



House of Commons

NOTICES OF AMENDMENTS

given up to and including

Monday 13 June 2016

New Amendments handed in are marked thus ★

☆ *Amendments which will comply with the required notice period at their next appearance*

Amendments tabled since the last publication: 2 to 179, NC3 to NC7

COMMITTEE OF THE WHOLE HOUSE

FINANCE BILL

(Clauses 7 to 18 and Schedules 2 and 3; Clauses 41 and 42; Clauses 43 and 44; Clauses 65 to 71; Clauses 72 to 81 and Schedules 11 to 14; Clause 129; Clauses 132 to 136; Clauses 144 to 154 and Schedules 18 to 22; any new Clauses or new Schedules relating to employment income, the subject matter of Clauses 41 to 44 and 65 to 71, capital gains tax, insurance premium tax, climate change levy, and tax avoidance and evasion)

NOTE

This document includes all amendments tabled to date and includes any withdrawn amendments at the end. The amendments have been arranged in accordance with the Order of the House [11 April 2016].

*CLAUSES 7 TO 12, SCHEDULE 2, CLAUSES 13 TO 16, SCHEDULE 3, CLAUSES 17 AND 18,
NEW CLAUSES AND NEW SCHEDULES RELATING TO EMPLOYMENT INCOME*

Mr Chancellor of the Exchequer

22

★ Clause 7, page 14, leave out lines 7 to 10 and insert—

“(1A) Where this Chapter applies to any living accommodation—

- (a) the living accommodation is a benefit for the purposes of this Chapter (and accordingly it is immaterial whether the terms on which it is provided to any of those persons constitute a fair bargain), and

Finance Bill, continued

- (b) sections 102 to 108 provide for the cash equivalent of the benefit of the living accommodation to be treated as earnings.””

Mr Chancellor of the Exchequer

23

★ Clause 7, page 14, line 10, at end insert—

“() In section 109 (priority of Chapter 5 over Chapter 1), after subsection (3) insert—

“(4) In a case where the cash equivalent of the benefit of the living accommodation is nil—

- (a) subsections (2) and (3) do not apply, and
 (b) the full amount mentioned in subsection (1)(b) constitutes earnings from the employment for the year under Chapter 1.””

Mr Chancellor of the Exchequer

24

★ Clause 7, page 14, leave out lines 13 to 16 and insert —

“(1A) Where this Chapter applies to a car or van, the car or van is a benefit for the purposes of this Chapter (and accordingly it is immaterial whether the terms on which it is made available to the employee or member constitute a fair bargain).””

Mr Chancellor of the Exchequer

25

★ Clause 7, page 14, line 35, at end insert—

“() In section 120 (benefit of car treated as earnings)—

- (a) in subsection (2) after “case” insert “(including a case where the cash equivalent of the benefit of the car is nil)”, and
 (b) after subsection (2) insert—

“(3) Any reference in this Act to a case where the cash equivalent of the benefit of a car is treated as the employee’s earnings for a year by virtue of this section includes a case where the cash equivalent is nil.”

() In section 154 (benefit of van treated as earnings)—

- (a) the existing text becomes subsection (1) of that section, and
 (b) after that subsection insert—

“(2) In such a case (including a case where the cash equivalent of the benefit of the van is nil) the employee is referred to in this Chapter as being chargeable to tax in respect of the van for that year.

- (3) Any reference in this Act to a case where the cash equivalent of the benefit of a van is treated as the employee’s earnings for a year by virtue of this section includes a case where the cash equivalent is nil.””

Finance Bill, *continued*

Mr Chancellor of the Exchequer

26

★ Clause 7, page 14, leave out lines 37 to 39 and insert—

“(1A) Where this Chapter applies to a loan—

- (a) the loan is a benefit for the purposes of this Chapter (and accordingly it is immaterial whether the terms of the loan constitute a fair bargain), and
 - (b) sections 175 to 183 provide for the cash equivalent of the benefit of the loan (where it is a taxable cheap loan) to be treated as earnings in certain circumstances.”
-

Rob Marris

2

★ Clause 10, page 15, line 29, after “omit”, insert “, except in the case of a low emissions vehicle,”

Rob Marris

3

★ Clause 10, page 15, line 38, at end add—

“(3) For the purposes of this section, a “low emissions vehicle” means any car first registered on or after 1 April 2017 which emits 0.06g or less of nitrous oxides per kilometre.”

