the day on which the machinery or plant is first brought into use by the lessee, the machinery or plant so provided will be used by the lessee for the purposes only of a specified trade carried on in the State by the lessee:

Provided that any machinery or plant in respect of which such an undertaking has been given by a lessee, and which at any time has been treated as machinery or plant to which this subsection applies, shall at any later time cease to be machinery or plant to which this subsection applies if, at that later time, it appears to the inspector (or, on appeal, to the Appeal Commissioners) that the undertaking has not been fulfilled by the lessee; and, where any machinery or plant so ceases to be machinery or plant to which this subsection applies, such assessments or adjustments of assessments shall be made to recover from the lessor any relief from tax given to the lessor because the machinery or plant was treated as machinery or plant to which this subsection applies.

(b) This subsection shall not apply to machinery or plant provided for leasing on or after the 13th day of May, 1986, if the expenditure incurred on the provision of the machinery or plant was incurred under an obligation entered into by the lessor and the lessee before-

(i) the 13th day of May, 1986, or

(ii) the 1st day of September, 1986, pursuant to negotiations which were in progress between the lessor and the lessee before the 13th day of May, 1986.

(9) For the purposes of subsections (6), (7) and (8)-

(a) an obligation shall be treated as having been entered into before a particular date, if, but only if, before that date, there was in existence a binding contract in writing under which that obligation arose, and

(b) negotiations pursuant to which an obligation was entered into shall not be regarded as having been in progress between a lessor and a lessee before a particular date unless, on or before that date, preliminary commitments or agreements in relation to that obligation had been entered into between the lessor and the lessee.

(10) In subsection (8) (a), specified trade, in relation to a lessee, means a trade which, throughout the relevant period, consists wholly or mainly of-

(a) the manufacture of goods (including activities which would, if the borrower were to make a claim for relief in respect of the trade under Chapter VI of Part I of the Finance Act, 1980, fall to be regarded for the purposes of that Chapter as the manufacture of goods), or

(b) exempted trading operations within the meaning of Part V (Profits from Trading within Shannon Airport) of the Corporation Tax Act, 1976 :

Provided that a trade shall be regarded, as respects the relevant period, as consisting wholly or mainly of particular activities if, but only if, the total amount receivable by the lessee from sales made or, as the case may be, in payment for services rendered in the course of those activities in the relevant period is not less than 75 per cent. of the total amount receivable by the lessee from all sales made or, as the case may be, in payment for all services rendered in the course of the trade in the relevant period.

(11) Section 157 of the Corporation Tax Act, 1976 , shall apply for the purposes of subsection (8) (a), save that, for the purposes of determining whether a person is connected with another person whose profits or gains are chargeable to income tax, the provisions of section 16 (3) of the Finance (Miscellaneous Provisions) Act, 1968 , shall apply."

#### TABLE

"the specified capital allowances" means capital allowances in respect of-

(i) expenditure incurred on machinery or plant provided on or after the 25th day of January, 1984, for leasing in the course of a trade of leasing, or

(ii) the diminished value of such machinery or plant by reason of wear and tear,

other than capital allowances in respect of machinery or plant to which subsection (6), (7) or (8) applies;

(5) The proviso to subsection (1) of section 296 of the Income Tax Act, 1967 , and sections 14 (6) and 116 (2) of the Corporation Tax Act, 1976 , shall not have effect in relation to capital allowances-

(a) in respect of expenditure incurred on or after the 25th day of January, 1984, on the provision of machinery or plant, or

(b) in respect of the diminished value of machinery or plant by reason of wear and tear if that machinery or plant was first acquired on or after the 25th day of January, 1984, by the person to whom the capital allowances are to be or have been made,

other than capital allowances in respect of machinery or plant to which subsection (6) or (7) applies.

## **CHAPTER 7** Corporation Tax

### **54. Amendment Of Section 84A (Limitation On Meaning Of "Distribution") Of Corporation Tax Act, 1976 :-**

Section 84A (inserted by the Finance Act, 1984 ) of the Corporation Tax Act, 1976 , is hereby amended by the insertion after

subsection (9) of the following subsection:

"(10) (a) This subsection applies to any interest or other distribution which, apart from this subsection, would be a distribution for the purposes of this Act, other than any interest or other distribution which is paid by the borrower under an obligation entered into-

(i) before the 13th day of May, 1986, or

(ii) before the 1st day of September, 1986, pursuant to negotiations which were in progress between the borrower and a lender before the 13th day of May, 1986.

(b) Subsection (2) shall have effect as respects any interest or other distribution to which this subsection applies as if paragraph (c) of subsection (3) were omitted.

(c) For the purposes of paragraph (a)-

(i) an obligation shall be treated as having been entered into before a particular date if, but only if, before that date there was in existence a binding contract in writing under which that obligation arose, and

(ii) negotiations pursuant to which an obligation was entered into shall not be regarded as having been in progress before the 13th day of May, 1986, unless, on or before that date, preliminary commitments or agreements in relation to that obligation had been entered into between the lender referred to in that paragraph and the borrower."

## **55. Amendment Of Certain Time Limits :-**

(1) The Corporation Tax Act, 1976 , is hereby amended-

(a) in subsection (5) of section 25 and in subsection (4) of section 26 by the deletion of "and this assessment shall be made not later than two years from the end of the subsequent accounting period", and

(b) by the insertion in subsection (4) of section 26 after "the said tax credit" of "and the time limit for a claim under this subsection shall be two years from the end of the subsequent accounting period",

and the said subsection (5) (apart from the proviso) and the said subsection (4), as so amended, are set out in the Table to this subsection.

### **TABLE**

(5) Where a company has obtained payment of a tax credit on a claim under this section or under section 15 (4) and apart from

such a claim any amount could be set off against or deducted from profits of a subsequent accounting period, then the company may claim that the amount shall be so set off or deducted but in that case to the extent to which the amount was used to obtain payment of a tax credit, such tax credit shall be recoverable from the company by an assessment on it to income tax under Case IV of Schedule D for the year of assessment in which the subsequent accounting period ends on an amount the income tax on which at the standard rate for the said year of assessment is equal to the amount of the said tax credit:

(4) Where a company has obtained payment to it of a tax credit by virtue of this section on a claim under section 16 (1) and apart from such a claim a loss could be set off against or deducted from profits of a subsequent accounting period, then the company may claim that the loss shall be so set off or deducted but, in that case, to the extent to which the loss was used to obtain payment of a tax credit, such tax credit shall be recovered from the company by an assessment on it to income tax under Case IV of Schedule D for the year of assessment in which the subsequent accounting period ends on an amount the income tax on which at the standard rate for the said year of assessment is equal to the amount of the said tax credit and the time limit for a claim under this subsection shall be two years from the end of the subsequent accounting period.

(2) This section shall have effect-

(a) as respects subsection (1) (a), in relation to any assessment made under section 25 (5) or 26 (4) of the Corporation Tax Act, 1976 , for the purpose of recovering a tax credit from a company consequent on the making by the company, on or after the 4th day of April, 1986, of a claim under the said section 25 (5) or 26 (4), as the case may be, and

(b) as respects subsection (1) (b), in relation to any claim under the said section 26 (4) made on or after the date of the passing of this Act.

## **56. Shannon Airport: Revocation Of Certain Certificates :-**

(1) Section 70 of the Corporation Tax Act, 1976 , is hereby amended-

(a) in subsection (2), by the insertion after "subsection (4)" of "or (4A)", and

(b) by the insertion after subsection (4) of the following subsection:  
"(4A) Where, in the case of a company in relation to which a

certificate under subsection (2) has been given, the Minister is of opinion that any activity of the company has had, or may have, an adverse effect on the use or development of the airport or is otherwise inimical to the development of the airport, then-

(a) the Minister may, by notice in writing served by registered post on the company, require the company to desist from such activity with effect from such date as may be specified in the notice, and

(b) if the Minister is not satisfied that the company has complied with the requirements of the said notice, he may, by a further notice in writing served by registered post on the company, revoke the certificate with effect from such date as may be specified in the said further notice.",

and the said subsection (2) (other than the proviso), as so amended, is set out in the Table to this subsection.

#### TABLE

(2) Subject to subsections (5) and (6), the Minister may give a certificate certifying that such trading operations of a qualified company as are specified in the certificate are, with effect as from their commencement, exempted trading operations for the purposes of this Part, and any certificate so given shall, unless it is revoked under subsection (4) or (4A), remain in force until the 5th day of April, 1990:

(2) Section 39A (inserted by the Finance Act, 1981 ) of the Finance Act, 1980 , is hereby amended-

(a) in subsection (2), by the insertion after "subsection (4)" of "or (4A)", and

(b) by the insertion after subsection (4) of the following subsection:

"(4A) Where, in the case of a company in relation to which a certificate under subsection (2) has been given, the Minister is of opinion that any activity of the company has had, or may have, an adverse effect on the use or development of the airport or is otherwise inimical to the development of the airport, then-

(a) the Minister may, by notice in writing served by registered post on the company, require the company to desist from such activity with effect from such date as may be specified in the notice, and

(b) if the Minister is not satisfied that the company has complied with the requirements of the said notice, he may, by a further notice in writing served by registered post on the company, revoke the certificate with effect from such date as may be specified in the said further notice.",

and the said subsection (2) (other than the proviso), as so amended, is set out in the Table to this subsection.

## TABLE

(2) Subject to subsections (5) and (6), the Minister may give a certificate certifying that such trading operations of a qualified company as are specified in the certificate are, with effect from a date to be specified in the certificate, relevant trading operations for the purpose of this section, and any certificate so given shall, unless it is revoked under subsection (4) or (4A), remain in force until the 31st day of December, 2000:

### **57. Amendment Of Section 155 (Interpretation) Of Corporation Tax Act, 1976 :-**

(1) Section 155 of the Corporation Tax Act, 1976 , is hereby amended by the substitution of the following subsection for subsection (10):

"(10) References in the Corporation Tax Acts to-

(a) profits brought into charge to corporation tax are references to the amount of those profits chargeable to corporation tax before any deduction therefrom for charges on income, expenses of management or other amounts which can be deducted from or set against or treated as reducing profits of more than one description,  
(b) total income brought into charge to corporation tax are references to the amount, calculated before any such deduction as is mentioned in paragraph (a), of the total income from all sources included in any profits brought into charge to corporation tax, and  
(c) an amount of profits on which corporation tax falls finally to be borne are references to the amount of those profits after making all deductions and giving all reliefs that for the purposes of corporation tax are made or given from or against those profits, including deductions and reliefs which under any provision are treated as reducing them for those purposes."

(2) This section shall have effect as respects-

(a) accounting periods ending on or after the 4th day of April, 1986, and

(b) any other accounting period in relation only to any claim for relief from corporation tax under section 58 of the Corporation Tax Act, 1976 , or section 41 of the Finance Act, 1980 , which is made on or after that date.

### **58. Reduction Of Corporation Tax In Relation To Interest On Certain Loans To Farmers :-**

(1) In this section-

"the participating bank" means Allied Irish Banks, p.l.c.;

"qualifying farmer" means a farmer who has been accepted as eligible for inclusion in the 1985 scheme;

"relevant accounting period" means an accounting period or part of an accounting period falling within the period from the 1st day of April, 1985, to the 31st day of March, 1986;

"relief from interest", in relation to a relevant accounting period of the participating bank, means the amount by which B exceeds A where-

A is the amount of interest paid by qualifying farmers to the bank during that period in respect of loans the rate of interest on which falls to be reduced under the 1985 scheme, and

B is the amount of interest which would have fallen to be paid by those farmers to the bank during the said period in respect of the said loans if that interest had not been reduced under the 1985 scheme;

"the 1985 scheme" means the scheme known as the Reduced Interest Scheme for Farmers in Severe Financial Difficulty, 1985.

(2) Subject to subsection (3), where the participating bank claims and proves that relief from interest was allowed by it during a relevant accounting period, the corporation tax payable by the bank for the accounting period which coincides with or includes the relevant accounting period shall be reduced by an amount determined by the formula where-

C is the amount of the relief from interest allowed by the participating bank during the relevant accounting period, and

D is the amount of corporation tax which, under sections 1 (1) and 6 (3) of the Corporation Tax Act, 1976, would be chargeable for the accounting period which coincides with or includes the relevant accounting period on an amount of profits equal to C.

(3) (a) A reduction, under subsection (2), of corporation tax payable by the participating bank shall be made in respect only of relief from interest which has been certified by the Minister for Agriculture to be relief from interest allowed in accordance with the conditions and regulations of the 1985 scheme.

(b) If any relief from interest (hereafter in this paragraph referred to as "disallowed relief") allowed by the participating bank has been certified by the Minister for Agriculture to be relief from interest allowed in accordance with the conditions and regulations of the 1985 scheme and is subsequently certified by the Minister for Agriculture to be relief from interest which did not fall to be allowed in accordance with those conditions and regulations, the

participating bank shall not be entitled in respect of the disallowed relief to any reduction under subsection (2) of corporation tax payable by it and, if any such reduction has been made in respect of any such disallowed relief, there shall be made such additional assessments or adjustments of assessments as may be required to recover that reduction.

## **59. Amendment Of Provisions Relating To Taxation Of Assurance Companies :-**

The Corporation Tax Act, 1976 , is hereby amended-

(a) in section 33 , as respects accounting periods ending after the date of the passing of this Act, by the insertion after subsection (1) of the following subsections:

"(1A) Where the life assurance business of an assurance company includes more than one of the following classes of business, that is to say:

(a) pension business,

(b) general annuity business, and

(c) life assurance business (excluding such pension business and general annuity business),

then, for the purposes of this Act, the business of each such class shall be treated as though it were a separate business and subsection (1) shall apply separately to each such class of business: Provided that any amount of such an excess as is referred to in section 15 (2) and which is carried forward from an accounting period ending before the date of the passing of the Finance Act, 1986, may, for the purposes of section 15 (1), be deducted in computing the profits of the company for a later accounting period in respect of such of the said classes of business as the company may elect; but any amount so deducted in computing the profits from one of the said classes of business shall not be deducted in computing the profits of the company from another of the said classes of business.

(1B) Relief under subsection (1) shall not be given for any amount of stamp duty (except any part of such amount as is referable to pension business) charged under paragraph (c) of subsection (8) (inserted by the Finance Act, 1984 ) of section 92 of the Finance Act, 1982 , on any statement delivered by a company in pursuance of paragraph (b) of the said subsection (8) in respect of any quarter commencing after the date of the passing of the Finance Act, 1986."

