



House of Commons

Tuesday 5 July 2016

PUBLIC BILL COMMITTEE PROCEEDINGS

FINANCE BILL

[THIRD AND FOURTH SITTINGS]

Clause 50, Schedule 8 and Clauses 51 to 59 agreed to.

Mr David Gauke

Agreed to 50

Clause 60, page 94, line 16, at end insert “, or
“(b) the company elects to be treated as a new entrant for the purposes of this Part.”

Mr David Gauke

Agreed to 51

Clause 60, page 94, line 38, leave out “either”

Mr David Gauke

Agreed to 52

Clause 60, page 94, line 43, leave out “multi-IP” and insert “IP”

Mr David Gauke

Agreed to 53

Clause 60, page 94, line 43, at end insert “, or
(c) a sub-stream consisting of income properly attributable to a particular kind of IP process (a “process sub-stream”)

Mr David Gauke

Agreed to 54

Clause 60, page 95, line 1, leave out from “See” to second “and” and insert “subsection (5) for the meaning of “IP item” and “IP process””

Mr David Gauke

Agreed to 55

Clause 60, page 95, line 2, before “further” insert “see subsections (5A) and (6) for”

Mr David Gauke

Agreed to 56

Clause 60, page 95, line 2, at end insert “and process sub-streams”

Finance Bill, *continued*

Mr David Gauke

Agreed to 57

Clause 60, page 95, line 12, at end insert—

“But see section 357BIA (which provides that certain amounts allocated to a relevant IP income sub-stream at Step 3 are not to be deducted from the sub-stream at this Step).”

Mr David Gauke

Agreed to 58

Clause 60, page 95, leave out lines 13 to 17

Mr David Gauke

Agreed to 59

Clause 60, page 95, line 19, leave out from beginning to “deduct” in line 20

Mr David Gauke

Agreed to 60

Clause 60, page 95, leave out lines 40 to 47 and insert—

“(5) In this section—

“IP item” means—

- (a) an item in respect of which a qualifying IP right held by the company has been granted, or
- (b) an item which incorporates one or more items within paragraph (a);

“IP process” means—

- (a) a process in respect of which a qualifying IP right held by the company has been granted, or
- (b) a process which incorporates one or more processes within paragraph (a).

(5A) For the purposes of this section two or more IP items, or two or more IP processes, may be treated as being of a particular kind if they are intended to be, or are capable of being, used for the same or substantially the same purposes.”

Mr David Gauke

Agreed to 61

Clause 60, page 95, line 48, leave out “which is properly attributable to a multi-IP item”

Mr David Gauke

Agreed to 62

Clause 60, page 95, line 49, after “sub-stream” insert “or process sub-stream”

Mr David Gauke

Agreed to 63

Clause 60, page 96, line 5, at end insert—

“() Any reference in this section to a qualifying IP right held by the company includes a reference to a qualifying IP right in respect of which the company holds an exclusive licence.”

Mr David Gauke

Agreed to 64

Clause 60, page 98, line 2, leave out “357A” and insert “357A(1)”

Finance Bill, continued

Mr David Gauke

Agreed to **65**

Clause **60**, page **98**, line **21**, after first “income” insert “, finance income”

Mr David Gauke

Agreed to **66**

Clause **60**, page **100**, line **41**, at end insert—

“357BIA Certain amounts not to be deducted from sub-streams at Step 4 of section 357BF

- (1) This section applies where a company enters into an arrangement with a person under which—
 - (a) the person assigns to the company a qualifying IP right or grants or transfers to the company an exclusive licence in respect of a qualifying IP right, and
 - (b) the company makes to the person an income-related payment.
- (2) A payment is an “income-related payment” for the purposes of subsection (1) if—
 - (a) the obligation to make the payment arises under the arrangement by reason of the amount of income the company has accrued which is properly attributable to the right or licence, or
 - (b) the amount of the payment is determined under the arrangement by reference to the amount of income the company has accrued which is so attributable.
- (3) If the amount of the income-related payment is allocated to a relevant IP income sub-stream at Step 3 of section 357BF(2), the amount is not to be deducted from the sub-stream at Step 4 of section 357BF(2) unless the payment will not affect the R&D fraction for the sub-stream.”

Mr David Gauke

Agreed to **67**

Clause **60**, page **104**, line **6**, leave out from beginning to end of line 31 on page 105

Mr David Gauke

Agreed to **68**

Clause **60**, page **108**, line **13**, at end insert—

- “(3A) If an election made by the company under section 18A of CTA 2009 (election for exemption for profits or losses of company’s foreign permanent establishments) applies to the relevant period, expenditure incurred by the company during the period which meets conditions A and B—
- (a) is not “qualifying expenditure on relevant R&D undertaken in-house”, but
 - (b) is “qualifying expenditure on relevant R&D sub-contracted to connected persons”,
- so far as it is expenditure brought into account in calculating a relevant profits amount, or a relevant losses amount, aggregated at section 18A(4)(a) or (b) of CTA 2009 in calculating the company’s foreign permanent establishments amount for the period.”

Finance Bill, *continued*

Mr David Gauke

Agreed to 69

Clause 60, page 108, line 22, leave out “incorporated in a multi-IP item” and insert
“—

- (i) to which income in the sub-stream is attributable, or
- (ii) which is incorporated in an item”

Mr David Gauke

Agreed to 70

Clause 60, page 108, line 23, at end insert “, or

- (c) in a case where the sub-stream is a process sub-stream, relates to a qualifying IP right granted in respect of any process—
 - (i) to which income in the sub-stream is attributable, or
 - (ii) which is incorporated in a process to which income in the sub-stream is attributable.”

