S.I No: 508 of 2003

O R D E R

entitled

Finance Act 2003 (Commencement of Section 17) Order 2003

Made by the

Minister for Finance

Prn No. 1126

Price €1.27

S.I No: 508 of 2003

Finance Act 2003 (Commencement of section 17) Order 2003

I, Charlie McCreevy, Minister for Finance, in exercise of the powers conferred on me by section 17(2) of the Finance Act 2003 (No. 3 of 2003) hereby order as follows:

1. (a) This Order may be cited as the Finance Act 2003 (Commencement of Section 17) Order 2003.

(b) In this order?

"Collector-General" means the Collector-General appointed under section 851 of the Principal Act;

"Principal Act" means the Taxes Consolidation Act 1997 (No. 39 of 1997);

"preliminary tax" has the meaning assigned to it by section 950 of the Principal Act;

"tax" has the meaning assigned to it by section 865 (as substituted by section 17 of the Finance Act 2003) of the Principal Act.

2. The following days are appointed for the coming into operation of the provisions of subsection (1) of section 17 of the Finance Act 2003?

(a) as respects paragraph (*a*)?

(i) in so far as it relates to the substitution of section 865 of the Principal Act, the day of the making of this Order, and

(ii) in so far as it relates to the insertion of section 865A into the Principal Act, 1 November 2003, in relation to repayments of tax made on or after that day,

(b) as respects paragraph (*b*), 1 November 2003, in relation to any repayment of tax arising under section 941 of the Principal Act by virtue of any order or judgment of the Supreme Court or the High Court made on or after that day,

(c) as respects paragraph (*c*), 1 November 2003, in relation to any repayment of tax arising from?

(i) a determination made by a judge of the Circuit Court under section 942 of the Principal Act, or

(ii) an agreement referred to in subsection (8) of that section entered into,

on or after that day,

(d) as respects paragraph (*d*)?

(i) in so far as it relates to the deletion of section 930 of the Principal Act, 1 January 2005, but without prejudice to any application for relief made under that section before that day , and

(ii) in so far as it relates to the deletion of section 953 of the Principal Act?

(I) 1 November 2003, as respects payments of preliminary tax made on or after that day, and

(II) 1 November 2004, as respects payments of preliminary tax made before 1 November 2003, unless the return, for the chargeable period in respect of which the preliminary tax was paid, required by section 951 of the Principal Act is lodged with the Collector-General on or before 31 October 2004,

(e) as respects paragraph *(e)*, 1 January 2005, but without prejudice to any application for relief made under section 930 of the Principal Act before that day,

(f) as respects paragraph *(f)*, 1 January 2005, in relation to the making, on or after that day, of assessments referred to in the provisions listed in that paragraph,

(g) as respects paragraph *(g)*, 1 January 2005, in relation to the making or amending of assessments, additional tax being payable or the repayment of tax by reason of a matter contained in a return for a chargeable period,

(h) as respects paragraph *(h)*, 1 January 2005, in relation to enquiries and actions referred to in section 956(1)(b) of the Principal Act made on or after that date,

and

(i) as respects paragraph (*i*)?

(I) the day of the making of this Order, as respects subparagraph *(a)*(i)(II), and

(II) 1 January 2005, as respects the paragraph other than subparagraph (*a*)(i)(II),

in relation to the making of assessments referred to in section 997 of the Principal Act.

GIVEN under my Official Seal,
31 October 2003.

Charlie McCreevy
Minister for Finance.

Explanatory Note for Section 17

(This note is not part of the instrument and does not proport to be a legal interpretation)

This order appoints the days on which section 17 Finance Act 2003 is to come into effect. The section provides for a new scheme of interest on repayment of tax, time limits on claims to repayment of tax and on raising of assessments to tax by the Revenue Commissioners, in so far as Income Tax, Corporation Tax and Capital Gains Tax are concerned.

The new scheme changes provides that

- there will be a general time limit of four years for claims for repayment of tax
- Revenue's right to assessments will be limited to 4 years (except in the case of fraud or neglect where no time limit applies)
- subject to conditions, interest will be paid on repayments of tax
- interest will be calculated from six months after a valid claim is made except where the claim arises from a mistaken application of the law by Revenue, in which case it will be calculated from the date the tax was overpaid or from the end of the tax period to which the claim relates, whichever is the later.

The rate of interest on repayments under the new scheme is being reduced from just under 6% per annum to just over 4% per annum. The new daily rate is 0.011%.

The details of how these changes will be implemented are set out below.

Regarding **Interest on Repayments**, the appointed day is 1 November 2003. Except in the case of preliminary tax the new provisions will apply to *repayments* made on or after 1 November 2003.

In the case of preliminary tax (in relation to income tax, corporation tax and capital gains tax), the new provisions on interest on repayments will apply to tax *paid* on or after 1 November 2003. The existing arrangements will apply to payments made before that date provided the return for the relevant year is lodged with the Collector-General on or before 31 October 2004. The Revenue practice of treating returns and payments received through the ROS system up to 21 November as having been received on 31 October will apply for the purpose of determining entitlement to interest.

Regarding **Claims to Repayment of Tax,** the appointed day is 31 October 2003, the date the Order is signed. The provisions under this heading provide for a four-year time limit on claims to repayment of tax. There are transitional arrangements in respect of certain claims up to 1 January 2005 when the four-year limit will apply generally to claims made on or after that date.

Regarding **Time Limit on Assessments,** the provisions reducing the time limit for Revenue assessments to four years will apply from 1 January 2005. This will have the same effect in practice as the reduction in the time limit for taxpayers to claim repayment. The provisions of section 930 of the Taxes Consolidation Act, 1997 dealing with claims to relief in respect of tax paid under an error or mistake in a return will remain in place until 1 January 2005.