(b) in section 39, by the insertion after subsection (4) of the following subsection:

"(4A) Notwithstanding any other provision of the Corporation Tax Acts, any annuity which is paid by a company and is referable to its excluded annuity business-

(a) shall not be treated as a charge on income for the purposes of the Corporation Tax Acts;

(b) shall be deductible in computing for the purposes of Case I of Schedule D the profits of the company in respect of its life assurance business.",

(c) in section 40, as respects accounting periods ending after the date of the passing of this Act, by the insertion after subsection (1) of the following subsection:

"(1A) Notwithstanding any other provision of the Corporation Tax Acts, any annuities which under subsection (1) are treated as charges on income of a company (hereafter in this subsection referred to as the first-mentioned company) for an accounting period shall not be allowed as deductions against any profits (whether of the first-mentioned company or of any other company) other than against that part of the total profits (including, where a claim is made under section 25 for the purposes mentioned in subsection (2) (b) of that section, any franked investment income) arising in that accounting period to the first-mentioned company from its general annuity business.",

and

(d) in section 50, as respects accounting periods ending after the date of the passing of this Act-

(i) in subsection (2), by the deletion of the definition of "general annuity business" and the substitution therefor of the following definitions:

"excluded annuity business, in relation to an assurance company, means annuity business which-

(a) is not pension business, or the liability of the company in respect of which is not taken into account in determining the foreign life assurance fund (within the meaning of section 42 (5)) of the company, and

(b) arises out of a contract for the granting of an annuity on human life being a contract which was effected, extended or varied on or after the 6th day of May, 1986, and which fails to satisfy any one or more of the following conditions, that is to say:

(i) the annuity shall be payable (whether or not its commencement is deferred for any period) until the end of a human life or for a

period ascertainable only by reference to the end of a human life (whether or not continuing after the end of a human life),  
(ii) the amount of the annuity shall be reduced only on the death of a person who is an annuitant under the contract or by reference to a bona fide index of prices or investment values, and  
(iii) the policy document evidencing the contract shall expressly and irrevocably prohibit the company from agreeing to commutation, in whole or in part, of any annuity arising under the contract;  
general annuity business means any annuity business which is not-  
(a) excluded annuity business, or  
(b) pension business, and pension business shall be construed in accordance with subsections (3) and (4);", and  
(ii) in subsection (3), by the deletion of paragraph (b) and the substitution therefor of the following paragraph:  
"(b) allocating to general annuity business all other annuity business except excluded annuity business,".

## **CHAPTER 8** Capital Gains Tax

### **60. Alteration Of Rates Of Capital Gains Tax :-**

(1) Subsection (3) (inserted by the Finance Act, 1982 ) of section 3 of the Capital Gains Tax Act, 1975 , is hereby amended, as respects chargeable gains accruing on any disposal made on or after the 6th day of April, 1986, by the substitution of the following paragraphs for paragraph (c):

"(c) 35 per cent. where his period of ownership of the asset is more than three years but not more than six years, or

(d) in any other case, 30 per cent.,"

and the said subsection, as so amended, is set out in the Table to this subsection.

#### TABLE

(3) Except as otherwise provided for by the Capital Gains Tax Acts, the rate of capital gains tax in respect of chargeable gains accruing to a person on the disposal of an asset shall be-

(a) 60 per cent. where his period of ownership of the asset is not more than one year,

(b) 50 per cent. where his period of ownership of the asset is more than one year but not more than three years,

(c) 35 per cent. where his period of ownership of the asset is more than three years but not more than six years, or

(d) in any other case, 30 per cent.,

and any reference in those Acts to the rate specified in this section

shall be construed accordingly.

(2) In subsection (1) "disposal" does not include a relevant disposal within the meaning of section 36 (1) of the Finance Act, 1982 .

### **61. Disposal Of Shares On The Smaller Companies Market And Certain Other Shares :-**

(1) In this section-

"qualifying period" means the period of three years commencing on the 4th day of April, 1986;

"qualifying shares" means-

(a) in subsection (2), shares of a kind which are dealt in on the Smaller Companies Market of the Irish Stock Exchange (hereafter in this section referred to as "the relevant market") and which are not dealt in otherwise on the Irish Stock Exchange or on any other stock exchange, and

(b) in subsection (3), shares forming part of the ordinary share capital of a public company within the meaning of section 2 (1) of the Companies (Amendment) Act, 1983 , which has issued shares in respect of which relief has been given under-

(i) Chapter III of Part I of the Finance Act, 1984 , or

(ii) Chapter III of this Part,

and which are not dealt in on a recognised stock exchange.

(2) Notwithstanding section 3 (3) of the Capital Gains Tax Act, 1975 , the rate of capital gains tax in respect of chargeable gains accruing to a person on the disposal on the relevant market in the qualifying period of shares which, at the time of the disposal, are qualifying shares shall be 30 per cent.

(3) Notwithstanding section 3 (3) of the Capital Gains Tax Act, 1975 , the rate of capital gains tax in respect of chargeable gains accruing to a person on the disposal in the qualifying period of shares which, at the time of disposal, are qualifying shares shall be 30 per cent.

(4) In subsections (2) and (3) "disposal" does not include a relevant disposal within the meaning of section 36 (1) of the Finance Act, 1982 .

### **PART 2 Customs and Excise**

### **62. Interpretation (Part II ) :-**

In this Part "the Order of 1975" means the Imposition of Duties (No. 221) (Excise Duties) Order, 1975 (S.I. No. 307 of 1975).

### **63. Tobacco Products :-**

(1) In this section and in the Fifth Schedule "cigarettes", "cigars", "cavendish or negrohead", "hard pressed tobacco", "other pipe tobacco", "smoking tobacco", "chewing tobacco" and "tobacco products" have the same meanings as they have in the Finance (Excise Duty on Tobacco Products) Act, 1977 , as amended by the Imposition of Duties (No. 243) (Excise Duty on Tobacco Products) Order, 1979 (S.I. No. 296 of 1979).

(2) The duty of excise on tobacco products imposed by section 2 of the Finance (Excise Duty on Tobacco Products) Act, 1977 , shall be charged, levied and paid, as on and from the 30th day of January, 1986, at the several rates specified in the Fifth Schedule in lieu of the several rates specified in the Second Schedule to the Finance Act, 1985 .

### **64. Cider And Perry :-**

(1) In the Sixth Schedule -

"actual alcoholic strength by volume" means the number of volumes of pure alcohol contained at a temperature of 20°C in 100 volumes of the product at that temperature;

"% vol" means alcoholic strength by volume.

(2) The duty of excise on cider and perry imposed by paragraph 8 (2) of the Order of 1975 shall be charged, levied and paid, as on and from the 30th day of January, 1986, at the several rates specified in the Sixth Schedule in lieu of the several rates specified in the Fifth Schedule to the Finance Act, 1984 , as amended by section 28 of the Finance Act, 1985 .

(3) Paragraph 8 of the Order of 1975 shall be amended, as on and from the 1st day of July, 1986, by the insertion of the following subparagraph after subparagraph (2):

"(3) The Revenue Commissioners may, subject to compliance with such conditions as they may think fit to impose for securing payment of the duty of excise imposed by subparagraph (2) of this paragraph on cider and perry imported into the State, permit payment of the said duty to be deferred to a day not later than the last day of the month following that in which the said duty is charged."

### **65. Hydrocarbons :-**

(1) In this section "the Order of 1986" means the Imposition of

Duties (No. 281) (Hydrocarbons) Order, 1986 (S.I. No. 3 of 1986).

(2) The duty of excise on mineral hydrocarbon light oil imposed by paragraph 11 (1) of the Order of 1975 shall be charged, levied and paid, as on and from the 30th day of January, 1986, at the rate of 27.37 per hectolitre in lieu of the rate specified in paragraph 4 (1) of the Order of 1986.

(3) The duty of excise on hydrocarbon oil imposed by paragraph 12 (1) of the Order of 1975 shall be charged, levied and paid, as on and from the 30th day of January, 1986, at the rate of 21.09 per hectolitre in lieu of the rate specified in paragraph 4 (2) of the Order of 1986.

## **66. Spirits :-**

(1) In the Seventh Schedule "alcohol" means pure ethyl alcohol.

(2) The duty of excise on spirits imposed by paragraph 4 (2) of the Order of 1975 shall be charged, levied and paid, as on and from the 30th day of January, 1986, at the several rates specified in the Seventh Schedule in lieu of the several rates specified in the Schedule to the Imposition of Duties (No. 270) (Spirits) Order, 1984 (S.I. No. 252 of 1984).

(3) Subject to subsection (4), nothing in this section shall operate to relieve from or to prejudice or affect the additional duty of excise in respect of immature spirits imposed by paragraph 4 (2) of the Order of 1975 and the third column of the First Schedule to that Order, as amended by paragraph 4 (2) of the Imposition of Duties (No. 244) (Excise Duties on Spirits, Beer and Hydrocarbon Oils) Order, 1979 (S. I. No. 415 of 1979), and the third column of the First Schedule to that Order.

(4) With effect on or after the 1st day of July, 1986-

(a) the additional duty of excise in respect of immature spirits mentioned in subsection (3), and

(b) the additional duty of excise on spirits imposed by paragraph 4 (4) of the Order of 1975, shall not be charged or levied.

## **67. Beer :-**

(1) Subject to paragraph 4 of the Imposition of Duties (No. 258) (Beer) (No. 2) Order, 1982 (S.I. No. 37 of 1982), the duty of excise on beer imposed by paragraph 7(1) of the Order of 1975 shall be charged, levied and paid, as on and from the 30th day of January, 1986, at the rate of 149.347 for, in the case of all beer brewed within the State, every 36 gallons of worts of a specific

gravity of 1,055 degrees, and, in the case of all imported beer, every 36 gallons of beer of which the worts were before fermentation of a specific gravity of 1,055 degrees, in lieu of the rate specified in section 69 (1) of the Finance Act, 1984 .

(2) Subject to paragraph 5 of the Imposition of Duties (No. 271) (Beer) Order, 1984 (S.I. No. 352 of 1984), the drawback on beer provided for in paragraph 7(3) of the Order of 1975 shall, as respects beer on which it is shown to the satisfaction of the Revenue Commissioners that duty at the rate specified in subsection (1) has been paid, be calculated, according to the original specific gravity of the beer, at the rate of 149.347 on every 36 gallons of beer of which the original specific gravity was 1,055 degrees.

(3) The provisions of section 6 of the Finance Act, 1914 (Session 2), for the payment of drawback on beer on which duty has been paid and which is deposited in a warehouse for the purpose of being exported or shipped as stores shall apply to beer on which duty has been paid and which is deposited in a warehouse for the purpose of being used in the manufacture of a product (not being beer) for exportation.

#### **68. Wine And Made Wine :-**

(1) In the Eighth Schedule -

"actual alcoholic strength by volume" means the number of volumes of pure alcohol contained at a temperature of 20°C in 100 volumes of the product at that temperature;

"% vol" means alcoholic strength by volume.

(2) The duties of excise on wine and made wine imposed by paragraphs 5(2) and 6(2), respectively, of the Order of 1975 shall be charged, levied and paid, as on and from the 30th day of January, 1986, at the several rates specified in the Eighth Schedule in lieu of the several rates specified in Parts I and II, respectively, of the Fourth Schedule to the Finance Act, 1984 .

#### **69. Table Waters :-**

(1) The rebate of excise duty provided for in paragraph (a) of subsection (3) of section 69 of the Finance Act, 1980 (inserted by section 37 (2) of the Finance Act, 1981 ), shall, in respect of table waters on which duty was paid in the years hereinafter specified, be calculated in the following manner in lieu of the manner specified in the said paragraph (a):

## Rate of Rebate

Where the quantity manufactured by a manufacturer in each premises in which he manufactures table waters on which duty was paid by him-

(a) in the year commencing on the 1st day of March, 1986, does not exceed 40,000 gallons

0.16 per gallon for each gallon thereof.

exceeds 40,000 gallons and does not exceed 80,000 gallons

0.16 per gallon for each of the first 40,000 gallons and 0.08 per gallon for each other gallon.

exceeds 80,000 gallons

0.16 per gallon for each of the first 40,000 gallons and 0.08 per gallon for each of the next 40,000 gallons.

(b) in the year commencing on the 1st day of March, 1987, does not exceed 40,000 gallons

0.16 per gallon for each gallon thereof.

exceeds 40,000 gallons

0.16 per gallon for each of the first 40,000 gallons.

(c) in the year commencing on the 1st day of March, 1988, does not exceed 20,000 gallons

0.16 per gallon for each gallon thereof.

exceeds 20,000 gallons

0.16 per gallon for each of the first 20,000 gallons.

(2) No rebate of excise duty shall be allowed under paragraph (a) of subsection (3) of section 69 of the Finance Act, 1980 (inserted by section 37 (2) of the Finance Act, 1981 ), in respect of table waters on which duty was paid on or after the 1st day of March, 1989.

(3) The duty of excise on table waters imposed by paragraph 9(2) of the Order of 1975 (inserted by section 37 (1) of the Finance Act, 1981 ), shall be charged, levied and paid, as on and from the 1st day of October, 1986, at the rate of 0.36 per gallon in lieu of the rate specified in section 69 (1) of the Finance Act, 1980 .

(4) Paragraph 9 (3) of the Order of 1975 (inserted by section 37 (1) (b) of the Finance Act, 1981 ), is hereby amended by the substitution of the following for clauses (c) and (d):

"(c) soups and broths,

(d) fruit and vegetable juices which, in the opinion of the Revenue Commissioners, have not lost their original character through the addition of water or of other substances for sweetening, preservative or other purposes, and

(e) the milk substitute commonly known as soya milk (being a

product which derives its essential character from soya bean protein), whether or not sweetened but not containing any added flavouring matter."

**70. Cessation Of Certain Allowances In Respect Of Spirits, Matches And Nicotine And Tobacco Extract :-**

(1) No allowance shall be payable on or after the 1st day of July, 1986-

(a) in respect of spirits, under section 3 of the Customs and Inland Revenue Act, 1885, section 6 of the Finance Act, 1895, and sections 1 and 3 of the Revenue Act, 1906, or

(b) in respect of matches, under section 3 (4) of the Finance (New Duties) Act, 1916, and Regulation 16 of the Match Duty Regulations, 1928 (S.R. & O., No. 74 of 1928), or

(c) in respect of nicotine or tobacco extract or any preparation in the manufacture of which nicotine or tobacco extract is used as an ingredient, under section 11 (1) of the Finance (Customs Duties) (No. 4) Act, 1932 .

(2) In any case where the event which, but for subsection (1), would have governed the payment of an allowance occurred on or before the 30th day of June, 1986, the said allowance shall be payable notwithstanding that subsection.

**71. Application Of Section 76 (6) Of Finance Act, 1984, To All Premises Which Are Not Registered Bookmaking Offices :-**

:-

(1) In this section-

"premises" has the same meaning as it has in the Betting Act, 1931 ;

"register" means the register of bookmaking offices kept by the Revenue Commissioners under the Betting Act, 1931 .