Mr David Gauke

Agreed to 71

Clause 60, page 109, line 8, leave out “65% of any” and insert “the”

Mr David Gauke

Agreed to 72

Clause 60, page 109, leave out lines 10 to 15 and insert “in making payments within subsection (2).

- (2) A payment is within this subsection if—
 - (a) it is made to a person in respect of relevant research and development contracted out by the company to the person, and
 - (b) the company and the person are not connected (within the meaning given by section 1122).”

Mr David Gauke

Agreed to 73

Clause 60, page 109, line 15, at end insert—

“(3) If an election made by the company under section 18A of CTA 2009 (election for exemption for profits or losses of company’s foreign permanent establishments) applies to the relevant period, expenditure incurred by the company during the period in making payments within subsection (2)—

- (a) is not “qualifying expenditure on relevant R&D sub-contracted to unconnected persons”, but
- (b) is “qualifying expenditure on relevant R&D sub-contracted to connected persons”,

so far as it is expenditure brought into account in calculating a relevant profits amount, or a relevant losses amount, aggregated at section 18A(4)(a) or (b) of CTA 2009 in calculating the company’s foreign permanent establishments amount for the period.”

Finance Bill, continued

Mr David Gauke

Agreed to 74

- Clause 60, page 109, line 23, after “means” insert “the total of—
- (a) any expenditure which is “qualifying expenditure on relevant R&D sub-contracted to connected persons” as a result of section 357BMB(3A) or 357BMC(3) (certain expenditure attributed to company’s foreign permanent establishments), and
 - (b) ”

Mr David Gauke

Agreed to 75

- Clause 60, page 109, line 23, leave out “65% of any” and insert “the”

Mr David Gauke

Agreed to 76

- Clause 60, page 109, leave out lines 25 to 30 and insert “in making payments within subsection (2).
- (2) A payment is within this subsection if—
 - (a) it is made to a person in respect of relevant research and development contracted out by the company to the person, and
 - (b) the company and the person are connected (within the meaning given by section 1122).”

Mr David Gauke

Agreed to 77

- Clause 60, page 109, line 39, leave out from “company” to end of line 41 and insert “in making during the relevant period payments within any of subsections (1A), (1B) and (1C).
- (1A) A payment is within this subsection if it is made to a person in respect of the assignment by that person to the company of a relevant qualifying IP right.
 - (1B) A payment is within this subsection if it is made to a person in respect of the grant or transfer by that person to the company of an exclusive licence in respect of a relevant qualifying IP right.
 - (1C) A payment is within this subsection if—
 - (a) it is made to a person in respect of the disclosure by that person to the company of any item or process, and
 - (b) the company applies for and is granted a relevant qualifying IP right in respect of that item or process (or any item or process derived from it).
 - (1D) Where the company has incurred expenditure in making a series of payments to a person in respect of a single assignment, grant, transfer or disclosure, each of the payments in the series is to be treated for the purposes of this section as having been made on the date on which the first payment in the series was made.”

Mr David Gauke

Agreed to 78

- Clause 60, page 110, line 2, leave out “incorporated in a multi-IP item” and insert “—
- (i) to which income in the sub-stream is attributable, or
 - (ii) which is incorporated in an item”

Finance Bill, *continued*

Mr David Gauke

Agreed to 79

- Clause 60, page 110, line 4, at end insert “, or
 (c) in a case where the sub-stream is a process sub-stream, a qualifying IP right granted in respect of a process—
 (i) to which income in the sub-stream is attributable, or
 (ii) which is incorporated in a process to which income in the sub-stream is attributable.”

Mr David Gauke

Agreed to 80

- Clause 60, page 110, line 22, leave out “357BME” and insert “357BMD”

Mr David Gauke

Agreed to 81

- Clause 60, page 111, leave out from beginning of line 8 to “, and” in line 11 and insert “in each of subsections (1A), (1B) and (1C) the word “relevant” were omitted”

Mr David Gauke

Agreed to 82

- Clause 60, page 112, line 25, leave out “357A” and insert “357A(1)”

Mr David Gauke

Agreed to 83

- Clause 60, page 112, line 46, at end insert—

*“Small claims treatment***357BNA Small claims treatment**

- (1) This section applies where—
- (a) a company carries on only one trade during an accounting period,
 - (b) section 357BF applies for the purposes of determining the relevant IP profits of the trade for the accounting period, and
 - (c) the qualifying residual profit of the trade for the accounting period does not exceed whichever is the greater of—
 - (i) £1,000,000, and
 - (ii) the relevant maximum for the accounting period.
- (2) The company may make any of the following elections for the accounting period—
- (a) a notional royalty election (see section 357BNB),
 - (b) a small claims figure election (see section 357BNC), and
 - (c) a global streaming election (see section 357BND).
- This is subject to subsections (3) and (4).
- (3) The company may not make a notional royalty election, a small claims figure election or a global streaming election for the accounting period if—
- (a) the qualifying residual profit of the trade for the accounting period exceeds £1,000,000,
 - (b) section 357BF applied for the purposes of determining the relevant IP profits of the trade for any previous accounting period beginning within the relevant 4-year period, and