Mr Chancellor of the Exchequer

27

★ Clause 14, page 19, line 19, leave out paragraph (a) and insert—

“(a) in section 51(1)—

- (i) disregard “either” in the opening words, and
 - (ii) disregard paragraph (b) (and the preceding or), and”.
-

Mr Chancellor of the Exchequer

28

★ Schedule 3, page 274, line 20, leave out “(1) does” and insert “(1)(a) and (b) do”

Finance Bill, *continued*

Roger Mullin

NC1

To move the following Clause—

“Review of income tax treatment of workers providing services through intermediaries

The Chancellor of the Exchequer must conduct a strategic review of the impact on workers defined as providing services through intermediaries of their treatment for income tax purposes, including the differential impact on different types of worker, and must publish the report of the review within six months of the passing of this Act.”

Rob Marris

NC3

★ To move the following Clause—

“Tax treatment of workers employed through intermediaries

The Chancellor of the Exchequer must, within six months of the passing of this Act, publish a report on the impact of the current system of employment through intermediaries on the treatment for tax purposes of the employment income of workers employed through an intermediary or umbrella company, including the role of intermediaries and umbrella companies.”

CLAUSES 144 TO 147, SCHEDULE 18, CLAUSES 148 AND 149, SCHEDULE 19, CLAUSE 150, SCHEDULE 20, CLAUSE 151, SCHEDULE 21, CLAUSES 152 AND 153, SCHEDULE 22, CLAUSE 154, NEW CLAUSES AND NEW SCHEDULES RELATING TO TAX AVOIDANCE AND EVASION

Mr Chancellor of the Exchequer

114

★ Clause 144, page 194, leave out lines 12 to 15 and insert—

“() notifies the person of the person’s rights of appeal with respect to the notified adjustments (when made) and contains a statement that if an appeal is made against the making of the adjustments—

- (i) no steps may be taken in relation to the appeal unless and until the person is given a notice referred to in section 209F(2), and
 - (ii) the notified adjustments will be cancelled if HMRC fails to take at least one of the actions mentioned in section 209B(4) within the period specified in section 209B(2).”
-

Finance Bill, *continued*

- Mr Chancellor of the Exchequer **115**
- ★ Clause 145, page 198, line 8, leave out “Condition 1 or 2” and insert “the condition in sub-paragraph (2)”
- Mr Chancellor of the Exchequer **116**
- ★ Clause 145, page 198, line 9, leave out “Condition 1” and insert “The condition”
- Mr Chancellor of the Exchequer **117**
- ★ Clause 145, page 198, line 10, at end insert “but no notice under paragraph 12 of Schedule 43 or paragraph 9 of Schedule 43B has yet been given in respect of the matter.”
- Mr Chancellor of the Exchequer **118**
- ★ Clause 145, page 198, leave out lines 11 and 12
- Mr Chancellor of the Exchequer **119**
- ★ Clause 145, page 198, line 20, leave out from first “notice” to end of line 21 and insert “(a “pooling notice”) which places R’s arrangements in a pool with the lead arrangements.”
- Mr Chancellor of the Exchequer **120**
- ★ Clause 145, page 198, line 21, at end insert—
- “() There is one pool for any lead arrangements, so all tax arrangements placed in a pool with the lead arrangements (as well as the lead arrangements themselves) are in one and the same pool.
- “() Tax arrangements which have been placed in a pool do not cease to be in the pool except where that is expressly provided for by this Schedule (regardless of whether or not the lead arrangements or any other tax arrangements remain in the pool).”
- Mr Chancellor of the Exchequer **121**
- ★ Clause 145, page 198, line 22, leave out “notice of binding” and insert “pooling notice”
- Mr Chancellor of the Exchequer **122**
- ★ Clause 145, page 198, line 23, leave out “(which has not been withdrawn)”
- Mr Chancellor of the Exchequer **123**
- ★ Clause 145, page 198, line 25, leave out from “43” to end of line 26