(2) The provisions of subsection (6) of section 76 of the Finance Act, 1984 (which apply in relation to premises which are removed from the register under subsection (4) of that section), shall, as on and from the date of the passing of this Act, apply and have effect in relation to any premises which are not for the time being registered in the register.

**72. Removal Of Prescribed Marker, Etc., From Hydrocarbon Oil :-**

(1) In this section-

"hydrocarbon oil" and "prescribed" have the meanings respectively assigned to them by section 21 (15) of the Finance Act, 1935 , as amended;

"land" includes any structure on land;

"prohibited goods" means any machinery, apparatus, equipment, vessel, substance or other thing which is being used, or was used, or is intended to be used, in the removal from any hydrocarbon oil of any prescribed marker or for the purpose of impeding the identification in any hydrocarbon oil of any prescribed marker.

(2) No person shall keep prohibited goods in any premises or on any land.

(3) No person shall knowingly deal in any hydrocarbon oil from which any prescribed marker has been removed or to which any substance has been added for the purpose of impeding the identification in the said hydrocarbon oil of any prescribed marker.

(4) A person who contravenes the provisions of subsection (2) or (3) shall, without prejudice to any other penalty to which he may be liable, be guilty of an offence and shall be liable on summary conviction to a penalty, under the law relating to customs or the law relating to excise (as the case may be) of 1,000, and any prohibited goods and any hydrocarbon oil in respect of which the offence is committed and any hydrocarbon oil found in the premises or on the land at which the offence was committed at the time at which the offence was committed shall be liable to forfeiture, and any conveyance or container or any other thing which was used for the carriage, storage or concealment of any such prohibited goods or hydrocarbon oil shall also be liable to forfeiture.

(5) Whenever a person who is the owner or the occupier for the time being of premises or land in or on which prohibited goods are found is charged in any legal proceedings with contravening subsection (2), the said prohibited goods shall, until the contrary is proved, be presumed to have been kept by the said person in the said premises, or on the said land (as the case may be), in contravention of the said subsection.

(6) An officer of the Revenue Commissioners or a member of the Garda Síochána may arrest without warrant a person whom he has reasonable grounds to suspect is committing or has committed an offence under this section.

### **73. Power To Search Premises In Relation To Hydrocarbon Oil :-**

(1) In this section reference to dealing in hydrocarbon oil shall be construed as including reference to the purchase, sale or storage of hydrocarbon oil or the carrying on of any other transaction in relation to hydrocarbon oil.

(2) An officer of the Revenue Commissioners may, at all reasonable times, enter any premises in which any dealing in hydrocarbon oil liable to the duty of excise imposed by paragraph 12 of the Order of 1975 is being or is reasonably believed by the officer to be carried on or in which any books, records, accounts or other documents relating or reasonably believed by the officer to relate to any dealing in such hydrocarbon oil are kept and may there require any person to produce all books, records, accounts or other documents relating to any dealing in such hydrocarbon oil and may search for, inspect, and take copies of or extracts from any such books, records, accounts or other documents relating or believed by the officer to relate to any dealing in such hydrocarbon oil and may remove and retain the said books, records, accounts or other documents for such period as may be reasonable for their further examination.

(3) Any person who fails without lawful and sufficient excuse to comply with any requirement under this section or who resists, obstructs or impedes an officer of the Revenue Commissioners in the exercise of any power conferred on him by this section shall be guilty of an offence and shall be liable on summary conviction to an excise penalty of 500.

#### **74. Termination Of Excise Duties On Tyres And Tyre Manufacturers Licence :-**

(1) In this section "the Order of 1935" means the Emergency Imposition of Duties (No. 66) Order, 1935 (S.R. & O., No. 81 of 1935).

(2) With effect as on and from the 1st day of September, 1986, the provisions of paragraph 5 of the Order of 1935 shall cease to have effect.

(3) The duties of excise on tyres imposed by-

(a) paragraph 6 of the Order of 1935, and

(b) paragraph 15 (3) of the Order of 1975,

shall not be charged or levied on or after the 1st day of September, 1986.

#### **75. Reduction And Termination Of Excise Duty On Motor**

## **Vehicle Parts And Accessories :-**

(1) The Order of 1975 shall be amended, with effect as on and from the 1st day of September, 1986, by the substitution in column (2) of the Fifth Schedule at reference number 2 of "5 per cent." for "10 per cent." (inserted by section 34 of the Finance Act, 1985 ).

(2) The duty of excise on motor vehicle parts and accessories imposed by paragraph 14 (3) of the Order of 1975 shall not be charged or levied on or after the 1st day of January, 1987.

## **76. Motor Vehicles :-**

The duty of excise on category A motor vehicles imposed by paragraph 4 (1) of the Imposition of Duties (No. 236) (Excise Duties on Motor Vehicles, Televisions and Gramophone Records) Order, 1979 (S.I. No. 57 of 1979), shall be charged, levied and paid, as on and from the 1st day of March, 1986-

(i) insofar as it is chargeable on category A motor vehicles the engines of which have a cylinder capacity exceeding 2012 cubic centimetres, at the rate of an amount equal to 24.7 per cent. of the chargeable value, and

(ii) insofar as it is chargeable on other category A motor vehicles, at the rate of an amount equal to 21.7 per cent. of the chargeable value,

in lieu of the rates specified in paragraph 5 (a) of the Imposition of Duties (No. 272) (Excise Duties on Motor Vehicles) Order, 1984 (S.I. No. 353 of 1984), as amended by paragraph 4 (b) of the Imposition of Duties (No. 279) (Motor Vehicles and Motor-cycles) (Amendment) Order, 1985 (S.I. No. 267 of 1985).

## **77. Excise Duty On Mechanically Propelled Vehicles :-**

The Finance (Excise Duties) (Vehicles) Act, 1952 , shall, as respects licences under section 1 thereof taken out for periods beginning on or after the 1st day of March, 1986, be amended by the substitution of the following subparagraph for subparagraph (d) (inserted by section 33 of the Finance Act, 1985 ) of paragraph 6 of Part I of the Schedule thereto:

"(d) other vehicles to which this paragraph applies- not exceeding 1,000 cubic centimetres 70 exceeding 1,000 cubic centimetres but not exceeding 1,500 cubic centimetres 9.50 per 100 cubic centimetres or part thereof exceeding 1,500 cubic centimetres but not exceeding 1,700 cubic centimetres 11 per 100 cubic

centimetres or part thereof exceeding 1,700 cubic centimetres but not exceeding 2,000 cubic centimetres 12 per 100 cubic centimetres or part thereof exceeding 2,000 cubic centimetres but not exceeding 2,500 cubic centimetres 14 per 100 cubic centimetres or part thereof exceeding 2,500 cubic centimetres 15 per 100 cubic centimetres or part thereof electrically propelled 70."

### **78. Confirmation Of Orders :-**

The Orders mentioned in the Table to this section are hereby confirmed.

TABLE

S.I. No. 267 of 1985

Imposition of Duties (No. 279) (Motor Vehicles and Motor-cycles) (Amendment) Order, 1985

S.I. No. 304 of 1985

Imposition of Duties (No. 280) (Excise Duties) (Vehicles) Order, 1985

S.I. No. 3 of 1986

Imposition of Duties (No. 281) (Hydrocarbons) Order, 1986

### **PART 3 Value-Added Tax**

### **79. Interpretation (Part Iii ) :-**

In this Part-

"the Principal Act" means the Value-Added Tax Act, 1972 ;

"the Act of 1978" means the Value-Added Tax (Amendment) Act, 1978 ;

"the Act of 1985" means the Finance Act, 1985 .

### **80. Amendment Of Section 1 (Interpretation) Of Principal Act :-**

Section 1 of the Principal Act is hereby amended by the insertion in subsection (1) after the definition of "footwear" of the following definition:

"free port means the land declared to be a free port for the purposes of the Free Ports Act, 1986 (No. 6 of 1986), by order made under section 2 of that Act;".

### **81. Amendment Of Section 5 (Rendering Of Services) Of Principal Act :-**

Section 5 (inserted by the Act of 1978) of the Principal Act is hereby amended-

(a) by the insertion after subsection (3) of the following subsection:  
"(3A) Where a person is in receipt of a service, other than a service specified in the Fourth Schedule, for the purposes of his business and the circumstances are such that value-added tax referred to in Community Council Directive No.77/388/EEC1 is not payable on the supply or, if it is payable, is, in accordance with the laws of the country in which the supplier has his establishment, repayable to or deductible by the person, that person shall be deemed, for the purposes of this Act, to have himself supplied the service for consideration in the course or furtherance of his business and shall be liable for tax on the supply except where such tax, if it were chargeable, would be wholly deductible under section 12.", and

(b) in subsection (6)-

(i) by the insertion after paragraph (c) of the following paragraph:

"(d) In confirmation of the provisions contained in the Value-Added Tax (Place of Supply of Certain Services) Regulations, 1985 (S.I. No. 343 of 1985), which regulations are hereby revoked, the place of supply of services consisting of the hiring out of movable goods by a person established outside the Community shall be deemed to be the place where the movable goods are, or are to be, effectively used.", and

(ii) by the substitution of the following paragraph for paragraph (e):

"(e) The place of supply of services of any of the descriptions specified in the Fourth Schedule, with the exception of services of the description specified in paragraph (ia) of the said Schedule supplied by a person who has his establishment outside the Community, shall be deemed, for the purposes of this Act, to be-

(i) in case they are received, otherwise than for a business purpose, by a person whose usual place of residence is situated outside the Community, the place where he usually resides,

(ii) in case they are received, for the purposes of any business carried on by him, by a person-

(I) who has his establishment outside the Community and has not also an establishment in the Community, or

(II) who has his establishment in the Community but does not have his establishment or, if he has more than one establishment, his principal establishment in the country in which, but for this subparagraph, the services would be deemed to be supplied, the place where he has his establishment or, if he has more than one

establishment, the establishment of his at which or for the purposes of which the services are most directly used or to be used, as the case may be,

(iii) in case they are received, for the purposes of any business carried on by him, by a person resident in the Community who has no establishment anywhere, the place where he usually resides,

(iv) in case they are received by a department of State, by a local authority or by a body established by statute, and are supplied-

(I) by a person who has his establishment outside the Community and has not also an establishment in the Community, or

(II) by a person who has his establishment in another Member State of the Community, in circumstances in which value-added tax referred to in Community Council Directive No. 77/388/EEC is not payable in that Member State in respect of the supply, the State,

(v) in any other case, the place specified in subsection (5) that is appropriate to the circumstances."

## **82. Amendment Of Section 8 (Accountable Persons) Of Principal Act :-**

Section 8 of the Principal Act is hereby amended by the insertion in subsection (2) (inserted by the Act of 1978) after "section 5 (6) (e) (ii)" of ", (iii) or (iv)".

## **83. Amendment Of Section 11 (Rates Of Tax) Of Principal Act :-**

Section 11 (inserted by the Act of 1978) of the Principal Act is hereby amended-

(a) in subsection (1)-

(i) in paragraph (a) by the substitution of "25 per cent." for "23 per cent.", and

(ii) in paragraph (d) by the substitution of "2.4 per cent." for "2.2 per cent.",

and

(b) in subsection (4A) (inserted by the Finance Act, 1973 ) by the substitution of "section 11 (1) (c)" for "section 11 (1) (a)".

## **84. Amendment Of Section 12 (Deduction For Tax Borne Or Paid) Of Principal Act :-**

Section 12 of the Principal Act is hereby amended-

(a) in subsection (1) (inserted by the Act of 1978) by the insertion

after paragraph (d) of the following paragraph:

"(dd) the tax chargeable during the period, being tax for which he is liable by virtue of section 5 (3A), in respect of services received by him," and

(b) in subsection (2) by the insertion after "section 20 (1)" of ", but subject to section 20 (1A)".

**85. Amendment Of Section 12A (Special Provisions For Tax Invoiced By Flat-Rate Farmers) Of Principal Act :-**

Section 12A (inserted by the Act of 1978) of the Principal Act is hereby amended by the substitution of "2.4 per cent." for "2.2 per cent." (inserted by the Act of 1985).

**86. Amendment Of Section 17 (Invoices) Of Principal Act :-**

Section 17 of the Principal Act is hereby amended by the insertion after subsection (1) of the following subsection:

"(1A) (a) An invoice or other document required to be issued under this section shall, subject to paragraph (b), be deemed to be so issued if the particulars which are required by regulations to be contained in such invoice or other document, as the case may be, are recorded and retained in an electronic data processing system and are transmitted by electronic means without the issue of any invoice or other document.

(b) An invoice or other document required to be issued under this section shall not be deemed by paragraph (a) to be issued unless the person who is required to issue such invoice or other document, as the case may be, has given to the Revenue Commissioners at least one months notice in writing that he proposes to keep and retain such records and make such transmissions as are referred to in that paragraph, and he complies with such other conditions as may be specified by regulations.

(c) A person who receives the transmissions referred to in paragraphs (a) and (b) shall not be deemed to be issued with an invoice or other document, as the case may be, required to be issued under this section unless he has given to the Revenue Commissioners at least one months notice in writing that he proposes to receive such transmissions, and he complies with such other conditions as may be specified by regulations."

**87. Amendment Of Section 20 (Refund Of Tax) Of Principal Act :-**

Section 20 of the Principal Act is hereby amended-

(a) in subsection (1) by the substitution of "Subject to subsection (1A), where" for "Where", and

(b) by the insertion after subsection (1) of the following subsection:

"(1A) The Revenue Commissioners may defer repayment of all or part of any tax refundable to any taxable person under subsection (1) where they are satisfied that the business activities of that taxable person are so interlinked with the business activities of one or more other taxable persons that it would have been expedient to apply the provisions of section 8 (8) in relation to all the taxable persons concerned, if the request specified in that section had been made, and any of the said one or more other taxable persons has not furnished all returns and remitted all amounts of tax referred to in section 19 (3)."