Finance Bill, continued

- (c) the company did not make a notional royalty election, a small claims figure election or (as the case may be) a global streaming election for that previous accounting period.
- (4) The company may not make a small claims figure election for the accounting period if—
- the qualifying residual profit of the trade for the accounting period exceeds £1,000,000,
 - section 357C or 357DA applied for the purposes of determining the relevant IP profits of the trade for any previous accounting period beginning within the relevant 4-year period, and
 - the company did not make an election under section 357CL for small claims treatment for that previous accounting period.
- (5) In subsections (3) and (4) “the relevant 4-year period” means the period of 4 years ending with the beginning of the accounting period mentioned in subsection (1)(a).
- (6) For the purposes of this section, the “qualifying residual profit” of a trade of a company for an accounting period is the amount which (assuming the company did not make an election under this section) would be equal to the aggregate of the relevant IP income sub-streams established at Step 2 in section 357BF(2) in determining the relevant IP profits of the trade for the accounting period, following the deductions from those sub-streams required by Step 4 in section 357BF(2) (ignoring the amount of any sub-stream which is not greater than nil following those deductions).
- (7) For the purposes of this section, the “relevant maximum” for an accounting period of a company is—
- in a case where no company is a related 51% group company of the company in the accounting period, £3,000,000;
 - in a case where one or more companies are related 51% group companies of the company in the accounting period, the amount given by the formula—
- $$\frac{\pounds 3,000,000}{1 + N}$$
- where N is the number of those related 51% group companies in relation to which an election under section 357A(1) has effect for the accounting period.
- (8) For an accounting period of less than 12 months, the relevant maximum is proportionally reduced.

357BNB Notional royalty election

- Subsection (2) applies where a company has made a notional royalty election for an accounting period under section 357BNA(2)(a).
- In its application for the purposes of determining the relevant IP profits of the trade of the company for the accounting period, section 357BHA (notional royalty) has effect as if—
 - in subsection (2) for “the appropriate percentage” there were substituted “75%”, and
 - subsections (3) to (6) were omitted.

357BNC Small claims figure election

- Subsection (2) applies where a company has made a small claims figure election for an accounting period under section 357BNA(2)(b).

Finance Bill, continued

- (2) In its application for the purposes of determining the relevant IP profits of the trade of the company for the accounting period, section 357BF(2) (steps for calculating relevant IP profits) has effect as if in Step 6—
- (a) for “marketing assets return figure” there was substituted “small claims figure”, and
 - (b) for “(see section 357BL)” there was substituted “(see section 357BNC(3))”.
- (3) Subsections (4) to (9) apply for the purpose of calculating the small claims figure for a relevant IP income sub-stream established at Step 2 in section 357BF(2) in determining the relevant IP profits of a trade of a company for an accounting period.
- (4) If 75% of the qualifying residual profit of the trade for the accounting period is lower than the small claims threshold, the small claims figure for the sub-stream is 25% of the amount of the sub-stream following Step 4 in section 357BF(2).
- (5) If 75% of the qualifying residual profit of the trade for the accounting period is higher than the small claims threshold, the small claims figure for the sub-stream is the amount given by—

$$A - \left(\frac{A}{\text{QRP}} \times \text{SCT} \right)$$

where—

A is the amount of the sub-stream following the deductions required by Step 4 in section 357BF(2),

QRP is the qualifying residual profit of the trade of the company for the accounting period, and

SCT is the small claims threshold.

- (6) If no company is a related 51% group company of the company in the accounting period, the small claims threshold is £1,000,000.
- (7) If one or more companies are related 51% group companies of the company in the accounting period, the small claims threshold is—

$$\frac{\text{£1,000,000}}{1 + N}$$

where N is the number of those related 51% group companies in relation to which an election under section 357A(1) has effect for the accounting period.

- (8) For an accounting period of less than 12 months, the small claims threshold is proportionately reduced.
- (9) Subsection (6) of section 357BNA (meaning of “qualifying residual profit”) applies for the purposes of subsection (4) and (5) of this section.

357BND Global streaming election

- (1) Subsection (2) applies where a company has made a global streaming election for an accounting period under section 357BNA(2)(c).
- (2) In its application for the purpose of determining the relevant IP profits of the trade of the company for the accounting period, this Chapter has effect with the following modifications.
- (3) In subsection (2) of section 357BF (relevant IP profits)—
- (a) omit Step 2,
 - (b) in Step 3 for “each of the relevant IP income sub-streams” substitute “the relevant IP income stream”,
 - (c) in Step 4—
 - (i) in the words before paragraph (a), for “each” substitute “the”,
 - (ii) for “sub-stream”, in each place it occurs, substitute “stream”,