Finance Bill, *continued*

Mr Chancellor of the Exchequer

124

★ Clause 145, page 198, line 26, at end insert—

“Notice of proposal to bind arrangements to counteracted arrangements

- 1A (1) This paragraph applies where a counteraction notice has been given to a person in relation to any tax arrangements (the “counteracted arrangements”) which are in a pool created under paragraph 1.
- (2) If a designated HMRC officer considers—
- (a) that a tax advantage has arisen to another person (“R”) from tax arrangements that are abusive,
 - (b) that those tax arrangements (“R’s arrangements”) are equivalent to the counteracted arrangements, and
 - (c) that the advantage ought to be counteracted under section 209,
- the officer may give R a notice (a “notice of binding”) in relation to R’s arrangements.
- (3) The officer may not give R a notice of binding if R has been given in respect of R’s arrangements a notice under—
- (a) paragraph 1, or
 - (b) paragraph 3 of Schedule 43.
- (4) In this paragraph “counteraction notice” means a notice such as is mentioned in sub-paragraph (2) of paragraph 12 of Schedule 43 or sub-paragraph (3) of paragraph 9 of Schedule 43B (notice of final decision to counteract).

1B”

Mr Chancellor of the Exchequer

125

★ Clause 145, page 198, line 27, after “a” insert “pooling notice or”

Mr Chancellor of the Exchequer

126

★ Clause 145, page 198, line 30, after “A” insert “pooling notice or”

Mr Chancellor of the Exchequer

127

★ Clause 145, page 198, line 34, after “arrangements” insert “or the counteracted arrangements (as the case may be)”

Mr Chancellor of the Exchequer

128

★ Clause 145, page 199, line 1, after “A” insert “pooling notice or”

Mr Chancellor of the Exchequer

129

★ Clause 145, page 199, leave out lines 4 to 10

Mr Chancellor of the Exchequer

130

★ Clause 145, page 199, line 12, after “a” insert “pooling notice or”

Finance Bill, continued

Mr Chancellor of the Exchequer

131

- ★ Clause 145, page 199, line 16, after “6” insert “and Schedule 43B (generic referral of tax arrangements)”

Mr Chancellor of the Exchequer

132

- ★ Clause 145, page 199, line 17, leave out “of binding” and insert “in question (and accordingly the tax arrangements in question are no longer in the pool)”

Mr Chancellor of the Exchequer

133

- ★ Clause 145, page 199, line 23, leave out “notice under paragraph 1” and insert “pooling notice or notice of binding”

Mr Chancellor of the Exchequer

134

- ★ Clause 145, page 199, line 26, leave out “notice under paragraph 1” and insert “pooling notice or notice of binding”

Mr Chancellor of the Exchequer

135

- ★ Clause 145, page 199, line 34, at end insert—
 “() Where a person takes the first step described in sub-paragraph (3)(b), HMRC may proceed as if the person had not taken the relevant corrective action if the person fails to enter into the written agreement.”

Mr Chancellor of the Exchequer

136

- ★ Clause 145, page 200, line 6, at end insert—

“Corrective action by lead taxpayer

- 2A If the person mentioned in paragraph 1(1) takes the relevant corrective action (as defined in paragraph 4A of Schedule 43) before the end of the period of 75 days beginning with the day on which the notice mentioned in paragraph 1(1) was given to that person, the lead arrangements are treated as ceasing to be in the pool.”

Mr Chancellor of the Exchequer

137

- ★ Clause 145, page 200, line 9, leave out “notice of binding” and insert “pooling notice”

Mr Chancellor of the Exchequer

138

- ★ Clause 145, page 200, line 10, leave out from first “arrangements” to “and” in line 11

Mr Chancellor of the Exchequer

139

- ★ Clause 145, page 200, line 13, leave out from “about” to “is” in line 14 and insert “another set of tax arrangements in the pool (“the referred arrangements”)”