**88. Amendment Of Section 32 (Regulations) Of Principal Act :-**

Section 32 of the Principal Act is hereby amended-

(a) in paragraph (h) by the insertion after "documents" of "or other recorded data",

and

(b) by the substitution of the following paragraph for paragraph (i):

"(i) the form of invoice, credit note, debit note and settlement voucher, including electronic form, required to be used for the purposes of this Act, the particulars required to be inserted in such documents or electronically recorded and the period within which such documents or electronic data are required to be issued or transmitted and such other conditions in relation to the issue or receipt, in any form, of an invoice, credit note, debit note and settlement voucher as may be imposed by the Revenue Commissioners;"

**89. Amendment Of First Schedule To Principal Act :-**

The First Schedule (inserted by the Act of 1978) to the Principal Act is hereby amended by the insertion after paragraph (iii) of the following paragraph:

"(iiia) supply by dental technicians of services of a dental nature and of dentures or other dental prostheses;"

**90. Amendment Of Second Schedule To Principal Act :-**

The Second Schedule (inserted by the Finance Act, 1976 ) to the Principal Act is hereby amended-

(a) in paragraph (i)-

(i) by the insertion of the following subparagraph after subparagraph (a):

"(aa) by a registered person within a free port to another registered person within a free port,"

and

(ii) by the insertion in subparagraph (b), after "customs-free airport" where that secondly occurs, of "or a free port",

and

(b) in paragraph (xii)-

(i) by the insertion after "food and drink of a kind used for human consumption" of ", other than the supply thereof specified in paragraph (xic) of the Sixth Schedule", and

(ii) by the deletion in subparagraph (e) of ", potato chips".

#### **91. Amendment Of Sixth Schedule To Principal Act :-**

The Sixth Schedule (inserted by the Act of 1985) to the Principal Act is hereby amended-

(a) by the substitution of the following paragraph for paragraph (x):

"(x) (a) newspapers, normally published daily, the contents of each issue of which consist, wholly or mainly, as regards the quantity of printed matter contained in them, of information on the principal current events and topics of general public interest,

(b) newspapers, normally published at least fort-nightly, which are similar in range and nature of contents to any newspaper of a kind specified in subparagraph (a) and are also similar in format to any newspaper published in the State which is of a kind specified in subparagraph (a);",

(b) by the insertion after paragraph (xi) of the following paragraphs:

"(xia) the provision of food and drink of a kind specified in paragraph (xii) of the Second Schedule in a form suitable for human consumption without further preparation-

(a) by means of a vending machine,

(b) in the course of operating a hotel, restaurant, cafe, refreshment house, canteen, establishment licensed for the sale for consumption on the premises of intoxicating liquor, catering business or similar

business, or

(c) in the course of operating any other business in connection with the carrying on of which facilities are provided for the consumption of the food or drink supplied;

(xib) the supply, in the course of the provision of a meal, of goods of a kind specified in subparagraph (c), (d) or (e) of paragraph (xii) of the Second Schedule, and fruit juices other than fruit juices chargeable with a duty of excise-

(a) in the course of operating a hotel, restaurant, cafe, refreshment house, canteen, establishment licensed for the sale for consumption on the premises of intoxicating liquor, catering business or similar business, or

(b) in the course of operating any other business in connection with the carrying on of which facilities are provided for the consumption of the food or drink supplied;

(xic) the supply of food and drink (other than beverages specified in subparagraph (a) or (b) of paragraph (xii) of the Second Schedule) which is, or includes, food or drink which-

(a) has been heated for the purposes of enabling it to be consumed at a temperature above the ambient air temperature, or

(b) has been retained heated after cooking for the purpose of enabling it to be consumed at a temperature above the ambient air temperature, or

(c) is supplied, while still warm after cooking, for the purpose of enabling it to be consumed at a temperature above the ambient air temperature,

and is above the ambient air temperature at the time of supply;

(xid) promotion of and admissions to cinematographic performances;

(xie) promotion of and admissions to live theatrical or musical performances, excluding-

(a) dances to which section 11 (7) relates, and

(b) performances specified in paragraph (viii) of the First Schedule;

(xif) entertainment services, other than dances to which section 11 (7) relates and circuses, supplied in fair-grounds by travelling showmen where, in any particular case, the total period spent in any one locality in relation to a series of successive performances does not exceed 19 consecutive days and an interval of at least one month elapses before the next performance in the same locality;"

(c) by the insertion of the following paragraphs after paragraph (xii):

"(xiia) services consisting of-

(a) the repair or maintenance of movable goods, or  
(b) the alteration of second-hand movable goods,  
other than any such services specified in paragraph (v) or (xvi) of  
the Second Schedule,  
but excluding the provision in the course of any such repair,  
maintenance or alteration service of-  
(I) accessories, attachments or batteries, or  
(II) tyres, tyre cases, interchangeable tyre treads, inner tubes and  
tyre flaps, for wheels of all kinds;  
(xiib) services consisting of work on immovable goods, other than  
services consisting of such work specified in paragraph (xiv) and  
services specified in paragraph (iii);  
(xiic) services consisting of the care of the human body, excluding  
such services specified in the First Schedule, but including services  
supplied in the course of a health studio business or similar  
business;",  
and  
(d) by the deletion of paragraph (xiii).

#### **PART 4 Stamp Duties**

##### **92. Levy On Banks :-**

(1) In this section-

"assessable amount" means the amount arrived at by dividing the  
specified amount by twelve and deducting 10,000,000 from the  
quotient;

"bank" means a person who, on the 1st day of September, 1985,  
was the holder of a licence granted under section 9 of the Central  
Bank Act, 1971 ;

"relevant sum", in relation to a return, means a sum shown in the  
return other than a sum shown in respect of foreign currency;

"returns", in relation to a bank, means the returns, entitled  
"MONTHLY RETURN OF ALLICENCED BANKS: RESIDENT  
BRANCHES", furnished to the Central Bank of Ireland by the bank  
in respect of the assets and liabilities of the bank as on the 16th  
day of January, 1985, the 20th day of February, 1985, the 31st  
day of March, 1985, the 17th day of April, 1985, the 15th day of  
May, 1985, the 30th day of June, 1985, the 17th day of July, 1985,  
the 21st day of August, 1985, the 30th day of September, 1985,  
the 16th day of October, 1985, the 20th day of November, 1985  
and the 31st day of December, 1985;

"specified amount", in relation to a bank, means the amount

obtained by deducting the aggregate amount of the relevant sums shown in respect of Item 302.2 in supplement 1 of the returns of the bank from the aggregate amount of the relevant sums shown in the returns in respect of Government deposits and Non-Government deposits and shown as liabilities of the bank in such returns.

(2) A bank shall, not later than the 17th day of September, 1986, deliver to the Revenue Commissioners a statement in writing showing the assessable amount for that bank, the specified amount for that bank and the sums referred to in the definition of "specified amount" in subsection (1) by reference to which that specified amount was calculated.

(3) There shall be charged on every statement delivered pursuant to subsection (2) a stamp duty of an amount equal to the sum of the following:

(a) 0.25 per cent. of that part of the assessable amount shown therein that does not exceed 100,000,000, and

(b) 0.316 per cent. of that part of the assessable amount shown therein that exceeds 100,000,000:

Provided that in the case where the assessable amount shown in the statement does not exceed 100,000,000 stamp duty of an amount equal to 0.25 per cent. of the assessable amount shown therein shall be charged.

(4) The duty charged by subsection (3) upon a statement delivered by a bank pursuant to subsection (2) shall be paid by the bank upon delivery of the statement.

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

(6) In the case of failure by a bank to deliver any statement required by subsection (2) within the time provided for in that subsection or of failure to pay the duty chargeable on any such statement on the delivery thereof, the bank shall, from the date of the passing of this Act until the day on which the duty is paid, be liable to pay, by way of penalty, in addition to the duty, interest thereon at the rate of 15 per cent. per annum and also from the 17th day of September, 1986, by way of further penalty, a sum equal to 1 per cent. of the duty for each day the duty remains unpaid and each penalty shall be recoverable in the same manner as if the penalty were part of the duty.

(7) The delivery of any statement required by subsection (2) may

be enforced by the Revenue 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.

(8) The stamp duty charged by this section shall not be allowed as a deduction for the purposes of the computation of any tax or duty under the care and management of the Revenue Commissioners payable by the bank.

### **93. Levy On Certain Investment Income :-**

(1) In this section-

"assessable amount" means the total amount of income, without any deduction whatsoever, which arises to an insurer from investments during the year 1986 and, in the case of any investment sold in that year, includes the amount by which the sale price of the investment exceeds the price for which the investment was acquired:

Provided that, for the purposes of this definition, the total amount of income which arises shall not be reduced by any amount which is deducted or withheld from the income pursuant to any of the provisions of the Tax Acts and shall, in the case of any income which gives entitlement to a tax credit, include the amount of that tax credit;

"excluded property" means property derived from or representing-

(a) business carried on by the insurer outside the State;

(b) a pension fund within the meaning of section 50 of the Corporation Tax Act, 1976 ;

(c) industrial assurance business within the meaning of the Regulations;

(d) business relating to a society which is a credit union for the purposes of the Credit Union Act, 1966 ;

"first statement" means a statement in writing showing an amount which is estimated by the insurer to be the equivalent of 90 per cent. of the assessable amount for that insurer;

"insurer" means a person who is the holder of an authorisation within the meaning of the Regulations or is the holder of an assurance licence which is by those Regulations deemed to be an authorisation;

"investments" includes property of every description other than excluded property;

"Regulations" means the European Communities (Life Assurance) Regulations, 1984 (S.I. No. 57 of 1984);

"second statement" means a statement in writing showing an amount which is equal to the difference between the amount shown in the first statement and the assessable amount for the insurer.

(2) An insurer shall deliver to the Revenue Commissioners the first statement on or before the 1st day of November, 1986, and the second statement on or before the 30th day of June, 1987.

(3) There shall be charged on every first statement and on every second statement delivered in pursuance of subsection (2) a stamp duty of an amount equal to 9 per cent. of the amount shown in each such statement.

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

(5) There shall be furnished to the Revenue Commissioners by an insurer such particulars and accounts as the Revenue Commissioners may deem necessary in relation to a first statement or a second statement required by this section to be delivered by the insurer and in relation to the assessable amount in respect of the insurer.

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

(a) to deliver a first statement required by subsection (2) within the time specified in that subsection,

(b) to pay, on the delivery of the first statement, an amount of duty which is not less than 85 per cent. of the duty payable in respect of the assessable amount,

(c) to deliver a second statement required by subsection (2) within the time specified in that subsection, or

(d) to pay the duty on the second statement on the delivery thereof,

the insurer shall be liable to pay by way of penalty, in addition to the duty, interest on the unpaid duty at the rate of 15 per cent. per annum from the date of the failure until the day on which the duty is paid.

(7) The delivery of any statement required by subsection (2) may be enforced by the Revenue 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.

(8) The stamp duty charged by this section shall not be allowed as

a deduction for the purpose of the computation of any tax or duty under the care and management of the Revenue Commissioners payable by any person.

#### **94. Stamp Duty On Certain Statements Of Interest :-**

(1) (a) In this section-

"corporation tax" means the tax charged by the Corporation Tax Acts;

"Corporation Tax Acts" has the meaning given to it by section 155 (1) of the Corporation Tax Act, 1976 ;

"relevant interest" means any interest or other distribution which-

(i) is received by a company (hereinafter in this section referred to as "the lender") which is within the charge to corporation tax, and

(ii) is payable out of the assets of another company (hereinafter in this subsection referred to as "the borrower") which is resident in the State for the purposes of corporation tax, in respect of a security of the borrower which is a security falling within subparagraph (ii), (iii) (I) or (v) of section 84 (2) (d) of the Corporation Tax Act, 1976 , and

(iii) is a distribution for the purposes of the Corporation Tax Acts;

"relevant period" means the period beginning on the 30th day of January, 1986, and ending on the 31st day of July, 1986, the period of six months ending on the 31st day of January, 1987, or any subsequent period of six months ending on the 31st day of January or the 31st day of July.

(b) For the purposes of this section, any amount which, in a relevant period, is debited to a borrowers account with a lender in respect of relevant interest shall be treated as an amount received by the lender in that relevant period.

(2) A lender shall, within 30 days from the end of each relevant period, deliver to the Revenue Commissioners a statement in writing showing the amount of the relevant interest for that lender in respect of that relevant period.

(3) There shall be charged on every statement delivered in pursuance of subsection (2) a stamp duty of an amount equal to 12 per cent. of the amount of the relevant interest shown therein:

Provided that, in a case where the amount of the relevant interest received by a lender in respect of a security referred to in subsection (1) is an amount which is less than what would have been received by that lender had the security yielded simple interest at the rate of 6 per cent. per annum throughout the period

for which the relevant interest was payable, the stamp duty charged on the statement on the amount of the relevant interest for that security shall be an amount equal to 8 per cent. of the amount received.

(4) The duty charged by subsection (3) upon a statement delivered by a lender pursuant to subsection (2) shall be paid by the lender upon delivery of the statement.

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

(6) In the case of failure by a lender to deliver any statement required by subsection (2) within the time specified in that subsection or of failure by a lender to pay any duty chargeable on any such statement on the delivery thereof, the lender shall be liable to pay, by way of penalty, in addition to the duty, interest thereon at the rate of 2.5 per cent. for each month or part of a month from the expiration of the relevant period to which the statement relates until the date on which the duty is paid.

(7) The delivery of any statement required by subsection (2) may be enforced by the Revenue 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.

(8) The stamp duty charged by this section shall not be allowed as a deduction for the purposes of the computation of any tax or duty under the care and management of the Revenue Commissioners payable by the lender.

(9) The Imposition of Duties (No. 282) (Stamp Duty on Certain Statements of Interest) Order, 1986 (S.I. No. 27 of 1986), is hereby revoked.

## **95. Stamp Duty On Letters Of Renunciation :-**

(1) In this section-

"share" includes stock;

"unquoted company" means a company none of whose shares, stocks or debentures are listed in the official list of a recognised stock exchange or dealt in on an unlisted securities market recognised by such a stock exchange.

(2) Notwithstanding the provisions of section 23 of the Finance Act,

1964 , any instrument which releases or renounces or has the effect of releasing or renouncing a right under a letter of allotment, or under any other document having the effect of a letter of allotment, to any share in an unquoted company shall be chargeable to stamp duty as if it were a release or renunciation of property consisting of stocks or marketable securities by reference to the Heading "RELEASE or RENUNCIATION of any property, or of any right or interest in any property" in the First Schedule (inserted by the Finance Act, 1970 ) to the Stamp Act, 1891, and that Schedule shall be construed accordingly.

(3) The Imposition of Duties (No. 278) (Stamp Duty on Letters of Renunciation) Order, 1985 (S.I. No. 152 of 1985), is hereby revoked.

(4) This section shall have effect with respect to any instrument executed on or after the date of the passing of this Act.

#### **96. Stamp Duty On Certain Instruments :-**

(1) Where, in connection with, or in contemplation of, a sale of property, the vendor enters into-

(a) an agreement for the grant of a lease of the property for a term exceeding 35 years, or

(b) an agreement (other than a contract for the sale of the property) under which the vendor grants any other rights in relation to the property,

any conveyance or transfer, subject to the agreement, of the property by the vendor shall be charged to stamp duty as a conveyance or transfer on sale of the property for a consideration equal to the value of the property and the value shall be determined without regard to the agreement.

