

Budget 2019

Financial Resolutions

FINANCIAL RESOLUTION No. 1

EXCISE

Tobacco Products Tax

(1) THAT for the purposes of the tax charged by virtue of section 72 of the Finance Act 2005 (No. 5 of 2005), that Act be amended, with effect as on and from 10 October 2018, by substituting the following for Schedule 2 to that Act (as amended by section 49 of the Finance Act 2017 (No. 41 of 2017)):

“SCHEDULE 2

RATES OF TOBACCO PRODUCTS TAX (With effect as on and from 10 October 2018)

Description of Product	Rate of Tax
Cigarettes	Rate of tax at— (a) except where paragraph (b) applies, €327.10 per thousand together with an amount equal to 9.04 per cent of the price at which the cigarettes are sold by retail, or (b) €376.82 per thousand in respect of cigarettes sold by retail where the rate of tax would be less than that rate had the rate been calculated in accordance with paragraph (a).
Cigars	Rate of tax at €375.058 per kilogram.
Fine-cut tobacco for the rolling of cigarettes	Rate of tax at €360.827 per kilogram.
Other smoking tobacco	Rate of tax at €260.199 per kilogram.

”.

(2) IT is hereby declared that it is expedient in the public interest that this Resolution shall have statutory effect under the provisions of the Provisional Collection of Taxes Act 1927 (No. 7 of 1927).

FINANCIAL RESOLUTION No. 2

CAPITAL GAINS TAX

(1) THAT Chapter 2 of Part 20 of the Taxes Consolidation Act 1997 be amended, with effect from 10 October 2018, by substituting the following for sections 627 and 628:

“Charge to exit tax

627. (1) (a) In this section and in section 628—

‘designated area’, ‘exploration or exploitation activities’ and ‘exploration or exploitation rights’ have the same meanings respectively as in section 13;

‘Directive’ means Council Directive (EU) 2016/1164 of 12 July 2016 laying down rules against tax avoidance practices that directly affect the functioning of the internal market;

‘exploration or exploitation assets’ means assets used or intended for use in connection with exploration or exploitation activities carried on in the State or in a designated area;

‘market value’ means the amount for which an asset can be exchanged or mutual obligations can be settled between unconnected willing buyers and sellers in a direct transaction;

‘relevant event’ means one of the events referred to in subsection (2);

‘tax’ means corporation tax or capital gains tax chargeable by virtue of subsection (2);

‘the new assets’ and ‘the old assets’ have the meanings respectively assigned to them by section 597;

‘third country’ means a territory other than the State or another Member State;

‘transfer’, in relation to assets, means any transaction whereby (apart from the effect of this section) no liability to corporation tax or capital gains tax in respect of the assets, the subject of the transfer, arises, notwithstanding that those assets remain under the legal or economic ownership of the same entity.

(b) For the purposes of subsection (2), paragraph (c) of section 29(3) shall apply as if the reference in that paragraph to a trade were to a business and as if the references to a branch or agency were to a permanent establishment.

(c) A word or expression that is used in this section or section 628 and is also used in Article 5 of the Directive shall have the meaning in this section or section 628 that it has in that Article.

(2) For the purposes of the Capital Gains Tax Acts, a company shall be deemed to have disposed of the assets referred to in whichever of the following paragraphs is appropriate, other than assets excepted from this subsection by subsection (5), and to have immediately reacquired the assets at their market value (at the time of the occurrence of the event concerned) on the occurrence of any of the following events:

- (a) the company, being a company that is resident in a Member State (other than the State), transfers assets from a permanent establishment in the State to its head office or to a permanent establishment in another Member State or in a third country;
 - (b) the company, being a company that is resident in a Member State (other than the State), transfers a business (including the assets of the business) carried on by a permanent establishment of that company in the State to another Member State or to a third country; or
 - (c) the company ceases to be resident in the State and becomes resident in another Member State or in a third country.
- (3) (a) Tax shall, notwithstanding subsection (3) of section 28, be chargeable at the rate of 12.5 per cent in respect of chargeable gains accruing on a disposal of assets to which subsection (2) applies (in paragraph (b) referred to as a ‘deemed disposal of an asset’), but this is subject to paragraph (b).
- (b) A chargeable gain accruing on a deemed disposal of an asset arising from the occurrence of an event referred to in subsection (2) shall be chargeable at the rate specified in subsection (3) of section 28 where the event forms part of a transaction to dispose of the asset and the purpose of the transaction is to ensure the chargeable gain accruing on the disposal of the asset is charged to tax at the rate specified in paragraph (a) rather than the rate specified in subsection (3) of section 28.
 - (c) In this subsection ‘transaction’ has the meaning assigned to it by section 811C.
- (4) Section 597 shall not apply where a company referred to in subsection (2)(c)—
- (a) has disposed of the old assets, or of its interest in those assets, before the event referred to in subsection (2)(c), and
 - (b) acquires the new assets, or its interest in those assets, after that event,

unless the new assets are excepted from this subsection by subsection (5).

(5) Where at any time after the event referred to in paragraph (c) of subsection (2) the company referred to in that paragraph carries on a trade in the State through a permanent establishment—

- (a) any assets which, immediately after the event referred to in subsection (2)(c), are situated in the State and are used in or for the purposes of the trade, or are used or held for the purposes of the permanent establishment, shall be excepted from subsection (2), and
- (b) any new assets which, after that time, are so situated and are so used or so held shall be excepted from subsection (2),

and references in this subsection to assets situated in the State include references to exploration or exploitation assets and to exploration or exploitation rights.

(6) This section shall not apply to an asset—

- (a) which relates to the financing of securities,

- (b) which is given as security for a debt, or
- (c) where the transfer takes place in order to meet prudential capital requirements or for liquidity purposes,

where the asset is due to revert to the permanent establishment or the company, as the case may be, within 12 months of the transfer.

(7) Neither section 628A nor 629 shall be construed as having effect in relation to this section as it stands substituted by virtue of a resolution of Dáil Éireann passed on 9 October 2018.

Value of certain assets to be accepted for purposes of Capital Gains Tax Acts

628. Where exit tax is charged in a Member State (other than the State) in respect of an asset by virtue of Article 5(1) of the Directive, the value of that asset established under the law of that Member State for the purposes of that charge to tax shall be taken, for the purposes of the Capital Gains Tax Acts, as the acquisition cost of that asset unless that value does not reflect its market value.”.

(2) IT is hereby declared that it is expedient in the public interest that this Resolution shall have statutory effect under the provisions of the Provisional Collection of Taxes Act 1927 (No. 7 of 1927).

FINANCIAL RESOLUTION No. 3

VALUE-ADDED TAX

(1) THAT the 9 per cent rate of value-added tax which is provided for in subsection (1)(ca) of section 46 of the Value-Added Tax Consolidation Act 2010 (No. 31 of 2010) and which applies to the supply of goods and services referred to in paragraphs 3(1) to (3), 7(b) to (e), 8, 11, 13(3) and 13B(1) to (3) of Schedule 3 to that Act, be increased to 13.5% and that the Value-Added Tax Consolidation Act 2010 (No. 31 of 2010) be amended accordingly.

(2) THAT this Resolution shall have effect on and from 1 January 2019.

(3) IT is hereby declared that it is expedient in the public interest that this Resolution shall have statutory effect under the provisions of the Provisional Collection of Taxes Act 1927 (No. 7 of 1927).

FINANCIAL RESOLUTION No. 4

GENERAL

THAT it is expedient to amend the law relating to inland revenue (including value-added tax and excise) and to make further provision in connection with finance.