Finance Bill, *continued*

- Mr Chancellor of the Exchequer **140**
- ★ Clause 145, page 200, line 16, leave out “bound” and insert “pooled”
- Mr Chancellor of the Exchequer **141**
- ★ Clause 145, page 200, line 17, at end insert—
 “() No more than one pooled arrangements opinion notice may be given to a person in respect of the same tax arrangements.”
- Mr Chancellor of the Exchequer **142**
- ★ Clause 145, page 200, line 19, leave out “by virtue of Condition 2 in paragraph 1”
- Mr Chancellor of the Exchequer **143**
- ★ Clause 145, page 200, line 21, leave out “notice of binding” and insert “pooling notice”
- Mr Chancellor of the Exchequer **144**
- ★ Clause 145, page 200, line 22, leave out “bound” and insert “pooled”
- Mr Chancellor of the Exchequer **145**
- ★ Clause 145, page 200, line 25, leave out “lead” and insert “referred”
- Mr Chancellor of the Exchequer **146**
- ★ Clause 145, page 200, line 29, at end insert—
 “() In relation to a person who is given a notice of binding “bound arrangements opinion notice” means a written notice which—
 (a) sets out a report prepared by HMRC of any opinion of the GAAR Advisory Panel about the counteracted arrangements (see paragraph 1A(1)),
 (b) explains the person’s right to make representations falling within subparagraph (2), and
 (c) sets out the period in which those representations may be made.”
- Mr Chancellor of the Exchequer **147**
- ★ Clause 145, page 200, line 30, after “given” and insert “a pooled arrangements opinion notice or”
- Mr Chancellor of the Exchequer **148**
- ★ Clause 145, page 200, leave out lines 35 to 38

Finance Bill, *continued*

- Mr Chancellor of the Exchequer **149**
- ★ Clause 145, page 200, line 40, leave out “the lead arrangements” and insert—
- “(i) the referred arrangements (in the case of a pooled arrangements opinion notice), or
 - (ii) the counteracted arrangements (in the case of a bound arrangements opinion notice).”
- Mr Chancellor of the Exchequer **150**
- ★ Clause 145, page 201, line 3, leave out from beginning to “paragraph” in line 4 and insert “any tax arrangements have been placed in a pool by a notice given to a person under”
- Mr Chancellor of the Exchequer **151**
- ★ Clause 145, page 201, line 7, leave out “the lead arrangements” and insert “any other arrangements in the pool (the “referred arrangements”)”
- Mr Chancellor of the Exchequer **152**
- ★ Clause 145, page 201, line 10, leave out “lead” and insert “referred”
- Mr Chancellor of the Exchequer **153**
- ★ Clause 145, page 201, line 17, leave out “by virtue of Condition 2 in paragraph 1” and insert “under paragraph 1A”
- Mr Chancellor of the Exchequer **154**
- ★ Clause 145, page 201, line 22, leave out “lead” and insert “counteracted”
- Mr Chancellor of the Exchequer **155**
- ★ Clause 145, page 202, line 25, leave out from “applies” to end of line 38 and insert “if—
- (a) pooling notices given under paragraph 1 of Schedule 43A have placed one or more sets of tax arrangements in a pool with the lead arrangements,
 - (b) the lead arrangements (see paragraph 1(1) of Schedule 43A) have ceased to be in the pool, and
 - (c) no referral under paragraph 5 or 6 of Schedule 43 has been made in respect of any arrangements in the pool.
- (2) A designated HMRC officer may determine that, in respect of each of the tax arrangements that are in the pool, there is to be given (to the person to whom the pooling notice in question was given) a written notice of a proposal to make a generic referral to the GAAR Advisory Panel in respect of the arrangements in the pool.
- (3) Only one determination under sub-paragraph (2) may be made in relation to any one pool.
- (3A) The persons to whom those notices are given are “the notified taxpayers”.”