(2) A declaration by deed under section 65 (2) of the Conveyancing Act, 1881, to the effect that, from and after the execution of the deed, a term subsisting in land shall be enlarged, shall, where the term was created by an instrument executed within 6 years of the date of the execution of the deed, be charged to stamp duty as a conveyance or transfer on sale of that land for a consideration equal to the value of the land and that value shall be determined without regard to the said term or any part thereof.

(3) The provisions of section 50 of the Finance Act, 1979 , shall not apply to a deed which is chargeable to stamp duty under subsection (2).

(4) This section shall have effect with respect to any instrument

executed on or after the date of the passing of this Act.

**97. Stamp Duty On Conveyances And Transfers On Sale Of Stocks And Marketable Securities :-**

(1) Section 83 of the Finance Act, 1974 , shall cease to have effect and, in lieu thereof, in the case of a conveyance or transfer on sale of any stocks or marketable securities, such stamp duty shall be chargeable as would have been chargeable if that section had not been enacted.

(2) The Imposition of Duties (No. 276) (Stamp Duties on Conveyances and Transfers on Sale of Stocks and Marketable Securities) Order, 1985 (S.I. No. 146 of 1985), is hereby revoked.

(3) This section shall have effect with respect to any instrument executed on or after the date of the passing of this Act.

**98. Repayment Of Stamp Duty On Certain Instruments :-**

(1) In this section-

(a) "the First Schedule" means the First Schedule, as amended by the Finance Act, 1970 , and subsequent enactments, to the Stamp Act, 1891;

(b) the terms "approved scheme", "participant", "the release date" and "shares" have the meanings respectively assigned to them by section 50 of the Finance Act, 1982 .

(2) Where, in relation to an instrument, it is shown to the satisfaction of the Revenue Commissioners that the instrument gives effect, on or after the release date, to the transfer of shares by, or on behalf of, a person who is, or had become, entitled to those shares as a participant in an approved scheme, the Revenue Commissioners shall repay such an amount of the stamp duty as was paid, by reference to the heading "CONVEYANCE OR TRANSFER on sale of any stocks or marketable securities" in the First Schedule, on the instrument in respect of those shares.

**99. Amendment Of First Schedule To Stamp Act, 1891 :-**

(1) The First Schedule (as amended by the Finance Act, 1970 , and subsequent enactments) to the Stamp Act, 1891, is hereby amended by the substitution for the heading "SURRENDER, not being an instrument chargeable with duty as a conveyance on sale or a mortgage..... 5" of the heading

"SURRENDER of any property, or of any right or interest in any property-

Upon a sale. See CONVEYANCE ON SALE.

By way of security. See MORTGAGE, etc.

In any other case..... 5".

(2) An instrument bearing witness to, or acknowledging-

(a) the surrender, by parol or otherwise, of a leasehold interest in immovable property, or

(b) the merger of such an interest in a superior interest,

shall be charged to the same stamp duty as if it were a surrender of that leasehold interest.

(3) The Imposition of Duties (No. 277) (Stamp Duty on Certain Instruments) Order, 1985 (S.I. No. 151 of 1985), is hereby revoked.

(4) This section shall have effect with respect to any instrument executed on or after the date of the passing of this Act.

**100. Amendment Of Section 1 Of Provisional Collection Of Taxes Act, 1927 :-**

Section 1 of the Provisional Collection of Taxes Act, 1927 , is hereby amended by the insertion of "and stamp duties" before "but no other tax or duty".

**101. Amendment Of Section 93 (Exemption Of Certain Instruments From Stamp Duty) Of Finance Act, 1982 :-**

(1) Section 93 of the Finance Act, 1982 , is hereby amended by the substitution of the following subsection for subsection (5):

"(5) This section shall have effect with respect to any instrument executed after the date of the passing of this Act and before the 30th day of September, 1986."

(2) The said section 93 is hereby further amended-

(a) in subsection (4) (a), by the substitution of "30 years" for "35 years", and

(b) in subsection (4) (b) (i) (I), by the substitution of "150 hours" for "100 hours", and

the said section 93, as amended by paragraphs (a) and (b), shall have effect with respect to any instrument executed after the 1st day of October, 1986, and before the expiration of one year from that date.

**PART 5 Capital Acquisitions Tax**

## **102. Interpretation (Part V ) :-**

In this Part-

"the Principal Act" means the Capital Acquisitions Tax Act, 1976 ;

"chargeable date", in relation to any year, means the 5th day of April in that year;

"chargeable discretionary trust" means a discretionary trust in relation to which-

(a) the disponent is dead, and

(b) none of the principal objects of the trust, if any, is under the age of 25 years;

"object" and "principal objects", in relation to a discretionary trust, have the meanings respectively assigned to them by section 104 of the Finance Act, 1984 .

## **103. Annual Acquisitions By Discretionary Trusts :-**

(1) Where, in any year commencing with the year 1986, under or in consequence of any disposition, property is subject to a chargeable discretionary trust on the chargeable date, the trust shall be deemed on each such date to become beneficially entitled in possession to an absolute interest in that property, and to take on each such date an inheritance accordingly as if the trust, and the trustees as such for the time being of the trust, were together a person for the purposes of the Principal Act, and each such chargeable date shall be the date of such inheritance.

(2) (a) Where-

(i) under or in consequence of any disposition, property was subject to a discretionary trust prior to a chargeable date,

(ii) that property is not on that chargeable date subject to that discretionary trust (being on that date a chargeable discretionary trust) because such property is on that date property to which for the time being a person is beneficially entitled for an interest in possession, and

(iii) on that chargeable date that property is property which is limited to become subject again to that chargeable discretionary trust, or will do so by the exercise of a power of revocation,

that property shall be deemed to be subject to that chargeable discretionary trust on that chargeable date if that interest in possession is an interest which is revocable or which is limited to cease on an event other than-

(I) the death of that person, or

(II) the expiration of a specified period, where that interest is taken by that person under a power of appointment contained in that disposition and is, at the time of the appointment thereof, an interest for a period certain of five years or more.

(b) In this subsection, "property" includes property representing such property.

(3) For the purposes of this section-

(a) an interest in expectancy shall not be property until an event happens whereby the interest ceases to be an interest in expectancy or is represented by property which is not an interest in expectancy;

(b) an interest in a policy of assurance upon human life shall not be property until, and then only to the extent that, the interest becomes an interest in possession under the provisions of section 32 of the Principal Act or is represented by property which is not an interest in expectancy.

(4) This section shall not apply or have effect in relation to property which is subject to a chargeable discretionary trust on a chargeable date if that property or property representing that property is subject to a charge for tax arising under or in consequence of the same disposition by reason of the provisions of section 106 of the Finance Act, 1984 , on that same date or within the year prior to that date.

#### **104. Application Of Principal Act :-**

In relation to a charge for tax arising by reason of the provisions of section 103 -

(a) a reference in section 16 of the Principal Act to a company controlled by the successor shall be construed as including a reference to a company that is under the control of any one or more of the following, that is to say, the trustees of the discretionary trust, the living objects of the discretionary trust, the relatives of those objects, and nominees of those trustees or of those objects or of the relatives of those objects;

(b) (i) subject to the provisions of subparagraph (ii), the valuation date of the taxable inheritance shall be the relevant chargeable date;

(ii) where-

(I) a charge for tax arises on a particular date by reason of the provisions of section 106 of the Finance Act, 1984 , giving rise to a taxable inheritance (in this subparagraph called the first taxable

inheritance),

(II) on a later date, a charge for tax arises under or in consequence of the same disposition by reason of the provisions of section 103 giving rise to a taxable inheritance (in this subparagraph called the second taxable inheritance) comprising the same property or property representing that property, and

(III) the valuation date of the first taxable inheritance is a date after the chargeable date of the second taxable inheritance, the valuation date of the second taxable inheritance shall be the same date as the valuation date of the first taxable inheritance;

(c) a person who is a trustee of the discretionary trust concerned for the time being at the date of the inheritance or at any date subsequent thereto shall be a person primarily accountable for the payment of the tax;

(d) an object of the discretionary trust concerned to whom or for whose benefit any of the property subject to the trust is applied or appointed shall also be accountable for the payment of tax the charge in respect of which has arisen prior to the date of the application or appointment of the property to him or for his benefit, and the Principal Act shall have effect, in its application to that charge for tax, as if that object of the discretionary trust were a person referred to in section 35 (2) of the Principal Act;

(e) any person who is primarily accountable for the payment of tax by virtue of paragraph (c) shall, within three months after the valuation date or the date of the passing of this Act, whichever is the later-

(i) deliver to the Commissioners a full and true return-

(I) of every inheritance in respect of which he is so primarily accountable;

(II) of all the property comprised in such inheritance; and

(III) of an estimate of the market value of such property;

(ii) notwithstanding the provisions of the Principal Act, make an assessment of such amount of tax as, to the best of his knowledge, information and belief, ought to be charged, levied and paid on that valuation date; and

(iii) pay the amount of such tax to the Accountant-General of the Commissioners;

(f) the provisions of section 41 of the Principal Act shall have effect, in the application of the Principal Act to any such charge for tax as aforesaid arising before the date of the passing of this Act, as if the references to the valuation date in subsections (1), (2) and (3) of that section were references to the date of the passing of this Act,

or to the valuation date, whichever is the later;

and

(g) section 21, subsection (1) of section 35, subsections (2), (3), (4) and (5) of section 36 and sections 40, 43, 45 and 57 of, and the Second Schedule to, the Principal Act shall not apply.

### **105. Exemptions :-**

Section 103 shall not apply or have effect in relation to a discretionary trust referred to in section 108 of the Finance Act, 1984 , or in respect of the property or the inheritance referred to in section 65 of the Finance Act, 1985 .

### **106. Computation Of Tax :-**

The tax chargeable on the taxable value of a taxable inheritance which is charged to tax by reason of the provisions of section 103 shall be computed at the rate of one per cent. of such taxable value.

### **107. Values Agreed :-**

(1) Where-

(a) under or in consequence of any disposition, a charge for tax arises by reason of the provisions of section 103 on a chargeable date (in this section called the first chargeable date),

(b) an accountable person has furnished all the information necessary to enable the Commissioners to ascertain the market value of-

(i) real property, or

(ii) shares which are not dealt in on a stock exchange,

comprised in the taxable inheritance so taken on the valuation date of that taxable inheritance,

(c) pursuant to an application in writing to the Commissioners on that behalf, the market value of such property on that valuation date is agreed on between that person and the Commissioners,

(d) under or in consequence of the same disposition, a charge for tax arises by reason of the provisions of section 103 on either or both of the two chargeable dates in the years next following the year in which the first chargeable date occurs (in this section called the subsequent chargeable dates), and

(e) the same property at subparagraph (i) or (ii) of paragraph (b) is comprised in the taxable inheritances so taken on the subsequent

chargeable dates,

the value so agreed on shall be treated for the purposes of this Part as the market value of such property on that valuation date and on the valuation dates of the taxable inheritances so taken on the subsequent chargeable dates.

(2) Notwithstanding the provisions of subsection (1), the market value so agreed shall not be binding-

(a) in any case where there is failure to disclose material facts in relation to any part of the property comprised in the taxable inheritances taken on the first chargeable date or on the subsequent chargeable dates, or

(b) where, at any time after the first chargeable date and before the third of those chargeable dates-

(i) in the case of real property, there is any alteration in the tenure under which the property is held or let, or

(ii) in the case of shares, there is any alteration in the capital or the ownership of the capital of the company concerned or of the rights of the shareholders interse, or

(c) where, at any time after the first chargeable date and before the third of those chargeable dates-

(i) in the case of real property, there is any change whatever, whether affecting that or any other property, which would materially increase or decrease the market value over and above any increase or decrease which might normally be expected if such a change had not occurred, or

(ii) in the case of shares, there has been any material change in the assets of the company or in their market value over and above any such change which might normally be expected,

and in such cases the market value of the real property, or of the shares, may be ascertained again by the Commissioners for each of the relevant valuation dates:

Provided that, in the case of any change referred to in paragraph (c), the market value may be ascertained again by the Commissioners only at the request of the person primarily accountable for the payment of the tax arising by reason of the provisions of section 103 on that relevant valuation date.

(3) Any agreement made under this section shall be binding only on the persons who as such are accountable for the payment of the tax arising by reason of the provisions of section 103 on the first chargeable date and on the subsequent chargeable dates.

### **108. Penalty :-**

Any person who contravenes or fails to comply with any requirement under paragraph (e) of section 104 shall be liable to a penalty of-

(a) 1,000, or

(b) twice the amount of tax payable in respect of the taxable inheritance to which the return relates,

whichever is the lesser.

Chapter II

General

**109. Amendment Of Section 46 (Overpayment Of Tax) Of Principal Act :-**

(1) Section 46 of the Principal Act is hereby amended-

(a) by the substitution of "at the rate of one per cent., or such other rate (if any) as stands prescribed by the Minister for Finance by regulations, for each month or part of a month from the date on which the payment was made, and income tax shall not be deductible on payment of interest under this section and such interest shall not be reckoned in computing income for the purposes of the Tax Acts" for ", without deduction of income tax, from the date on which the payment was made, at the same rate as that at which the tax would from time to time have carried interest if it were due and such payment had not been made", and

(b) by the insertion of the following subsection:

"(2) Every regulation made under this section shall be laid before Dáil Éireann as soon as may be after it is made and, if a resolution annulling the regulation is passed by Dáil Éireann within the next twenty-one days on which Dáil Éireann has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.",

and the said section 46, as so amended, is set out in the Table to this subsection.

TABLE

46.-(1) Where, on application to the Commissioners for relief under this section, it is proved to their satisfaction that an amount has been paid in excess of the liability for tax or for interest on tax, they shall give relief by way of repayment of the excess or otherwise as is reasonable and just; and any such repayment shall carry simple interest (not exceeding the amount of such excess) at

the rate of one per cent., or such other rate (if any) as stands prescribed by the Minister for Finance by regulations, for each month or part of a month from the date on which the payment was made, and income tax shall not be deductible on payment of interest under this section and such interest shall not be reckoned in computing income for the purposes of the Tax Acts.

(2) Every regulation made under this section shall be laid before Dáil Éireann as soon as may be after it is made and, if a resolution annulling the regulation is passed by Dáil Éireann within the next twenty-one days on which Dáil Éireann has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

(2) This section shall apply and have effect in relation to interest payable under the said section 46 for any month, or any part of a month, commencing on or after the date of the passing of this Act.

### **110. Amendment Of Section 61 (Payment Of Money Standing In Names Of Two Or More Persons) Of Principal Act :-**

Section 61 of the Principal Act is hereby amended by the insertion after subsection (7) of the following subsection:

"(8) This section shall not apply or have effect where the sum of money referred to in subsection (1) is lodged or deposited in the joint names of two persons, one of whom dies on or after the 30th day of January, 1985, and is at the time of his death the spouse of that other person."

