

Budget 2020

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 9 October 2019, by substituting the following for Schedule 2 to that Act (as amended by section 34 of the Finance Act 2018 (No. 30 of 2018)):

“SCHEDULE 2

RATES OF TOBACCO PRODUCTS TAX (With effect as on and from 9 October 2019)

Description of Product	Rate of Tax
Cigarettes	Rate of tax at— (a) except where paragraph (b) applies, €346.04 per thousand together with an amount equal to 8.91 per cent of the price at which the cigarettes are sold by retail, or (b) €395.05 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 €394.811 per kilogram.
Fine-cut tobacco for the rolling of cigarettes	Rate of tax at €379.831 per kilogram.
Other smoking tobacco	Rate of tax at €273.903 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

EXCISE

Mineral Oil Tax

(1) THAT for the purposes of the tax charged by virtue of section 95 of the Finance Act 1999 (No. 2 of 1999), that Act be amended, with effect as on and from 9 October 2019—

- (a) in section 96(1B), by substituting “A is the amount to be charged per tonne of CO₂ emitted, being €26 in the case of petrol, aviation gasoline, and heavy oil used as a propellant or for air navigation or for private pleasure navigation, and €20 in the case of each other description of mineral oil in Schedule 2A” for “A is the amount, €20, to be charged per tonne of CO₂ emitted”,
- (b) by substituting the following for Schedule 2 to that Act:

“SCHEDULE 2

RATES OF MINERAL OIL TAX

(With effect as on and from 9 October 2019)

Description of Mineral Oil	Rate of Tax
<i>Light Oil:</i>	
Petrol	€601.69 per 1,000 litres
Aviation gasoline	€601.69 per 1,000 litres
<i>Heavy Oil:</i>	
Used as a propellant	€494.90 per 1,000 litres
Used for air navigation	€494.90 per 1,000 litres
Used for private pleasure navigation	€494.90 per 1,000 litres
Kerosene used other than as a propellant	€50.73 per 1,000 litres
Fuel oil	€76.53 per 1,000 litres
Other heavy oil	€102.28 per 1,000 litres
<i>Liquefied Petroleum Gas:</i>	
Used as a propellant	€96.45 per 1,000 litres
Other liquefied petroleum gas	€32.86 per 1,000 litres
<i>Vehicle Gas:</i>	€9.36 per megawatt hour

and

- (c) by substituting the following for Schedule 2A to that Act:

“SCHEDULE 2A

CARBON CHARGE

(With effect as on and from 9 October 2019)

Description of Mineral Oil	Rate
<i>Light Oil:</i>	
Petrol	€59.85 per 1,000 litres
Aviation gasoline	€59.85 per 1,000 litres
<i>Heavy Oil:</i>	
Used as a propellant	€69.18 per 1,000 litres
Used for air navigation	€69.18 per 1,000 litres
Used for private pleasure navigation	€69.18 per 1,000 litres
Kerosene used other than as a propellant	€50.73 per 1,000 litres
Fuel oil	€61.75 per 1,000 litres
Other heavy oil	€54.92 per 1,000 litres
<i>Liquefied Petroleum Gas:</i>	
Used as a propellant	€32.86 per 1,000 litres
Other liquefied petroleum gas	€32.86 per 1,000 litres
<i>Vehicle Gas:</i>	€4.10 per megawatt hour

”.

(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

STAMP DUTIES

Section 126AA bank levy

(1) THAT section 126AA of the Stamp Duties Consolidation Act 1999 (No. 31 of 1999) be amended in subsection (6) by substituting “170 per cent” for “59 per cent”.

(2) THAT paragraph (1) of this Resolution shall apply in relation to a statement to be delivered in accordance with section 126AA(2) of the Stamp Duties Consolidation Act 1999 for the year 2019 and each subsequent year.