Finance Bill, continued

- (d) in Step 6—
 - (i) at the beginning insert “If the relevant IP income stream is greater than nil following Step 4,”,
 - (ii) for the words from “each” to “Step 4” substitute “the stream”,
 - (iii) for “sub-stream”, in the second place it occurs, substitute “stream”,
 - (e) in Step 7—
 - (i) for “each relevant IP income sub-stream” substitute “the relevant IP income stream”,
 - (ii) for “sub-stream”, in the second place it occurs, substitute “stream”,
 - (f) omit Step 8, and
 - (g) in Step 9 for “given by Step 8” substitute “of the relevant IP income stream following Step 7”.
- (4) In subsection (3) of that section for “given by” substitute “of the relevant IP income stream following the Steps in”.
 - (5) In subsection (4) of that section for “given by” substitute “of the relevant IP income stream following the Steps in”.
 - (6) Omit subsections (5), (5A) and (6) of that section.
 - (7) In section 357BIA(3) (certain amounts not to be deducted from sub-streams at Step 4 of section 357BF)—
 - (a) for “a relevant IP income sub-stream” substitute “the relevant IP income stream”;
 - (b) for “sub-stream”, in the second and third places it occurs, substitute “stream”.
 - (8) In section 357BJ (routine return figure)—
 - (a) for “sub-stream”, in each place it occurs, substitute “stream”, and
 - (b) in subsection (1) for “Step 2” substitute “Step 1”.
 - (9) In section 357BL (marketing asset return figure) for “sub-stream”, in each place it occurs, substitute “stream”.
 - (10) In section 357BLA (notional marketing royalty)—
 - (a) for “sub-stream”, in each place it occurs, substitute “stream”, and
 - (b) in subsection (1) for “Step 2” substitute “Step 1”.
 - (11) In section 357BLB (actual marketing royalty) for “sub-stream”, in each place it occurs, substitute “stream”.
 - (12) In section 357BM (R&D fraction: introduction)—
 - (a) for “sub-stream” (in each place it occurs) substitute “stream”, and
 - (b) in subsection (1) for “Step 2” substitute “Step 1”.
 - (13) In section 357BMA(1) (R&D fraction) for “sub-stream” substitute “stream”.
 - (14) In section 357BMB(4) (qualifying expenditure on relevant R&D undertaken in-house) for the words after “1138” substitute “which relates to a qualifying IP right to which income in the stream is attributable”.
 - (15) In section 357BME(2) (qualifying expenditure on acquisition of relevant qualifying IP rights) for the words from “means” to the end substitute “means a qualifying IP right to which income in the stream is attributable”.
 - (16) In section 357BMG (cases where the company is a new entrant with insufficient information about pre-enactment expenditure) for “sub-stream”, in each place it occurs, substitute “stream”.
 - (17) In section 357BMH (R&D fraction: increase for exceptional circumstances) for “sub-stream”, in each place it occurs, substitute “stream”.

Finance Bill, continued

- (18) In section 357BNC (small claims figure election)—
- (a) for “sub-stream”, in each place it occurs, substitute “stream”;
 - (b) in subsection (3) for “Step 2” substitute “Step 1”.

Mr David Gauke

Agreed to **84**

Clause **60**, page **113**, line **17**, at end insert—

- “() Where section 357BF applies by reason of this section for the purposes of determining the relevant IP profits of a trade of a company for an accounting period, the company may not make a global streaming election for the accounting period under section 357BNA(2)(c).”

Mr David Gauke

Agreed to **85**

Clause **60**, page **113**, leave out lines 34 to 44 and insert—

- “(a) the company and the person who assigned the right or granted the licence were connected at the time of the assignment or grant,
- (b) the main purpose, or one of the main purposes, of the assignment of the right or the grant of the licence was the avoidance of a foreign tax,
- (c) the person who assigned the right or granted the licence was not within the charge to corporation tax at the time of the assignment or grant, and
- (d) the person who assigned the right or granted the licence was not liable at the time of the assignment or grant to a foreign tax which is designated for the purposes of this section by regulations made by the Treasury.”

Mr David Gauke

Agreed to **86**

Clause **60**, page **114**, line **1**, leave out “(9)(b)” and insert “(8)(d)”

Mr David Gauke

Agreed to **87**

Clause **60**, page **114**, line **4**, at end insert—

- “() Regulations may not be made under subsection (8)(d) after 31 December 2016.”

Mr David Gauke

Agreed to **88**

Clause **60**, page **114**, line **21**, leave out “(b)” and insert “(c)”

Mr David Gauke

Agreed to **89**

Clause **60**, page **114**, line **24**, leave out “and each product sub-stream” and insert “, each product sub-stream and each process sub-stream”

Mr David Gauke

Agreed to **90**

Clause **60**, page **114**, line **32**, leave out “and product sub-streams” and insert “, each of the product sub-streams and each of the process sub-streams”

Mr David Gauke

Agreed to **91**

Clause **60**, page **114**, line **42**, leave out “a multi-IP item” and insert “an IP item or IP process”

Finance Bill, continued

Mr David Gauke

Agreed to **92**

Clause **60**, page **114**, line **44**, after “sub-stream” insert “or process sub-stream”

Mr David Gauke

Agreed to **93**

Clause **60**, page **114**, line **45**, leave out “multi-IP item” and insert “IP item or IP process”

Mr David Gauke

Agreed to **94**

Clause **60**, page **115**, line **1**, after “item” insert “or process”

Mr David Gauke

Agreed to **95**

Clause **60**, page **115**, line **4**, after “item” insert “or process”

Mr David Gauke

Agreed to **96**

Clause **60**, page **115**, line **8**, leave out “multi-IP item” and insert “IP item or IP process”

Mr David Gauke

Agreed to **97**

Clause **60**, page **115**, line **9**, leave out “item or items” and insert “items or processes”

Mr David Gauke

Agreed to **98**

Clause **60**, page **115**, line **11**, leave out “multi-IP item” and insert “IP item or IP process”

Mr David Gauke

Agreed to **99**

Clause **60**, page **115**, line **13**, leave out “multi-IP item” and insert “IP item or IP process”

Mr David Gauke

Agreed to **100**

Clause **60**, page **115**, line **17**, after “sub-stream” insert “or process sub-stream”

Mr David Gauke

Agreed to **101**

Clause **60**, page **115**, line **18**, leave out “multi-IP item” and insert “IP item or IP process”

Mr David Gauke

Agreed to **102**

Clause **60**, page **115**, line **20**, leave out “multi-IP item” and insert “IP item or IP process”

Finance Bill, continued

Mr David Gauke

Agreed to 103

Clause 60, page 115, line 24, after “sub-stream” insert “or process sub-stream”

Mr David Gauke

Agreed to 104

Clause 60, page 115, line 26, leave out “multi-IP item” and insert “IP item or IP process”

Mr David Gauke

Agreed to 105

Clause 60, page 115, line 27, after “sub-stream” insert “or process sub-stream”