### **PART 6 Miscellaneous**

### **111. Capital Services Redemption Account :-**

(1) In this section-

"the principal section" means section 22 of the Finance Act, 1950 ;

"the 1985 amending section" means section 66 of the Finance Act, 1985 ;

"the thirty-sixth additional annuity" means the sum charged on the Central Fund under subsection (4);

"the Minister", "the Account" and "capital services" have the same meanings respectively as they have in the principal section.

(2) In relation to the twenty-nine successive financial years commencing with the financial year ending on the 31st day of

December, 1986, subsection (4) of the 1985 amending section shall have effect with the substitution of "38,647,426" for "40,369,034".

(3) Subsection (6) of the 1985 amending section shall have effect with the substitution of "29,258,176" for "31,028,550".

(4) A sum of 41,472,176 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 December, 1986.

(5) The thirty-sixth additional annuity shall be paid into the Account in such manner and at such times in the relevant financial year as the Minister may determine.

(6) Any amount of the thirty-sixth additional annuity, not exceeding 31,876,450 in any financial year, may be applied towards defraying the interest on the public debt.

(7) The balance of the thirty-sixth additional annuity shall be applied in any one or more of the ways specified in subsection (6) of the principal section.

### **112. Application Of Age Of Majority Act, 1985 :-**

(1) Notwithstanding the provisions of subsection (4) of section 2 of the Age of Majority Act, 1985 , subsections (2) and (3) of the said section 2 shall, subject to subsection (2), apply and have effect for the purposes of the Income Tax Acts and any other statutory provision (within the meaning of the said Act) dealing with the imposition, repeal, remission, alteration or regulation of any tax or other duty under the care and management of the Revenue Commissioners and accordingly subparagraph (vii) of paragraph (b) of the said subsection (4) shall cease to have effect.

(2) Nothing in subsection (1) shall affect a claimants entitlement to a deduction under section 138A (inserted by the Finance Act, 1985 ) or section 141 (inserted by this Act) of the Income Tax Act, 1967 .

(3) This section shall be deemed to have come into force and shall take effect as on and from the 6th day of April, 1986, and so far as it relates to gift tax or inheritance tax shall have effect in relation to gifts and inheritances taken on or after that date.

### **113. Use Of Electronic Data Processing :-**

(1) In this section-  
"the Acts" means-

- (a) the Tax Acts,
  - (b) the Capital Gains Tax Acts,
  - (c) section 24 of the Value-Added Tax Act, 1972 ,
  - (d) the Capital Acquisitions Tax Act, 1976 , and the enactments amending or extending that Act, and
  - (e) Part VI of the Finance Act, 1983 ,
- and any instruments made thereunder;

"records" means documents which a person is obliged by any provision of the Acts to keep, to issue or to produce for inspection, and any other written or printed material;

"tax" means income tax, corporation tax, capital gains tax, value-added tax or residential property tax, as the case may be.

(2) Subject to the agreement of the Revenue Commissioners, records may be stored, maintained, transmitted, reproduced or communicated, as the case may be, by any electronic, photographic or other process approved of by the Revenue Commissioners, and in circumstances where the use of such process has been agreed by them and subject to such conditions as they may impose.

(3) Where, in pursuance of subsection (2), records are preserved by electronic, photographic or other process, a statement contained in a document produced by any such process shall, subject to the rules of court, be admissible in evidence in any proceedings, whether civil or criminal, to the same extent as the records themselves.

(4) Notwithstanding anything in the Tax Acts, duplicates of assessments need not be made, transmitted or delivered.

(5) The entering by an inspector or other authorised officer of details of an assessment and the tax charged therein in an electronic, photographic or other record from which the Collector-General may extract such details by electronic, photographic or other process shall constitute transmission of such details by the inspector or other authorised officer to the Collector-General.

(6) In any proceedings in the Circuit Court, the District Court or the High Court for or in relation to the recovery of any tax, a certificate signed by the Collector-General or other authorised officer certifying that, before the institution of proceedings, a stated sum of tax as so transmitted became due and payable by the defendant-

- (a) (i) under an assessment which had become final and conclusive,
- (ii) under the provisions of section 429 (4) (inserted by the Finance Act, 1971) of the Income Tax Act, 1967 , or
- (iii) under the provisions relating to the specified amount of tax

within the meaning of section 30 of the Finance Act, 1976 ,  
and

(b) that demand for the payment of the tax has been duly made, shall be prima facie evidence, until the contrary has been proved, of those facts and a certificate certifying as aforesaid and purporting to be signed by the Collector-General or other authorised officer may be tendered in evidence without proof and shall be deemed, until the contrary is proved, to have been signed by the Collector-General or other authorised officer.

#### **114. Amendment Of Provisions Relating To Payment Of Interest On Tax Overpaid :-**

(1) Section 429 of the Income Tax Act, 1967 , is hereby amended-  
(a) by the substitution, in paragraph (a) of the proviso to subsection (4), of "at the rate of one per cent., or such other rate (if any) as stands prescribed by the Minister for Finance by regulations, for each month or part of a month" for "at the rate provided by section 550(1)", and

(b) by the insertion of the following subsection after subsection (6):

(7) Every regulation made under this section shall be laid before Dáil Éireann as soon as may be after it is made and, if a resolution annulling the regulation is passed by Dáil Éireann within the next twenty-one days on which Dáil Éireann has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder."

and the said paragraph (a), as so amended, is set out in the Table to this subsection.

#### **TABLE**

(a) if too much tax has been paid, the amount or amounts overpaid shall, save where the interest amounts to less than 1, be repaid with interest at the rate of one per cent., or such other rate (if any) as stands prescribed by the Minister for Finance by regulations, for each month or part of a month from the date or dates of payment of the amount or amounts giving rise to the overpayment to the date on which the repayment is made; or

(2) Section 30 of the Finance Act, 1976 , is hereby amended-

(a) by the substitution, in subsection (4), of "at the rate of one per cent., or such other rate (if any) as stands prescribed by the Minister for Finance by regulations, for each month or part of a month" for "at the rate or rates in force by virtue of section 550 (1)

of the Income Tax Act, 1967 ,", and

(b) by the insertion of the following subsection after subsection (8):  
"(9) Every regulation made under this section shall be laid before Dáil Éireann as soon as may be after it is made and, if a resolution annulling the regulation is passed by Dáil Éireann within the next twenty-one days on which Dáil Éireann has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.",

and the said subsection (4) (apart from the proviso thereto), as so amended, is set out in the Table to this subsection.

#### TABLE

(4) Where an overpayment of tax is to be repaid under subsection (3), the overpayment shall carry interest at the rate of one per cent., or such other rate (if any) as stands prescribed by the Minister for Finance by regulations, for each month or part of a month for the period from the date or dates of the payment of the amount or amounts giving rise to the overpayment, as the case may require, to the date on which the repayment is made:

(3) Section 107 of the Finance Act, 1983 , is hereby amended-

(a) by the substitution, in subsection (2), of "at the rate of one per cent., or such other rate (if any) as stands prescribed by the Minister for Finance by regulations," for "at the rate of 1.25 per cent.", and

(b) by the insertion of the following subsection after subsection (2):  
"(3) Every regulation made under this section shall be laid before Dáil Éireann as soon as may be after it is made and, if a resolution annulling the regulation is passed by Dáil Éireann within the next twenty-one days on which Dáil Éireann has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.",

and the said subsection (2), as so amended, is set out in the Table to this subsection.

#### TABLE

(2) Where, under this section, any amount falls to be repaid or retained, there shall be added to such amount simple interest at the rate of one per cent., or such other rate (if any) as stands prescribed by the Minister for Finance by regulations, of the amount to be repaid or retained for each month or part of a month from the date of the payment of the excess giving rise to the repayment to the date of the repayment or retention as the case

may be. Income tax shall not be deductible on payment of interest under this subsection and such interest shall not be reckoned in computing income for the purposes of the Tax Acts.

(4) This section shall apply and have effect in relation to interest payable under the said paragraph (a) and the said subsections (4) and (2) for any month, or any part of a month, commencing on or after the date of the passing of this Act.

### **115. Liability To Tax, Etc., Of Holder Of Fixed Charge On Book Debts Of Company :-**

(1) Where a person holds a fixed charge (being a fixed charge which is created on or after the passing of this Act) on the book debts of a company (within the meaning of the Companies Act, 1963 ) and the company fails to pay any relevant amount for which it is liable, then the said person shall, on being notified accordingly in writing by the Revenue Commissioners, become liable to pay such relevant amount on due demand, and on neglect or refusal of payment may be proceeded against in like manner as any other defaulter:

Provided that-

(i) the amount or aggregate amount which the person shall be liable to pay in relation to a company in accordance with this section shall not exceed the amount or aggregate amount which that person has, while the fixed charge on book debts in relation to the said company is in existence, received, directly or indirectly, from that company in payment or in part payment of any debts due by the company to that person, and

(ii) this section shall not apply to any amounts received by the holder of the fixed charge from the company before the date on which he is notified in writing by the Revenue Commissioners that he is liable by reason of this section for payment of a relevant amount due by the company.

(2) In this section "relevant amount" means any amount which the company is liable to remit-

(a) under Chapter IV of Part V of the Income Tax Act, 1967 , and

(b) under the Value-Added Tax Act, 1972 .

### **116. Amendment Of Section 161 (Inspectors Of Taxes) Of Income Tax Act, 1967 :-**

(1) The Income Tax Act, 1967 , is hereby amended by the substitution of the following section for section 161:

"161.-(1) The Revenue Commissioners may appoint inspectors of taxes, and all such inspectors and all other officers or persons employed in the execution of this Act shall observe and follow the orders, instructions and directions of the Revenue Commissioners.

(2) The Revenue Commissioners may revoke an appointment made by them under this section."

(2) Inspectors of taxes who have been appointed by the Minister for Finance before the passing of this Act shall be deemed to have been appointed by the Revenue Commissioners.

### **117. Care And Management Of Taxes And Duties :-**

All taxes and duties (except the excise duties on mechanically propelled vehicles imposed by section 77 ) imposed by this Act are hereby placed under the care and management of the Revenue Commissioners.

### **118. Short Title, Construction And Commencement :-**

(1) This Act may be cited as the Finance Act, 1986.

(2) Part I (so far as relating to income tax) shall be construed together with the Income Tax Acts and (so far as relating to corporation tax) shall be construed together with the Corporation Tax Acts and (so far as relating to capital gains tax) shall be construed together with the Capital Gains Tax Acts.

(3) Part II (so far as relating to customs) shall be construed together with the Customs Acts and (so far as relating to duties of excise) shall be construed together with the statutes which relate to the duties of excise and to the management of those duties.

(4) Part III shall be construed together with the Value-Added Tax Acts, 1972 to 1985, and may be cited together therewith as the Value-Added Tax Acts, 1972 to 1986.

(5) Part IV shall be construed together with the Stamp Act, 1891, and the enactments amending or extending that Act and (so far as relating to corporation tax) shall be construed together with the Corporation Tax Acts.

(6) Part V shall be construed together with the Capital Acquisitions Tax Act, 1976 , and the enactments amending or extending that Act.

(7) Part VI (so far as relating to income tax) shall be construed together with the Income Tax Acts and (so far as relating to corporation tax) shall be construed together with the Corporation Tax Acts and (so far as relating to capital gains tax) shall be

construed together with the Capital Gains Tax Acts and (so far as relating to customs) shall be construed together with the Customs Acts and (so far as relating to duties of excise) shall be construed together with the statutes which relate to the duties of excise and to the management of those duties and (so far as relating to value-added tax) shall be construed together with the Value-Added Tax Acts, 1972 to 1986, and (so far as relating to stamp duties) shall be construed together with the Stamp Act, 1891, and the enactments amending or extending that Act and (so far as relating to gift tax or inheritance tax) shall be construed together with the Capital Acquisitions Tax Act, 1976 , and the enactments amending or extending that Act and (so far as relating to residential property tax) shall be construed together with Part VI of the Finance Act, 1983 .

(8) Part I shall, save as is otherwise expressly provided therein, be deemed to have come into force and shall take effect as on and from the 6th day of April, 1986.

(9) In Part III , sections 79 , 83 (a) and 85 shall be deemed to have come into force and shall take effect as on and from the 1st day of March, 1986, and sections 83 (b) and 89 to 91 (other than paragraph (a) of section 91 ) shall come into force on the 1st day of July, 1986.

(10) Any reference in this Act to any other enactment shall, except so far as the context otherwise requires, be construed as a reference to that enactment as amended by or under any other enactment including this Act.

(11) In this Act, a reference to a Part, section or Schedule is to a Part or section of, or Schedule to, this Act, unless it is indicated that reference to some other enactment is intended.

(12) In this Act, a reference to a subsection, paragraph or subparagraph is to the subsection, paragraph or subparagraph of the provision (including a Schedule) in which the reference occurs, unless it is indicated that reference to some other provision is intended.

## **SCHEDULE 1**

### FIRST SCHEDULE

#### Amendment of Enactments

##### Section 3 .

##### Amendments Consequential on Changes in Personal Reliefs

1. The Income Tax Act, 1967 , is hereby amended in accordance with the following provisions:

(a) in section 138-

(i) in paragraph (a), by the substitution of "4,000" for "3,800" (inserted by the

Finance Act, 1985 ),

(ii) in paragraph (b), by the substitution of "2,500" for "2,400" (inserted by the Finance Act, 1985 ) and of "4,000" for "3,800" (inserted by the Finance Act, 1985 ), and

(iii) in paragraph (c), by the substitution of "2,000" for "1,900" (inserted by the Finance Act, 1985 ),

(b) in section 138A (2) (inserted by the Finance Act, 1985 ), by the substitution of "1,500" for "1,400" and of "2,000" for "1,900", and

(c) in section 138B (1), by the substitution of "700" for "600" (inserted by the Finance Act, 1981 ) in each place where it occurs.

2. Section 8 of the Finance Act, 1974 , is hereby amended, in subsection (1), by the substitution of "400" for "200" (inserted by the Finance Act, 1982 ) and of "200" for "100" (inserted by the Finance Act, 1982 ).

## **SCHEDULE 2**

### **SECOND SCHEDULE**

#### **Approved Share Option Schemes**

##### **Section 10 .**

##### **Interpretation**

1.-(1) In this Schedule-

"associated company" has the same meaning as in section 102 of the Corporation Tax Act, 1976 ;

"control" has the same meaning as in section 158 of the Corporation Tax Act, 1976 ;

"full-time director" has the same meaning as in section 8 of the Finance Act, 1978 ;

"grantor" has the meaning given by paragraph 2 (1);

"group scheme" and, in relation to such a scheme, "participating company" have the meanings given by paragraph 2;

"market value" shall be construed in accordance with section 49 of the Capital Gains Tax Act, 1975 ;

"qualifying employee" in relation to a company, means an employee of the company (other than one who is a director of the company or, in the case of a group scheme, of a participating company) who is required, under the terms of his employment, to work for the company for at least twenty hours a week;

"scheme shares" has the meaning given by paragraph 6; and

"shares" includes stock.