(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

STAMP DUTIES

Rates

(1) THAT for the purposes of stamp duty charged by virtue of the Stamp Duties Consolidation Act 1999 (No. 31 of 1999), that Act be amended—

- (a) in section 83D—
 - (i) in paragraphs (2)(a) and (6)(a), by substituting “7.5 per cent” for “6 per cent”, and
 - (ii) in paragraph (6)(a), by substituting “11/15” for “2/3”,
and
- (b) in Schedule 1—
 - (i) in the Heading “CONVEYANCE or TRANSFER on sale of any property other than stocks or marketable securities or a policy of insurance or a policy of life insurance”, in paragraph (4), by substituting “7.5 per cent” for “6 per cent”, and
 - (ii) in the Heading “LEASE”, in paragraph (3)(b), by substituting “7.5 per cent” for “6 per cent”.

(2) THAT —

- (a) subject to subparagraphs (b) and (c), this Resolution shall have effect as respects instruments executed on or after 9 October 2019,
- (b) subparagraph (b) of paragraph (1) shall not have effect as respects any instrument executed before 1 January 2020, where—
 - (i) the effect of the application of subparagraph (b) of paragraph (1) would be to increase the duty otherwise chargeable on the instrument, and
 - (ii) the instrument contains a statement, in such form as the Revenue Commissioners may specify, certifying that the instrument was executed solely in pursuance of a binding contract entered into before 9 October 2019,
- (c) subparagraph (a) of paragraph (1) shall not have effect as respects instruments executed on or after 9 October 2019 where subparagraph (b) of paragraph (2) applies to the instrument referred to in paragraph (a) of subsection 83D(2) of the Stamp Duties Consolidation Act 1999, and
- (d) the furnishing of an incorrect certificate for the purposes of subparagraph (b)(ii) shall be deemed to constitute the delivery of an incorrect statement for the purposes of section 1078 of the Taxes Consolidation Act 1997 (No. 39 of 1997).

(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. 5

STAMP DUTIES

(1) THAT, for the purposes of stamp duty charged by virtue of the Stamp Duties Consolidation Act 1999 (No. 31 of 1999), that Act be amended by the insertion of the following section after section 31C:

“Cancellation schemes of arrangement

31D. (1) In this section—

‘Act of 2014’ means the Companies Act 2014;

‘agreement’ includes any arrangement, contract, compromise, understanding, scheme, offer, transaction or series of transactions;

‘company’ means a company formed and registered under the Act of 2014 or an existing company within the meaning of that Act;

‘registrar’ has the same meaning as it has in the Act of 2014;

‘scheme order’ has the same meaning as it has in Chapter 1 of Part 9 of the Act of 2014.

(2) Where—

- (a) there is an agreement to effect the acquisition of a company (in this section referred to as the ‘target company’),
 - (b) the target company enters into an arrangement—
 - (i) that has become binding in accordance with section 453 of the Act of 2014, and
 - (ii) in accordance with which there is a cancellation of shares in the target company pursuant to Chapter 4 of Part 3 of that Act,
- and
- (c) the shareholders of the target company receive consideration for the cancellation of those shares held by them,

the agreement referred to in paragraph (a) shall be—

- (I) chargeable with the same stamp duty as if it were a conveyance or transfer on sale of those shares, and
- (II) deemed to be executed on the date on which a copy of the scheme order relating to the arrangement is delivered to the registrar in accordance with section 454 of the Act of 2014.

(3) Where subsection (2) applies, the consideration for the purpose of charging stamp duty shall be the consideration received by the shareholders of the target company for the cancellation of shares held by them.

(4) For the purposes of this Act, the accountable person shall be the person paying the consideration for the cancellation of the shares by the shareholders of the target company.”.