Mr David Gauke

Agreed to 106

Clause 60, page 115, line 27, leave out “multi-IP item” and insert “IP item or IP process”

Mr David Gauke

Agreed to 107

Clause 60, page 115, line 29, after “items” insert “or processes”

Mr David Gauke

Agreed to 108

Clause 60, page 115, line 31, leave out “a multi-IP” and insert “an IP item or IP process”

Mr David Gauke

Agreed to 109

Clause 60, page 115, line 35, after “items” insert “or processes”

Mr David Gauke

Agreed to 110

Clause 60, page 115, line 35, leave out “multi-IP item” and insert “IP item or IP process”

Mr David Gauke

Agreed to 111

Clause 60, page 115, line 38, after “items” insert “or processes”

Mr David Gauke

Agreed to 112

Clause 60, page 115, line 38, leave out “multi-IP item” and insert “IP item or IP process”

Mr David Gauke

Agreed to 113

Clause 60, page 115, line 40, at end insert—
 “() In section 357FB (tax advantage schemes)—
 (a) in subsection (2)(b) (list of ways by which deductions can be inflated)—
 (i) omit “or” at the end of sub-paragraph (ii), and

Finance Bill, continued

- (ii) after sub-paragraph (iii) insert “, or
 - (iv) an R&D fraction (see subsection (4A)) being greater than it would be but for the scheme.”, and
- (b) after subsection (4) insert—
 - “(4A) The reference in subsection (2)(b)(iv) to an R&D fraction is a reference to such a fraction as is mentioned at Step 7 of section 357BF(2).”

Mr David Gauke

Agreed to 114

Clause 60, page 115, line 40, at end insert—

“() After section 357GC insert—

*“Transferred trades***357GCA Application of this Part in relation to transferred trades**

- (1) Where—
 - (a) a company (“the transferor”) ceases to carry on a trade which involves the exploitation of a qualifying IP right (“the relevant qualifying IP right”),
 - (b) the transferor assigns the relevant qualifying IP right, or grants or transfers an exclusive licence in respect of it, to another company (“the transferee”), and
 - (c) the transferee begins to carry on the trade,
 the following provisions apply in determining under this Part the relevant IP profits of the trade carried on by the transferee.
- (2) The transferee is to be treated as not being a new entrant if—
 - (a) an election under section 357A(1) has effect in relation to the transferor on the date of the assignment, grant or transfer mentioned in subsection (1)(b) (“the transfer date”), and
 - (b) the first accounting period of the transferor for which that election had effect began before 1 July 2016.
- (3) The relevant qualifying IP right is to be treated as being an old qualifying IP right in relation to the transferee if by reason of section 357BP it is an old qualifying IP right in relation to the transferor.
- (4) Expenditure incurred prior to the transfer date by the transferor which is attributable to relevant research and development undertaken by the transferor is to be treated for the purposes of section 357BMB as if it is expenditure incurred by the transferee which is attributable to relevant research and development undertaken by the transferee.
- (5) Expenditure incurred prior to the transfer date by the transferor in making a payment to a person in respect of relevant research and development contracted out by the transferor to that person is to be treated for the purposes of sections 357BMC and 357BMD as if it is expenditure incurred by the transferee in making a payment to that person in respect of relevant research and development contracted out by the transferee to that person.

Finance Bill, continued

- (6) Expenditure incurred prior to the transfer date by the transferor in making a payment in connection with the relevant qualifying IP right which is within subsection (1A), (1B) or (1C) of section 357BME is to be treated for the purposes of that section as if it is expenditure incurred by the transferee in making a payment in connection with that right which is within one of those subsections.
- (7) Expenditure incurred by the transferee in making a payment to the transferor in respect of the assignment, grant or transfer mentioned in subsection (1)(b) is to be ignored for the purposes of section 357BME.
- (8) In this section—
“trade” includes part of a trade, and
“relevant research and development” means research and development which relates to the relevant qualifying IP right.
- (9) For the purposes of this section research and development “relates” to the relevant qualifying IP right if—
(a) it creates, or contributes to the creation of the invention,
(b) it is undertaken for the purpose of developing the invention,
(c) it is undertaken for the purpose of developing ways in which the invention may be used or applied, or
(d) it is undertaken for the purpose of developing any item or process incorporating the invention.”

Mr David Gauke

Clause 60, page 116, line 9, for “357A” substitute “357A(1)”.

Agreed to 115

Rob Marris
John McDonnell
Rebecca Long Bailey

Clause 60, page 116, line 28, at end add—

“The Chancellor of the Exchequer shall, within six months of the passing of this Act, publish a report giving the Treasury’s assessment of the value for money provided by, and the efficacy of, the Patent Box legislation.”

Withdrawn 136

Clause, as amended, agreed to.

Mr David Gauke

Schedule 9, page 330, line 30, at end insert—

“1A In section 357B (meaning of “qualifying company”), in subsection (3)(b)(ii), for “section 357A” substitute “section 357A(1)”.

Agreed to 116

Mr David Gauke

Schedule 9, page 331, line 20, at end insert—

“() In subsection (6), in paragraph (a)(ii) of the definition of “relevant accounting period”, for “section 357A” substitute “section 357A(1)”.

Agreed to 117

Finance Bill, continued

Mr David Gauke

Agreed to 118

Schedule 9, page 331, line 24, leave out paragraph 9 and insert—

- “9 (1) Section 357CL (companies eligible to elect for small claims treatment) is amended as follows.
- (2) In subsection (1) for “elect” substitute “make an election under this section”.
- (3) In subsection (6) for “section 357A” substitute “section 357A(1)”.”