Finance Bill, *continued*

- Mr Chancellor of the Exchequer **156**
★ Clause 145, page 203, leave out lines 1 to 4
- Mr Chancellor of the Exchequer **157**
★ Clause 145, page 203, line 6, leave out “representations, and” and insert “a proposal.”
- Mr Chancellor of the Exchequer **158**
★ Clause 145, page 203, leave out lines 7 to 16
- Mr Chancellor of the Exchequer **159**
★ Clause 145, page 203, line 18, leave out from “given” to end of line 20 and insert “to propose to HMRC that it—
(a) should give T a notice under paragraph 3 of Schedule 43 in respect of the arrangements to which the notice under paragraph 1 relates, and
(b) should not proceed with the proposal to make a generic referral to the GAAR Advisory Panel in respect of those arrangements.”
- Mr Chancellor of the Exchequer **160**
★ Clause 145, page 203, leave out lines 21 to 25
- Mr Chancellor of the Exchequer **161**
★ Clause 145, page 203, line 26, leave out “representations are made in accordance with sub-paragraph (2)” and insert “a proposal is made in accordance with sub-paragraph (1)”
- Mr Chancellor of the Exchequer **162**
★ Clause 145, page 203, line 27, leave out “them” and insert “it”
- Mr Chancellor of the Exchequer **163**
★ Clause 145, page 203, line 28, leave out from beginning to end of line 22 on page 204
- Mr Chancellor of the Exchequer **164**
★ Clause 145, page 204, line 26, leave out “given a notice” and insert “made a proposal”
- Mr Chancellor of the Exchequer **165**
★ Clause 145, page 204, line 31, leave out “gives a notice” and insert “makes a proposal”

Finance Bill, *continued*

Mr Chancellor of the Exchequer

- ★ Clause 145, page 204, line 32, after “must” insert “, after the end of that 30 day period,” 166

Mr Chancellor of the Exchequer

- ★ Clause 145, page 204, leave out lines 34 and 35 and insert— 167
 “() give a notice under paragraph 3 of Schedule 43 in respect of one set of tax arrangements in the relevant pool, or”

Mr Chancellor of the Exchequer

- ★ Clause 145, page 204, leave out lines 37 and 38 and insert “tax arrangements in the relevant pool” 168

Mr Chancellor of the Exchequer

- ★ Clause 145, page 205, line 18, after “which” insert “the designated officer considers” 169

Mr Chancellor of the Exchequer

- ★ Clause 145, page 207, line 35, at end insert— 170
 “() In section 210 (consequential relieving adjustments), in subsection (1)(b), after “Schedule 43,” insert “paragraph 5 or 6 of Schedule 43A or paragraph 9 of Schedule 43B.”

Mr Chancellor of the Exchequer

- ★ Clause 145, page 207, line 40, after “1” insert “or 1A” 171

Mr Chancellor of the Exchequer

- ★ Clause 145, page 207, line 41, leave out “lead” and insert “referred or (as the case may be) counteracted” 172

Mr Chancellor of the Exchequer

- ★ Clause 145, page 208, line 7, leave out “1(4)” and insert “1A(2)” 173

Mr Chancellor of the Exchequer

- ★ Clause 145, page 208, line 8, at end insert— 174
 ““pooling notice” has the meaning given by paragraph 1(4) of Schedule 43A;”

Mr Chancellor of the Exchequer

- ★ Clause 145, page 208, line 28, leave out from “notice” to “in” in line 30 and insert “has been given under paragraph 5(2) or 6(2) of Schedule 43A to FA 2013 (notice of final decision after considering Panel’s opinion about referred or counteracted arrangements)” 175

Finance Bill, *continued*

Mr Chancellor of the Exchequer

176

- ★ Clause 145, page 208, line 34, leave out from “Panel” to end of line 36 and insert “about the other arrangements (see subsection (8)) was as set out in paragraph 11(3)(b) of Schedule 43 to FA 2013.”

Mr Chancellor of the Exchequer

177

- ★ Clause 145, page 209, line 2, leave out from “(4)(d)” to end of line 6 and insert “other arrangements” means—
- (a) in relation to a notice under paragraph 5(2) of Schedule 43A to FA 2013, the referred arrangements (as defined in that paragraph);
 - (b) in relation to a notice under paragraph 6(2) of that Schedule, the counteracted arrangements (as defined in paragraph 1A of that Schedule).”