(2) THAT paragraph (1) of this Resolution shall apply in relation to a scheme order (within the meaning of Chapter 1 of Part 9 of the Companies Act 2014 (No. 38 of 2014) made on or after 9 October 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. 6

CAPITAL GAINS TAX

Exit Tax

(1) THAT section 627 of the Taxes Consolidation Act 1997 (No. 39 of 1997) be amended, as respects disposals deemed to have been made (that is to say, deemed to have been made by virtue of subsection (2) of that section) on or after 9 October 2019—

- (a) in subsection (2)—
 - (i) by inserting “or, in the case of paragraph (c), at the time specified in subsection (2A)” after “event concerned”, and
 - (ii) by deleting “, being a company that is resident in a Member State (other than the State),” in paragraphs (a) and (b),

and

- (b) by inserting the following after subsection (2):

“(2A) Notwithstanding anything in subsection (2), as respects the event referred to in paragraph (c) of that subsection, the time immediately before the company referred to in that paragraph ceases to be resident in the State is to be taken as the time at which the company shall be deemed to have disposed of all its assets (other than assets excepted from that paragraph by subsection (6)) and to have immediately reacquired them at their 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. 7

INCOME TAX AND CORPORATION TAX

IREFS

(1) THAT Chapter 1B of Part 27 of the Taxes Consolidation Act 1997 (No. 39 of 1997) be amended—

(a) in section 739K(1), by inserting the following definitions:

“ ‘balance sheet’ means the balance sheet, statement of financial position or equivalent prepared in respect of an investment undertaking or sub-fund, as the case may be, in accordance with international accounting standards or alternatively in accordance with the generally accepted accounting practice specified in the investment undertaking’s prospectus;

‘market value’ shall be construed in accordance with section 548;

‘value of an IREF taxable event’ in relation to an IREF taxable event within the meaning of—

- (a) paragraph (a) of the definition of ‘IREF taxable event’, means the value of the relevant payment,
- (b) paragraphs (b), (c), (d), (e) and (f) of the definition of ‘IREF taxable event’, means the market value of the unit less any amount subscribed for that unit, and
- (c) paragraph (g) of the definition of ‘IREF taxable event’, means the amount of the accrued IREF profits sold or transferred;”

(b) in section 739L—

(i) by substituting “ $A \times \frac{B-D}{C} + E$ ”

for “ $A \times \frac{B-D}{C}$ ”,

(ii) by substituting “A is the value of the IREF taxable event which is attributable to the retained profits of the IREF,” for “A is the portion of the IREF taxable event which is attributable to the retained profits of the IREF,”

(iii) by substituting “IREF,” for “IREF, and”,

(iv) by substituting “by the IREF, and” for “by the IREF.”, and

(v) by inserting the following:

“E is an amount calculated as the difference between the value of the IREF taxable event and the value of the unit in accordance with the balance sheet of the IREF, where the IREF taxable event is one referred to in paragraph (b) of the definition of ‘value of an IREF taxable event’ in section 739K(1) and the value of the unit in accordance with the balance sheet of

the IREF is less than the value of the IREF taxable event.”,

and

(c) by inserting the following sections after section 739L:

“Profit: financing cost ratio

739LA. (1) In this section—

‘adjusted property financing costs’ means the property financing costs less any amount of income referred to in subsection (2)(b);

‘property financing costs’ means costs, being costs of debt finance or finance leases, which are taken into account in arriving at the profits of an IREF, including amounts in respect of—

- (a) interest, discounts, premiums, or net swap or hedging costs, and
- (b) fees or other expenses associated with raising debt finance or arranging finance leases;

‘property financing costs ratio’ means the ratio of the sum of profits of an IREF and the adjusted property financing costs of an IREF to the adjusted property financing costs of the IREF;

‘relevant cost’ means the amount which would be allowable as a deduction for the purposes of the Capital Gains Tax Acts under section 552(1);

‘specified debt’ means any debt incurred by an IREF in respect of monies borrowed by, or advanced to, the IREF.