(2) Subsection (3) of section 103 of the Corporation Tax Act, 1976 , shall have effect in a case where the scheme is a group scheme, with the substitution of a reference to all the participating companies for the first reference to the company in paragraph (ii) of the proviso to that subsection.

(3) Section 157 of the Corporation Tax Act, 1976 , shall apply for the purposes of this Schedule.

(4) For the purposes of this Schedule a company is a member of a consortium owning another company if it is one of a number of companies which between them beneficially own not less than three-quarters of the other company's ordinary share capital and each of which beneficially owns not less than one-twentieth of that capital.

##### **Approval of schemes**

2.-(1) On the application of a body corporate (in this Schedule referred to as "the grantor") which has established a share option scheme, the Revenue Commissioners shall approve the scheme if they are satisfied that it fulfils the requirements of this Schedule, but shall not approve it if it appears to them that

there are features of the scheme which are neither essential nor reasonably incidental to the purpose of providing for employees and directors benefits in the nature of rights to acquire shares.

(2) An application under subparagraph (1) shall be made in writing and contain such particulars and be supported by such evidence as the Revenue Commissioners may require.

(3) Where the grantor has control of another company or companies, the scheme may be expressed to extend to all or any of the companies of which it has control and in this Schedule a scheme which is expressed so to extend is referred to as a "group scheme".

(4) In relation to a group scheme "participating company" means the grantor or any other company to which for the time being the scheme is expressed to extend.

3.-(1) If, at any time after the Revenue Commissioners have approved a scheme, any of the requirements of this Schedule cease to be satisfied or the grantor fails to provide information requested by the Revenue Commissioners under paragraph 14, the Revenue Commissioners may withdraw the approval with effect from that time or such later time as the Revenue Commissioners may specify.

(2) If an alteration is made in the scheme at any time after the Revenue Commissioners have approved the scheme, the approval shall not have effect after the date of the alteration unless the Revenue Commissioners have approved the alteration.

4. If the grantor is aggrieved by-

(a) the failure of the Revenue Commissioners to approve the scheme or to approve an alteration in the scheme, or

(b) the withdrawal of approval,

it may, by notice in writing given to the Revenue Commissioners within thirty days from the date on which it is notified of the Revenue Commissioners decision, require the matter to be determined by the Appeal Commissioners, and the Appeal Commissioners shall hear and determine the matter in like manner as an appeal made to them against an assessment and all the provisions of the Income Tax Acts relating to such an appeal (including the provisions relating to the rehearing of an appeal and to the statement of a case for the opinion of the High Court on a point of law) shall apply accordingly with any necessary modifications.

Eligibility

5.-(1) The scheme shall not provide for any person to be eligible to participate in it, that is to say, to obtain and exercise rights under it-

(a) unless he is a full-time director or a qualifying employee of the grantor or, in the case of a group scheme, of a participating company;

(b) at any time when he has, or has within the preceding twelve months had, a material interest in a close company within the meaning of Part X of the Corporation Tax Act, 1976, which is-

(i) a company the shares of which may be acquired pursuant to the exercise of rights obtained under the scheme; or

(ii) a company which has control of such a company or is a member of a consortium which owns such a company.

(2) Notwithstanding subparagraph (1) (a) the scheme may provide that a person may exercise rights obtained under it despite having ceased to be a full-time director or a qualifying employee.

(3) In determining whether a company is a close company for the purposes of subparagraph (1), sections 94 (1) (a) and 95 of the Corporation Tax Act, 1976, shall be disregarded.

(4) In determining for the purposes of this paragraph whether a person has or has

had a material interest in a company, subsection (6) of section 97 of the Corporation Tax Act, 1976 , and paragraph (ii) of the proviso to section 103 (3) of that Act shall have effect with the substitution for the references in those provisions to 5 per cent. of references to 10 per cent.

Scheme shares

6. The scheme shall provide for directors and employees to obtain rights to acquire shares (in this Schedule referred to as "scheme shares") which satisfy the requirements of paragraphs 7 to 11.

7. Scheme shares shall form part of the ordinary share capital of-

(a) the grantor; or

(b) a company which has control of the grantor; or

(c) a company which either is, or has control of, a company which-

(i) is a member of a consortium owning either the grantor or a company having control of the grantor; and

(ii) beneficially owns not less than three-twentieths of the ordinary share capital of the company so owned.

8. Scheme shares shall be-

(a) shares of a class quoted on a stock exchange; or

(b) shares in a company which is not under the control of another company; or

(c) shares in a company which is under the control of a company (other than a company which is, or would if resident in the State be, a close company within the meaning of section 94 of the Corporation Tax Act, 1976 ) whose shares are quoted on a stock exchange.

9. Scheme shares shall be-

(a) fully paid up;

(b) not redeemable; and

(c) not subject to any restrictions other than restrictions which attach to all shares of the same class.

10.-(1) In determining for the purposes of paragraph 9 (c) whether scheme shares which are or are to be acquired by any person are subject to any restrictions, there shall be regarded as a restriction attaching to the shares any contract, agreement, arrangement or condition by which his freedom to dispose of the shares or of any interest in them or of the proceeds of their sale or to exercise any right conferred by them is restricted or by which such a disposal or exercise may result in any disadvantage to him or to a person connected with him.

(2) Subparagraph (1) does not apply to so much of any contract, agreement, arrangement or condition as contains provisions similar in purpose and effect to any of the provisions of the Model Rules set out in the Model Code for Securities Transactions by Directors of Listed Companies issued by the authority of the Council of the Stock Exchange in November, 1984.

11.-Except where scheme shares are in a company whose ordinary share capital consists of shares of one class only, the majority of the issued shares of the same class shall be held by person other than-

(a) persons who acquired their shares in pursuance of a right conferred on them or an opportunity afforded to them as a director or employee of the grantor or any other company and not in pursuance of an offer to the public;

(b) trustees holding shares on behalf of persons who acquired their beneficial interests in the shares as mentioned in paragraph (a); and

(c) in a case where the shares fall within paragraph 8 (c) and do not fall within paragraph 8 (a), companies which have control of the company whose shares are in question or of which that company is an associated company.

Transfer of rights

12.- The scheme shall not permit any person obtaining rights under it to transfer any of them but may provide that if such a person dies before exercising them, they may be exercised after, but not later than one year after, the date of his death.

Share price

13.- The price at which scheme shares may be acquired by the exercise of a right obtained under the scheme shall be stated at the time the right is obtained and shall not be less than the market value of shares of the same class at that time or, if the Revenue Commissioners and the grantor agree in writing, at such earlier time or times as may be provided in the agreement, but the scheme-

(a) may provide for such variation of the price so stated as may be necessary to take account of any variation in the share capital of which the scheme shares form part, and

(b) shall provide that, if it subsequently transpires that the price so stated is less than the market value of the shares of the same class at that time, the said price shall be increased to that market value.

Information

14.- The Revenue Commissioners may by notice in writing require any person to furnish them, within such time as the Revenue Commissioners may direct (not being less than thirty days), with such information as the Revenue Commissioners think necessary for the performance of their functions under this Schedule, and as the person to whom the notice is addressed has or can reasonably obtain, including in particular information-

(a) to enable the Revenue Commissioners to determine-

(i) whether to approve a scheme or withdraw an approval already given; or

(ii) the liability to tax, including capital gains tax, of any person who has participated in a scheme; and

(b) in relation to the administration of a scheme and any alternation of the terms of a scheme.

### **SCHEDULE 3**

#### **THIRD SCHEDULE**

Tax Appropriate to the Profits or Gains from Farming

Section 16 .

1. "Tax appropriate to the profits or gains from farming", in relation to an individual who is chargeable to income tax for a year of assessment in respect of profits or gains from farming, means the amount of tax determined by the formula- where-

A is, subject to paragraph 2, the amount of the profits or gains from farming in respect of which the individual is chargeable to tax for that year of assessment (including in the case of a husband who is chargeable to tax for the year of assessment in accordance with the provisions of section 194 (inserted by the Finance Act, 1980 ) of the Income Tax Act, 1967 , any such profits or gains of his wife),

B is the individuals income, other than income included in A, for that year from all sources (including in the case of a husband who is chargeable to tax in accordance with the provisions of the said section 194, any such income of his wife) after deducting from the income from each source the aggregate of the amounts specified in paragraph 3, and

C is the amount of income tax chargeable on the individuals total income for that year before taking account of any relief provided by section 361 of the Income Tax Act, 1967 , and section 16 .

2. In determining A in paragraph 1, the amount of profits or gains from farming shall be reduced by the aggregate of-

(a) so much of any capital allowance as is to be taken into account in charging the profits or gains to income tax, and

(b) so much of any loss within the meaning of Chapter I of Part XIX of the Income Tax Act, 1967, as is to be, or is regarded as being, deducted from or set off against those profits or gains.

3. In determining B in paragraph 1, the amount to be deducted from the income from a source, in arriving at the amount of income from that source to be included in B is the aggregate of-

(a) so much of the following amounts as is to be deducted from or set off against that income, or as is to be allowed in charging that income to income tax-

(i) any deduction in respect of expenses,

(ii) any deduction in respect of contributions, and

(iii) any capital allowance, and

(b) so much of any loss within the meaning of Chapter I of Part XIX of the Income Tax Act, 1967, as is to be, or is regarded as being, deducted from or set off against the income from that source.

4. In this Schedule "capital allowance", "deduction in respect of expenses" and "deduction in respect of contributions" have the same meanings as in section 16 of the Finance Act, 1976, and "farming" has the same meaning as in Chapter II of Part I of the Finance Act, 1974.

#### **SCHEDULE 4**

##### FOURTH SCHEDULE

Urban Renewal: Relief from Income Tax and Corporation Tax

Section 41.

##### PART I

Interpretation

In this Schedule-

"thoroughfare" includes any road, street, lane, place, quay, terrace, row, square, hill, parade, diamond, court, bridge, channel and river;

a reference to a line drawn along any thoroughfare is a reference to a line drawn along the centre of that thoroughfare;

a reference to a projection of any thoroughfare is a reference to a projection of a line drawn along the centre of that thoroughfare;

a reference to the point where any thoroughfare or projection of any thoroughfare intersects or joins any other thoroughfare or projection of a thoroughfare is a reference to the point where a line drawn along the centre of one thoroughfare, or in the case of a projection of a thoroughfare, along the projection, would be intersected or joined by a line drawn along the centre of the other thoroughfare or, in the case of another projection of a thoroughfare, along the other projection;

a reference to a point where any thoroughfare or projection of a thoroughfare intersects or joins a boundary is a reference to the point where a line drawn along the centre of such thoroughfare or, in the case of a projection of a thoroughfare, along the projection would intersect or join such boundary.

##### PART II

Description of Custom House Docks Area

That part of the county borough of Dublin bounded by a line commencing at the point (hereafter in this description referred to as "the first-mentioned point") where a line drawn along the westerly projection of the northern boundary of Custom House Quay would be intersected by a line drawn along Memorial Road, then

continuing in a northerly direction along Memorial Road and Amiens Street to the point where it joins Sheriff Street Lower, then continuing, initially in an easterly direction, along Sheriff Street Lower and Commons Street to the point where it intersects the easterly projection of the northern boundary of Custom House Quay, and then continuing in a westerly direction along that projection and that boundary and the westerly projection of that boundary to the first-mentioned point.

### PART III

Description of Designated Areas of Dublin (other than the Custom House Docks Area)

#### Quays

That part of the county borough of Dublin bounded by a line commencing at the point (hereafter in this description referred to as "the first-mentioned point") where the northerly projection of Prices Lane intersects the River Liffey, then continuing in a southerly direction along the said projection and Prices Lane to the point where it joins Fleet Street, then continuing in a westerly direction along Fleet Street, Temple Bar and Essex Street East to the point where it joins Crane Lane, then continuing along Crane Lane to the point where it joins Dame Street, then continuing in a westerly direction along Dame Street and Cork Hill to the point where it joins Lord Edward Street, then continuing along Lord Edward Street, Christ-church Place and Nicholas Street to the point where it joins Back Lane, then continuing along Back Lane, Cornmarket, Bridge Street Upper, Wormwood Gate, Mullinahack, Oliver Bond Street and Marshal Lane to the point where it intersects Marshalsea Lane, then continuing, initially in a northerly direction, along Marshalsea Lane to the point where it joins Bonham Street, then continuing in a westerly direction along Bonham Street to the point where it joins Watling Street, then continuing in a northerly direction along Watling Street and Rory O'Moore Bridge to the point where it intersects the River Liffey, then continuing in a westerly direction along the River Liffey to the point where it intersects the southerly projection (hereafter in this description referred to as "the second-mentioned projection") of Liffey Street West, then continuing in a northerly direction along the second-mentioned projection and Liffey Street West to the point where it joins Benburb Street, then continuing in an easterly direction along Benburb Street to the point where it joins Queen Street, then continuing in a northerly direction along Queen Street to the point where it joins Arran Quay Terrace, then continuing in an easterly direction along Arran Quay Terrace and the easterly projection of Arran Quay Terrace to the point where it intersects the north-westerly projection (hereafter in this description referred to as "the third-mentioned projection") of Phoenix Street North, then continuing in an easterly direction along the third-mentioned projection, Phoenix Street North and Hammond Lane to the point where it joins Church Street, then continuing in a northerly direction along Church Street to the point where it joins Chancery Street, then continuing in an easterly direction along Chancery Street to the point where it joins Arran Street East, then continuing in a southerly direction along Arran Street East to the point where it joins Strand Street Little, then continuing along Strand Street Little and Strand Street Great to the point where it joins Liffey Street Lower, then continuing in a northerly direction along Liffey Street Lower to the point where it joins the Lotts, then continuing along the Lotts to the point where it joins Williams Row, then continuing in a southerly direction along Williams Row and the southerly projection of Williams Row to the point where it intersects the River Liffey, then continuing in a westerly direction along the River Liffey to the first-mentioned point.