Mr Chancellor of the Exchequer

178

- ★ Clause 145, page 209, line 6, at end insert—
- “(13A) Section 10 of the National Insurance Contributions Act 2014 (GAAR to apply to national insurance contributions) is amended in accordance with subsections (13B) to (13E).
 - (13B) In subsection (4), at the end insert “, paragraph 5 or 6 of Schedule 43A to that Act (pooling of tax arrangements: notice of final decision) or paragraph 9 of Schedule 43B to that Act (generic referral of arrangements: notice of final decision)”.
 - (13C) After subsection (6) insert—
 - “(6A) Where, by virtue of this section, a case falls within paragraph 4A of Schedule 43 to the Finance Act 2013 (referrals of single schemes: relevant corrective action) or paragraph 2 of Schedule 43A to that Act (pooled schemes: relevant corrective action)—
 - (a) the person (“P”) mentioned in sub-paragraph (1) of that paragraph takes the “relevant corrective action” for the purposes of that paragraph if (and only if)—
 - (i) in a case in which the tax advantage in question can be counteracted by making a payment to HMRC, P makes that payment and notifies HMRC that P has done so, or
 - (ii) in any case, P takes all necessary action to enter into an agreement in writing with HMRC for the purpose of relinquishing the tax advantage, and
 - (b) accordingly, sub-paragraphs (2) to (8) of that paragraph do not apply.”
 - (13D) In subsection (11)—
 - (a) for “and HMRC” substitute “, “HMRC” and “tax advantage””;
 - (b) after “2013” insert “(as modified by this section)”.
 - (13E) After subsection (11) insert—
 - “(12) See section 10A for further modifications of Part 5 of the Finance Act 2013.”

Finance Bill, *continued*

(13F) After section 10 of the National Insurance Contributions Act 2014 insert—

“10A Application of GAAR in relation to penalties

- (1) For the purposes of this section a penalty under section 212A of the Finance Act 2013 is a “relevant NICs-related penalty” so far as the penalty relates to a tax advantage in respect of relevant contributions.
- (2) A relevant NICs-related penalty may be recovered as if it were an amount of relevant contributions which is due and payable.
- (3) Section 117A of the Social Security Administration Act 1992 or (as the case may be) section 111A of the Social Security Administration (Northern Ireland) Act 1992 (issues arising in proceedings: contributions etc) has effect in relation to proceedings before a court for recovery of a relevant NICs-related penalty as if the assessment of the penalty were a NICs decision as to whether the person is liable for the penalty.
- (4) Accordingly, paragraph 5(4)(b) of Schedule 43C to the Finance Act 2013 (assessment of penalty to be enforced as if it were an assessment to tax) does not apply in relation to a relevant NICs-related penalty.
- (5) In the application of Schedule 43C to the Finance Act 2013 in relation to a relevant NICs-related penalty, paragraph 9(5) has effect as if the reference to an appeal against an assessment to the tax concerned were to an appeal against a NICs decision.
- (6) In paragraph 8 of that Schedule (aggregate penalties), references to a “relevant penalty provision” include—
 - (a) any provision mentioned in sub-paragraph (5) of that paragraph, as applied in relation to any class of national insurance contributions by regulations (whenever made);
 - (b) section 98A of the Taxes Management Act 1970, as applied in relation to any class of national insurance contributions by regulations (whenever made);
 - (c) any provision in regulations made by the Treasury under which a penalty can be imposed in respect of any class of national insurance contributions.
- (7) The Treasury may by regulations—
 - (a) disapply, or modify the effect of, subsection (6)(a) or (b);
 - (b) modify paragraph 8 of Schedule 43C to the Finance Act 2013 as it has effect in relation to a relevant penalty provision by virtue of subsection (6)(b) or (c).
- (8) Section 175(3) to (5) of SSCBA 1992 (various supplementary powers) applies to a power to make regulations conferred by subsection (7).
- (9) Regulations under subsection (7) must be made by statutory instrument.
- (10) A statutory instrument containing regulations under subsection (7) is subject to annulment in pursuance of a resolution of either House of Parliament.
- (11) In this section “NICs decision” means a decision under section 8 of the Social Security Contributions (Transfer of Functions, etc) Act 1999 or Article 7 of the Social Security Contributions (Transfer of Functions, etc) (Northern Ireland) Order 1999 (SI 1999/671).

Finance Bill, continued

- (12) In this section “relevant contributions” means the following contributions under Part 1 of SSCBA 1992 or Part 1 of SSCB(NI)A 1992—
- (a) Class 1 contributions;
 - (b) Class 1A contributions;
 - (c) Class 1B contributions;
 - (d) Class 2 contributions which must be paid but in relation to which section 11A of the Act in question (application of certain provisions of the Income Tax Acts in relation to Class 2 contributions under section 11(2) of that Act) does not apply.”