Mr David Gauke

Agreed to 119

Schedule 9, page 332, line 16, at end insert—

- “13A In section 357EB (allocation of set-off amount within a group) in subsection (3)(a) for “section 357A” substitute “section 357A(1)”.
- 13B In section 357ED (company ceasing to carry on trade etc) in subsection (2)(c) for “section 357A” substitute “section 357A(1)”.

Mr David Gauke

Agreed to 120

Schedule 9, page 332, line 18, at end insert—

- “14A In section 357FB (tax advantage schemes) in subsection (4)(b) for “section 357A” substitute “section 357A(1)”.
- 14B (1) Section 357G (making an election under section 357A) is amended as follows.
- (2) In the heading, for “section 357A” substitute “section 357A(1) or (11)(b)”.
- (3) In subsection (1) for “section 357A” substitute “section 357A(1) or (11)(b)”.
- 14C (1) Section 357GA (revocation of election made under section 357A) is amended as follows.
- (2) In the heading, for “section 357A” substitute “section 357A(1)”.
- (3) In subsection (1) for “section 357A” substitute “section 357A(1)”.
- (4) In subsection (5) for “section 357A” substitute “section 357A(1)”.”

Mr David Gauke

Agreed to 121

Schedule 9, page 332, line 28, at end insert—

- “16A In section 357GE (other interpretation), in subsection (1), at the appropriate place insert—
- “payment” includes payment in money’s worth.””

Schedule, as amended, agreed to.

Clauses 61 and 62 agreed to.

Schedule 10 agreed to.

Clauses 63 and 64 agreed to.

Finance Bill, continued

Rob Marris
 John McDonnell
 Richard Burgon
 Rebecca Long Bailey

Not selected 11

Page 138, line 4, leave out Clause 82

Clause agreed to on division.

Mr David Gauke

Agreed to 13

Schedule 15, page 440, line 45, leave out “section 8H(4A) to (4F)” and insert “sections 8H(4A) to (4F) and 8HA”

Mr David Gauke

Agreed to 14

Schedule 15, page 441, line 39, leave out “section 8H(4A) to (4F)” and insert “sections 8H(4A) to (4F) and 8HA”

Mr David Gauke

Agreed to 15

Schedule 15, page 445, leave out lines 26 to 37 and insert—

“(4B) Where—

(a) the person—

- (i) disposes of a residential property interest in the nominated dwelling-house at a post-occupation time, or
- (ii) disposes of two or more residential property interests in the nominated dwelling-house at the same post-occupation time or at post-occupation times on the same day, and

(b) the person does not otherwise dispose of residential property interests in the nominated dwelling-house at post-occupation times,

the interest disposed of is, or the interests disposed of are, a qualifying former residential interest in relation to the person.

(4C) Where—

- (a) the person disposes of residential property interests in the nominated dwelling-house at post-occupation times on two or more days, and
- (b) the person’s personal representatives nominate one (and only one) of those days,

the interest or interests disposed of at post-occupation times on the nominated day is or are a qualifying former residential interest in relation to the person.”

Mr David Gauke

Agreed to 16

Schedule 15, page 445, line 37, at end insert—

“() For the purposes of subsections (4A) to (4C)—

- (a) a person is to be treated as not disposing of a residential property interest in a dwelling-house where the person disposes of an interest in the dwelling-house by way of gift and the interest is, in relation to the gift and the donor, property subject to a reservation within the meaning of section 102 of the Finance Act 1986 (gifts with reservation), and

Finance Bill, continued

- (b) a person is to be treated as disposing of a residential property interest in a dwelling-house if the person is treated as making a potentially exempt transfer of the interest as a result of the operation of section 102(4) of that Act (property ceasing to be subject to a reservation)."

Mr David Gauke

Schedule 15, page 445, line 43, after "be" insert " , or be included in," *Agreed to* 17

Mr David Gauke

Schedule 15, page 446, line 3, at end insert " , and
(c) before the person dies." *Agreed to* 18

Mr David Gauke

Schedule 15, page 446, line 6, at end insert— *Agreed to* 19

"8HA "Qualifying former residential interest": interests in possession

- (1) This section applies for the purposes of determining whether certain interests may be, or be included in, a qualifying former residential interest in relation to a person (see section 8H(4A) to (4C)).
- (2) This section applies where—
 - (a) a person ("P") is beneficially entitled to an interest in possession in settled property, and
 - (b) the settled property consists of, or includes, an interest in a dwelling-house.
- (3) Subsection (4) applies where—
 - (a) the trustees of the settlement dispose of the interest in the dwelling-house to a person other than P,
 - (b) P's interest in possession in the settled property subsists immediately before the disposal, and
 - (c) P's interest in possession—
 - (i) falls within subsection (7) throughout the period beginning with P becoming beneficially entitled to it and ending with the disposal, or
 - (ii) falls within subsection (8).
- (4) The disposal is to be treated as a disposal by P of the interest in the dwelling-house to which P is beneficially entitled as a result of the operation of section 49(1).
- (5) Subsection (6) applies where—
 - (a) P disposes of the interest in possession in the settled property, or P's interest in possession in the settled property comes to an end in P's lifetime,
 - (b) the interest in the dwelling-house is, or is part of, the settled property immediately before the time when that happens, and
 - (c) P's interest in possession—
 - (i) falls within subsection (7) throughout the period beginning with P becoming beneficially entitled to it and ending with the time mentioned in paragraph (b), or
 - (ii) falls within subsection (8).