North Inner-City

That part of the county borough of Dublin bounded by a line commencing at the point (hereafter in this description referred to as "the first-mentioned point") where Abbey Street Lower intersects Marlborough Street, then continuing in a northerly direction along Marlborough Street to the point where it joins Parnell Street, then continuing in a south-westerly direction along Parnell Street to the point where it joins Cavendish Row, then continuing along Cavendish Row, Parnell Square East and Frederick Street North to the point where it joins Hardwicke Street, then continuing along Hardwicke Street to the point where it joins Hardwicke Place, then continuing in a northerly direction along Hardwicke Place to the point where it joins Dorset Street Lower, then continuing along Dorset Street Lower to the point where it joins Gardiner Street Upper, then continuing along Gardiner Street Upper to the point where it joins Sherrard Street Upper, then continuing along Sherrard Street Upper to the point where it joins the North Circular Road, then continuing in an easterly direction along the North Circular Road to the point where it joins Fitzgibbon Lane, then continuing in a south-easterly direction along Fitzgibbon Lane to the point where it joins Fitzgibbon Street, then continuing in a north-easterly direction along Fitzgibbon Street to the point where it joins Charles Lane, then continuing along Charles Lane to the point where it joins Charles Street Great, then continuing in a south-westerly direction along Charles Street Great to the point where it intersects the north-westerly projection of the south-western boundary of Matt Talbot Court, then continuing in a south-easterly direction along the said projection, the said south-western boundary and the south-easterly projection of the said south-western boundary to the point where it joins the north-western boundary of the bus depot (Córas Iompair Éireann), then continuing in a south-westerly direction along the said north-western boundary to the point where it intersects the north-eastern boundary of Mountjoy Place, then continuing in a south-easterly direction along the said north-eastern boundary and the former street known as Huttons Place to the point where it joins Summerhill, then continuing in a south-westerly direction along Summerhill to the point where it joins the stepped lane connecting Summerhill with Gloucester Place Upper, then continuing in a south-westerly direction along Gloucester Place Upper to the point where it joins Gloucester Place, then continuing in a southerly direction along Gloucester Place, Gloucester Diamond, Gloucester Place Lower and Corporation Street, then continuing, initially in a southerly direction, along Store Street and the part of Store Street on the north-western side of Busáras to the point where it joins Beresford Place, then continuing in a westerly direction along Beresford Place to the point where it joins Abbey Street Lower, then continuing along Abbey Street Lower to the first-mentioned point.

#### Henrietta Street

That part of the county borough of Dublin bounded by a line commencing at the point (hereafter in this description referred to as "the first-mentioned point") where the north-westerly projection of Henrietta Lane intersects the eastern boundary of the Kings Inns, then continuing, initially in a south-easterly direction, along the said projection, Henrietta Lane and Henrietta Place to the point where it intersects the south-easterly projection (hereafter in this description referred to as "the second-mentioned projection") of the south-western boundaries of numbers 11, 12, 13, 14 and 15 Henrietta Street, then continuing in a north-westerly direction along the second-mentioned projection, the said south-western boundaries and the north-westerly projection (hereafter in this description referred to as "the last-mentioned projection") of the said south-western boundaries to the point where the last-mentioned projection intersects the eastern boundary of the Registry of Deeds, then continuing in a northerly direction along the eastern boundary of the Registry

of Deeds and of the Kings Inns to the first-mentioned point.

#### PART IV

#### Description of Designated Areas of Cork

##### Inner-City

That part of the county borough of Cork bounded by a line commencing at the point (hereafter in this description referred to as "the first-mentioned point") where St. Vincents Bridge joins Grenville Place, then continuing in a south-westerly direction along Grenville Place, Prospect Row and Woods Street to the point where the southerly projection of Woods Street intersects the south channel of the River Lee, then continuing, initially in an easterly direction, along the said channel to the point where it joins the northerly projection (hereafter in this description referred to as "the second-mentioned projection") of Sharman Crawford Street, then continuing in a southerly direction along the second-mentioned projection and Sharman Crawford Street to the point where it joins Bishop Street, then continuing in an easterly direction along Bishop Street to the point where it joins Dean Street, then continuing along Dean Street to the point where it joins Vicar Street, then continuing along Vicar Street to the point where it joins Barrack Street, then continuing in a north-easterly direction along Barrack Street to the point where it joins Reeds Square, then continuing along Reeds Square to the point where it joins Industry Street, then continuing in a north-easterly direction along Industry Street to the point where it joins Evergreen Street, then continuing in a south-easterly direction along Evergreen Street to the point where it joins Abbey Street, then continuing along Abbey Street and Douglas Street to the point where it joins Nicholas Street, then continuing along Nicholas Street to the point where it joins Evergreen Street, then continuing in a south-easterly direction along Evergreen Street to the point where it joins Quaker Road, then continuing along Quaker Road to the point where it joins Summer Hill South, then continuing in a northerly direction along Summer Hill South to the point where it joins Douglas Street, then continuing in a north-westerly direction along Douglas Street to the point where it joins Langford Row, then continuing along Langford Row and Infirmary Road to the point where it joins South Terrace, then continuing along South Terrace to the point where it joins Cotters Street, then continuing along Cotters Street to the point where it joins Stable Lane, then continuing along Stable Lane to the point where it joins Copley Street, then continuing in a westerly direction along Copley Street and the westerly projection (hereafter in this description referred to as "the third-mentioned projection") of Copley Street to the point where the third-mentioned projection intersects the south channel of the River Lee, then continuing, initially in a south-westerly direction, along the said channel to the point where it intersects Clarkes Bridge, then continuing in a northerly direction along Clarkes Bridge and Wandesford Street to the point where it joins Hanover Street, then continuing in an easterly direction along Hanover Street to the point where it joins South Main Street, then continuing in a northerly direction along South Main Street to the point where it joins Tobin Street, then continuing along Tobin Street to the point where it joins Grand Parade, then continuing in a northerly direction along Grand Parade to the point where it joins St. Augustine Street, then continuing along St. Augustine Street to the point where it joins South Main Street, then continuing in a northerly direction along South Main Street to the point where it joins Liberty Street, then continuing in a westerly direction along Liberty Street to the point where it joins Grattan Street, then continuing in a northerly direction along Grattan Street and its projection (hereafter in this description referred to as "the fourth-mentioned projection") to the point where the fourth-mentioned projection joins the north channel of the River Lee, then continuing in an easterly direction along that channel

to the point where it joins the southerly projection of Ferry Lane, then continuing in a northerly direction along that southerly projection and Ferry Lane to the point where it joins Dominick Street, then continuing in a westerly direction along Dominick Street to the point where it joins Francis Street, then continuing in a northerly direction along Francis Street to the point where it joins John Redmond Street, then continuing in a westerly direction along John Redmond Street to the point where it joins Exchange Street, then continuing along Exchange Street to the point where it joins Church Street, then continuing in a westerly direction along Church Street to the point where it joins Shandon Street, then continuing in a southerly direction along Shandon Street to the point where it joins Cattle Market Avenue, then continuing along Cattle Market Avenue to the point where it first joins Old Market Place, then continuing in a southerly direction along Old Market Place to the point where it joins Blarney Street, then continuing in a westerly direction along Blarney Street to the point where it joins Rock Villas, then continuing, initially in a southerly direction, along Rock Villas and the stepped lane connecting Rock Villas to Rock Cottages to the point where it joins Rock Cottages, then continuing, initially in an easterly direction, along Rock Cottages and Crispins Lane to the point where it joins North Mall, then continuing in a westerly direction along North Mall to the point where it joins St. Vincents Bridge, then continuing in a southerly direction along St. Vincents Bridge to the first-mentioned point.

#### Blackpool

That part of the county borough of Cork bounded by a line commencing at the point (hereafter in this description referred to as "the first-mentioned point") where Pophams Road joins Commons Road, then continuing, initially in a southerly direction, along Commons Road and Blackpool Bridge to the point where it joins Thomas Davis Street, then continuing in a northerly direction along Thomas Davis Street, Dublin Street and Redforge Road to the point (hereafter in this description referred to as "the last-mentioned point") where the westerly projection of the northern boundary of number 1 Dublin Hill Lower intersects Redforge Road, then continuing in a westerly direction along a line connecting the last-mentioned point to the first-mentioned point.

#### PART V

##### Description of Designated Area of Limerick

That part of the county borough of Limerick bounded by a line commencing at the point (hereafter in this description referred to as "the first-mentioned point") where Arthurs Quay joins Francis Street, then continuing in a north-westerly direction along the north-westerly projection of Francis Street to the point where it intersects the River Shannon, then continuing initially in a northerly direction along the River Shannon to the point where it joins the south-westerly projection (hereafter in this description referred to as "the second-mentioned projection") of the south-eastern wall of King Johns Castle, then continuing in a north-easterly direction along the second-mentioned projection and that wall to the point where it joins the north-westerly projection (hereafter in this description referred to as "the third-mentioned projection") of Curragour Avenue, then continuing in a south-easterly direction along the third-mentioned projection and Curragour Avenue to the point where it joins Newgate Lane, then continuing in a south-westerly direction along Newgate Lane to the point where it joins Crosbie Row, then continuing in a south-easterly direction along Crosbie Row to the point where it joins St. Augustine Place, then continuing in a south-westerly direction along St. Augustine Place to the point where it joins Merchants Quay, then continuing along Merchants Quay to the point where it joins Bridge Street, then continuing in a southerly direction along Bridge Street and Matthew Bridge to the point where it

joins Bank Place, then continuing, initially in a north-easterly direction, along Bank Place, Charlottes Quay and Lock Quay to the point where it joins Curry Lane, then continuing in a southerly direction along Curry Lane to the point where it first joins Old Clare Street, then continuing along Old Clare Street to the point where it joins OSullivan's Place, then continuing along OSullivan's Place to the point where it joins Moores Lane, then continuing along Moores Lane to the point where it joins St. Lelia Street, then continuing in a southerly direction along St. Lelia Street to the point where it joins New Road, then continuing in a south-westerly direction along New Road to the point where it joins Johns Street, then continuing in a north-westerly direction along Johns Street to the point where it joins Church Street, then continuing along Church Street to the point where it joins Old Francis Street, then continuing in a north-westerly direction along Old Francis Street to the point where it joins Mungret Street, then continuing in a north-easterly direction along Mungret Street to the point where it joins the pedestrian way lying beside the north-eastern boundary of number 72 Mungret Street, then continuing in a north-westerly direction along that pedestrian way and its north-westerly projection to the point where it joins the south-eastern boundary of Tara Court, then continuing in a north-easterly direction along that boundary to the point where it joins the footpath lying along the northern boundaries of Tara Court and St. Michaels Court, then continuing along that footpath to the point where it joins Michael Street, then continuing in a south-westerly direction along Michael Street to the point where it joins Punchs Row, then continuing in an easterly direction along Punchs Row, to the point where it joins Carr Street, then continuing in a southerly direction along Carr Street to the point where it joins Ellen Street, then continuing along Ellen Street to the point where it joins Patrick Street, then continuing in a south-westerly direction along Patrick Street to the point where it joins Honans Quay, then continuing along Honans Quay to the point where it joins Arthurs Quay, then continuing along Arthurs Quay to the first-mentioned point.

#### PART VI

##### Description of Designated Area of Waterford

That part of the county borough of Waterford bounded by a line commencing at the point (hereafter in this description referred to as "the first-mentioned point") where Meaghers Quay joins Gladstone Street, then continuing in a southerly direction along Gladstone Street to the point where it joins OConnell Street, then continuing in a westerly direction along OConnell Street to the point where it joins Sargents Lane, then continuing in a southerly direction along Sargents Lane to the point where it joins Kings Terrace, then continuing, initially in a south-easterly direction, along Kings Terrace, Carrigeen Park and Stephens Street to the point where it joins Alexander Street, then continuing in an easterly direction along Alexander Street to the point where it joins Michael Street, then continuing in a northerly direction along Michael Street to the point where it joins Lady Lane, then continuing in an easterly direction along Lady Lane to the point where it joins Saint Francis Place, then continuing in a northerly direction along Saint Francis Place and Olaf Street to the point where it joins High Street, then continuing in a westerly direction along High Street and Blackfriars Street to the point where it joins Broad Street, then continuing in a northerly direction along Broad Street and Barronstrand Street to the point where it joins Meaghers Quay, then continuing in a westerly direction along Meaghers Quay to the first-mentioned point.

#### PART VII

##### Description of Designated Area of Galway

That part of the county borough of Galway bounded by a line commencing at the point (hereafter in this description referred to as "the first-mentioned point") where

the River Corrib intersects the south-westerly projection of Merchants Road Lower, then continuing, initially in a north-easterly direction, along that projection, Merchants Road Lower and Merchants Road to the point where Merchants Road joins Victoria Place, then continuing in a north-westerly direction along Victoria Place to its intersection with the north-easterly projection (hereafter in this description referred to as "the second-mentioned projection") of the south-eastern boundary of the Bank of Ireland (National Branch) building, then continuing, initially in a south-westerly direction, along the second-mentioned projection and that south-eastern boundary and the south-western and north-western boundaries of the bank car park to the point where it joins the south-western part of Ballalley Lane, then continuing in a north-westerly direction along Ballalley Lane to the point where it joins Williamsgate Street, then continuing, initially in a south-westerly direction, along Williamsgate Street and William Street to the point where it joins Abbeygate Street Lower, then continuing in a south-easterly direction along Abbeygate Street Lower to the point where it joins Middle Street, then continuing in a south-westerly direction along Middle Street to the point where it joins Cross Street Lower, then continuing in a north-westerly direction along Cross Street Lower to the point where it joins Quay Street, then continuing in a south-westerly direction along Quay Street and Wolfe Tone Bridge to the point where it intersects the River Corrib, then continuing in a south-easterly direction along the River Corrib to the first-mentioned point.

#### **SCHEDULE 5**

##### FIFTH SCHEDULE

Rates of Excise Duty on Tobacco Products

#### **SCHEDULE 6**

##### SIXTH SCHEDULE

Rates of Excise Duty on Cider and Perry

#### **SCHEDULE 7**

##### SEVENTH SCHEDULE

Rates of Excise Duty on Spirits

Section 66 .

Description of Spirits

Rate of Duty

Spirits of any description not mentioned hereinafter and imported mixtures and preparations containing spirits

19.522 per litre of alcohol in the spirits

Imported perfumed spirits entered in such manner as to indicate that the strength is not to be tested

17.765 per litre

Imported liqueurs, cordials, mixtures and other preparations in bottle entered in such manner as to indicate that the strength is not to be tested

15.031 per litre

#### **SCHEDULE 8**

##### EIGHTH SCHEDULE

Rates of Excise Duty on Wine and Made Wine Description of Wine and Made Wine

Rate of Duty

Still:

Of an actual alcoholic strength by volume not exceeding 15% vol 2.00 per litre  
Of an actual alcoholic strength by volume exceeding 15% vol Wine and Made Wine

whether still or sparkling of an actual alcoholic strength by volume exceeding 22% vol:

An additional duty for every 1% vol or fraction of 1% vol above 22% vol  
0.23 per litre 1 O.J. No. L145/1 of 13.6.1977.