- (2) (a) This subsection applies where the aggregate of the specified debt exceeds an amount equal to 50 per cent of the relevant cost of the IREF assets (and that excess is referred to in this subsection as the ‘excess specified debt’).
- (b) Where this subsection applies, the IREF shall be treated for the purposes of the Income Tax Acts as receiving an amount of income determined by the formula—

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

where—

A is the property financing costs,

B is the excess specified debt, and

C is the total specified debt.

- (3) (a) This subsection applies where the property financing costs ratio of the IREF is less than 1.25:1 for an accounting period.
- (b) Where this subsection applies, the IREF shall be treated for the purposes of the Income Tax Acts as

receiving an amount of income equal to the amount by which the adjusted property financing costs would have to be reduced for the property financing costs ratio to equal 1.25:1 for that accounting period.

- (4) The amount of income referred to in subsections (2) and (3) shall be charged to income tax under Case IV of Schedule D and shall be treated as income—
 - (a) arising in the year of assessment in which the accounting period in which the amount was taken into account ends, and
 - (b) against which no loss, deficit, expense or allowance may be set off.

Profit: calculating profits available for distribution

- 739LB.** (1) This section applies to any amount taken into account by an IREF in computing the profits of the IREF, in respect of any disbursement or expense, not being money wholly and exclusively laid out or expended for the purposes of the IREF business (referred to in this section as the ‘disallowed amount’).
- (2) The IREF shall be treated as receiving for the purposes of the Income Tax Acts an amount of income equal to the disallowed amount.
 - (3) The amount of income referred to in subsection (2) shall be charged to income tax under Case IV of Schedule D and shall be treated as income—
 - (a) arising in the year of assessment in which the accounting period in which the disallowed amount was taken into account ends, and
 - (b) against which no loss, deficit, expense or allowance may be set off.”.

(2) THAT paragraph (1) of this Resolution shall apply to accounting periods commencing on or after 9 October 2019 and where an accounting period commences before 9 October 2019 and ends after that date, it shall be divided into two parts, one beginning on the date on which the accounting period begins and ending on 8 October 2019 and the other beginning on 9 October 2019 and ending on the date on which the accounting period ends, and both parts shall be treated as if they were separate accounting periods of the IREF.

(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. 8

INCOME TAX AND CORPORATION TAX

REITS

(1) THAT Part 25A of the Taxes Consolidation Act 1997 (No. 39 of 1997) be amended—

(a) by inserting the following section after section 705I—

“Disposals and reinvestments

705IA. (1) This section applies where a REIT or group REIT disposes of a property of its property rental business.

(2) Where the full proceeds from the disposal of the property are not—

(a) reinvested in the acquisition of a new property for use in the REIT’s or group REIT’s property rental business,

(b) reinvested in the development or enhancement of a property held for use in the REIT’s or group REIT’s property rental business, or

(c) distributed to the shareholders of the REIT or the shareholders of the principal company of the group REIT, as the case may be,

before the expiry of the period referred to in section 705I(2) (in this subsection referred to as the ‘first mentioned period’) or, if earlier than that expiry, the date specified in a notice given under subsection (1) or (4) of section 705O (in this subsection referred to as the ‘specified date’) then any amount not so reinvested or distributed shall, for the purposes of applying the condition specified in section 705B(1)(b)(vi) and for the purposes of section 705N(a), be treated as property income of the REIT or group REIT arising in the accounting period in which the first mentioned period expires or the specified date falls.

(3) Subsections (2) and (3) of section 172D, and subsection (4) of section 153, shall not apply to any distribution of the proceeds of a disposal referred to in subsection (1).”

and

(b) in section 705P(2) by substituting for “Where a notice is given under subsection (1) or (4) of section 705O, the assets of the REIT or group REIT” the following:

“Where —

(a) a notice is given under subsection (1) or (4) of section 705O, and

(b) at the time of the giving of that notice, not less than fifteen years have elapsed from the date the REIT or group REIT became such under section 705E(4),

the assets of the REIT or group REIT”.

(2) THAT paragraph (1) of this Resolution shall apply to disposals made after 8 October 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. 9

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.