Finance Bill, continued

- (6) The disposal, or (as the case may be) the coming to an end of P's interest in possession, is to be treated as a disposal by P of the interest in the dwelling-house to which P is beneficially entitled as a result of the operation of section 49(1).
- (7) An interest in possession falls within this subsection if—
- (a) P became beneficially entitled to it before 22 March 2006 and section 71A does not apply to the settled property; or
 - (b) P becomes beneficially entitled to it on or after 22 March 2006 and the interest is—
 - (i) an immediate post-death interest,
 - (ii) a disabled person's interest, or
 - (iii) a transitional serial interest.
- (8) An interest in possession falls within this subsection if P becomes beneficially entitled to it on or after 22 March 2006 and it falls within section 5(1B)."

Rob Marris
John McDonnell
Richard Burgon
Rebecca Long Bailey

Not selected 12

Page 439, line 28, leave out Schedule 15

Schedule, as amended, agreed to.

Clauses 83 to 85 agreed to.

Mr David Gauke

Agreed to 122

Clause 86, page 143, line 6, after "as if", insert "—
(a) after subsection (3) there were inserted—

"(3A) But where the value of any objects is chargeable with estate duty under subsection (2A) of the said section forty (loss of objects), no estate duty shall be chargeable under this section on that value."; and

(b) "

Mr David Gauke

Agreed to 123

Clause 86, page 144, line 2, at end insert—

"(5A) In section 35 of IHTA 1984 (conditional exemption on death before 7th April 1976), in subsection (2), for paragraphs (a) and (b) substitute—

- "(a) tax shall be chargeable under section 32 or 32A (as the case may be), or
- (b) tax shall be chargeable under Schedule 5, as the Board may elect."

Mr David Gauke

Agreed to 124

Clause 86, page 144, line 9, at end insert " and
(b) in sub-paragraph (4), after "40(2)" insert "or (2A)"."

Finance Bill, continued

Mr David Gauke

Agreed to **125**

Clause **86**, page **144**, line **10**, leave out “Subsection (6) has” and insert “Subsections (5A) and (6) have”

Mr David Gauke

Agreed to **126**

Clause **86**, page **144**, line **11**, after “referred to in”, insert “section 35(2) of or”

Clause, as amended, agreed to.

Mr David Gauke

Agreed to **22**

Clause **88**, page **144**, line **32**, leave out “any of sections 90 to” and insert “section”

Mr David Gauke

Agreed to **23**

Clause **88**, page **144**, line **33**, leave out “of £15,000”

Mr David Gauke

Agreed to **24**

Clause **88**, page **144**, line **33**, at end insert—

“() The amount of the levy allowance is £15,000 (except where section 90 or 91 provides otherwise).”

Clause, as amended, agreed to.

Clause 89 agreed to.

Mr David Gauke

Agreed to **25**

Clause **90**, page **145**, line **33**, leave out subsections (1) to (3) and insert—

“(1) Two or more companies which are not charities form a “company unit” for a tax year (and are the “members” of that unit) if—

- (a) they are connected with one another at the beginning of the tax year, and
- (b) each of them is entitled to a levy allowance for the tax year.

(2) The members of a company unit must determine what amount of levy allowance each of them is to be entitled to for the tax year (and the determination must comply with subsections (3) and (3A)).
But see subsections (3C) and (3H).

(3) A member’s levy allowance for a tax year may be zero (but not a negative amount).

(3A) The total amount of the levy allowances to which the members of a company unit are entitled for a tax year must equal £15,000.

(3B) A determination made under subsection (2) (with respect to a tax year) cannot afterwards be altered by the members concerned (but this does not prevent the correction of a failure to comply with subsection (3A)).

Finance Bill, continued

- (3C) If subsection (3E) applies—
- (a) HMRC must determine in accordance with subsection (3D) what amount of levy allowance each of the relevant members (see subsection (3E)(a)) of the unit concerned is to be entitled to for the tax year, and
 - (b) accordingly subsection (2) is treated as never having applied in relation to that company unit and that tax year.
- (3D) The determination is to be made by multiplying the amount of levy allowance set out in each relevant return (see subsection (3E)(a)) by—

$$\frac{15,000}{T}$$

where T is the total of the amounts of levy allowance set out in the relevant returns.

The result is, in each case, the amount of the levy allowance to which the relevant member in question is entitled for the tax year (but amounts may be rounded up or down where appropriate provided that subsection (3A) is complied with).

- (3E) This subsection applies if—
- (a) HMRC is aware—
 - (i) that two or more members of a company unit (“the relevant members”) have made apprenticeship levy returns (“the relevant returns”) on the basis mentioned in subsection (3F), and
 - (ii) that those returns, together, imply that the total mentioned in subsection (3A) is greater than £15,000,
 - (b) HMRC has notified the relevant members in writing that HMRC is considering taking action under subsection (3C), and
 - (c) the remedial action specified in the notice has not been taken within the period specified in the notice.
- (3F) The basis in question is that the member making the return is entitled to a levy allowance (whether or not of zero) for the tax year concerned.
- (3G) If any member of the company unit mentioned in subsection (3E)(a) is not a relevant member, that member is entitled to a levy allowance of zero for the tax year.
- (3H) If subsection (3J) applies—
- (a) HMRC must determine in accordance with subsection (3I) what amount of levy allowance each of the members of the unit concerned is to be entitled to for the tax year, and
 - (b) accordingly subsection (2) is treated as never having applied in relation to that company unit and that tax year.
- (3I) Each member of the unit is to be entitled to a levy allowance for the tax year equal to—

$$\frac{£15,000}{N}$$

where N is the number of the members of the company unit for the tax year.

Amounts determined in accordance with the formula in this subsection may be rounded up or down where appropriate provided that subsection (3A) is complied with.

Finance Bill, continued

- (3J) This subsection applies if—
- (a) the total amount paid by the members of a company unit in respect of apprenticeship levy for a tax year or any period in a tax year is less than the total of the amounts due and payable by them for the tax year or other period concerned,
 - (b) either the members of the unit have made no apprenticeship levy returns for any period in the tax year concerned or the returns that have been made do not contain sufficient information to enable HMRC to determine how the whole of the £15,000 mentioned in subsection (3A) is to be used by the members of the unit for the tax year,
 - (c) HMRC has notified all the members of the unit in writing that HMRC is considering taking action under subsection (3H), and
 - (d) the remedial action specified in the notice has not been taken within the period specified in the notice.
- (3K) Subsection (3A) is to be taken into account in calculating the total of the amounts due and payable as mentioned in subsection (3J)(a).
- (3L) The Commissioners may by regulations provide that in circumstances specified in the regulations the members of a company unit may alter a determination made under subsection (2) (despite subsection (3B)).
- (3M) In this section “apprenticeship levy return” means a return under regulations under section 94(4).”

Mr David Gauke

Clause 90, page 146, line 1, leave out “section” and insert “Part”

Agreed to 26

Clause, as amended, agreed to.

Mr David Gauke

Clause 91, page 146, line 5, leave out subsections (1) to (3) and insert—

Agreed to 27

- “(1) Two or more charities form a “charities unit” for a tax year (and are the “members” of that unit) if—
- (a) they are connected with one another at the beginning of the tax year, and
 - (b) each of them is entitled to a levy allowance for the tax year.
- (2) The members of a charities unit must determine what amount of levy allowance each of them is to be entitled to for the tax year (and the determination must comply with subsections (3) and (3A)).
But see subsections (3C) and (3H).
- (3) A member’s levy allowance for a tax year may be zero (but not a negative amount).
- (3A) The total amount of the levy allowances to which the members of a charities unit are entitled for a tax year must equal £15,000.
- (3B) A determination made under subsection (2) (with respect to a tax year) cannot afterwards be altered by the members concerned (but this does not prevent the correction of a failure to comply with subsection (3A)).
- (3C) If subsection (3E) applies—
- (a) HMRC must determine in accordance with subsection (3D) what amount of levy allowance each of the relevant members (see subsection (3E)(a)) of the unit concerned is to be entitled to for the tax year, and

Finance Bill, continued

- (b) accordingly subsection (2) is treated as never having applied in relation to that charities unit and that tax year.
- (3D) The determination is to be made by multiplying the amount of levy allowance set out in each relevant return (see subsection (3E)(a)) by—

$$\frac{15,000}{T}$$

where T is the total of the amounts of levy allowance set out in the relevant returns.

The result is, in each case, the amount of the levy allowance to which the relevant member in question is entitled for the tax year (but amounts may be rounded up or down where appropriate provided that subsection (3A) is complied with).

- (3E) This subsection applies if—
- (a) HMRC is aware—
 - (i) that two or more members of a charities unit (“the relevant members”) have made apprenticeship levy returns (“the relevant returns”) on the basis mentioned in subsection (3F), and
 - (ii) that those returns, together, imply that the total mentioned in subsection (3A) is greater than £15,000,
 - (b) HMRC has notified the relevant members in writing that HMRC is considering taking action under subsection (3C), and
 - (c) the remedial action specified in the notice has not been taken within the period specified in the notice.
- (3F) The basis in question is that the member making the return is entitled to a levy allowance (whether or not of zero) for the tax year concerned.
- (3G) If any member of the charities unit mentioned in subsection (3E)(a) is not a relevant member, that member is entitled to a levy allowance of zero for the tax year.
- (3H) If subsection (3J) applies—
- (a) HMRC must determine in accordance with subsection (3I) what amount of levy allowance each of the members of the unit concerned is to be entitled to for the tax year, and
 - (b) accordingly subsection (2) is treated as never having applied in relation to that charities unit and that tax year.
- (3I) Each member of the unit is to be entitled to a levy allowance for the tax year equal to—

$$\frac{£15,000}{N}$$

where N is the number of the members of the charities unit for the tax year.

Amounts determined in accordance with the formula in this subsection may be rounded up or down where appropriate provided that subsection (3A) is complied with.

- (3J) This subsection applies if—
- (a) the total amount paid by the members of a charities unit in respect of apprenticeship levy for a tax year or any period in a tax year is less than

Finance Bill, continued

- the total of the amounts due and payable by them for the tax year or other period concerned,
- (b) either the members of the unit have made no apprenticeship levy returns for any period in the tax year concerned or the returns that have been made do not contain sufficient information to enable HMRC to determine how the whole of the £15,000 mentioned in subsection (3A) is to be used by the members of the unit for the tax year,
 - (c) HMRC has notified all the members of the unit in writing that HMRC is considering taking action under subsection (3H), and
 - (d) the remedial action specified in the notice has not been taken within the period specified in the notice.
- (3K) Subsection (3A) is to be taken into account in calculating the total of the amounts due and payable as mentioned in subsection (3J)(a).
- (3L) The Commissioners may by regulations provide that in circumstances specified in the regulations the members of a charities unit may alter a determination made under subsection (2) (despite subsection (3B)).
- (3M) In this section “apprenticeship levy return” means a return under regulations under section 94(4).”

Clause, as amended, agreed to.

Clauses 92 to 108 agreed to.

Mr David Gauke

Agreed to **28**

Clause 109, page 155, line 35, at end insert—
““company” has the meaning given by section 90(5);”

Clause, as amended, agreed to.

Clause 110 agreed to.

[Adjourned until Thursday at 11.30 am