Mr Chancellor of the Exchequer

179

★ Clause 145, page 209, line 6, at end insert—

“(13A) In section 220 of FA 2014 (content of notice given while a tax enquiry is in progress)—

- (a) in subsection (4)(c), after “219(4)(c)” insert “, (d) or (e)”;
- (b) in subsection (5)(c), after “219(4)(c)” insert “, (d) or (e)”;
- (c) in subsection (7), for the words from “under” to the end substitute “under—

- (a) paragraph 12 of Schedule 43 to FA 2013,
 - (b) paragraph 5 or 6 of Schedule 43A to that Act, or
 - (c) paragraph 9 of Schedule 43B to that Act,
- as the case may be.”

(13B) Section 287 of FA 2014 (Code of Practice on Taxation for Banks) is amended in accordance with subsections (13C) to (13E).

(13C) In subsection (4), after “(5)” insert “or (5A)”.

(13D) In subsection (5)(b), after “Schedule” insert “or paragraph 5 or 6 of Schedule 43A to that Act”.

(13E) After subsection (5) insert—

“(5A) This subsection applies to any conduct—

- (a) in relation to which there has been given—
 - (i) an opinion notice under paragraph 7(4)(b) of Schedule 43B to FA 2013 (GAAR advisory panel: opinion that such conduct unreasonable) stating the joint opinion of all the members of a sub-panel arranged under that paragraph, or
 - (ii) one or more such notices stating the opinions of at least two members of such a sub-panel, and
- (b) in relation to which there has been given a notice under paragraph 9 of that Schedule (HMRC final decision on tax advantage) stating that a tax advantage is to be counteracted.

(5B) For the purposes of subsection (5), any opinions of members of the GAAR advisory panel which must be considered before a notice is given under paragraph 5 or 6 of Schedule 43A to FA 2013 (opinions about the lead arrangements) are taken to relate to the conduct to which the notice relates.”

(13F) In Schedule 32 to FA 2014 (accelerated payments and partnerships), paragraph 3 is amended in accordance with subsections (13G) and (13H).

Finance Bill, continued

- (13G) In sub-paragraph (5), after paragraph (c) insert—
- “(d) the relevant partner in question has been given a notice under paragraph 5(2) or 6(2) of Schedule 43A to FA 2013 (notice of final decision after considering Panel’s opinion about referred or counteracted arrangements) in respect of any tax advantage resulting from the asserted advantage or part of it and the chosen arrangements (or is given such a notice at the same time as the partner payment notice) in a case where the stated opinion of at least two of the members of the sub-panel of the GAAR Advisory Panel about the other arrangements (see sub-paragraph (7)) was as set out in paragraph 11(3)(b) of Schedule 43 to FA 2013;
- (e) the relevant partner in question has been given a notice under paragraph 9(2) of Schedule 43B to FA 2013 (GAAR: generic referral of arrangements) in respect of any tax advantage resulting from the asserted advantage or part of it and the chosen arrangements (or is given such a notice at the same time as the partner payment notice) in a case where the stated opinion of at least two of the members of the sub-panel of the GAAR Advisory Panel which considered the generic referral in respect of those arrangements was as set out in paragraph 7(4)(b) of that Schedule.”
- (13H) After sub-paragraph (6) insert—
- “(7) “Other arrangements” means—
- (a) in relation to a notice under paragraph 5(2) of Schedule 43A to FA 2013, the referred arrangements (as defined in that paragraph);
- (b) in relation to a notice under paragraph 6(2) of that Schedule, the counteracted arrangements (as defined in paragraph 1A of that Schedule).”
- (13I) In Schedule 34 to FA 2014 (promoters of tax avoidance schemes: threshold conditions), in paragraph 7—
- (a) in paragraph (a), at the end insert “(referrals of single schemes) or are in a pool in respect of which a referral has been made to that Panel under Schedule 43B to that Act (generic referrals),”;
- (b) in paragraph (b)—
- (i) for “in relation to the arrangements” substitute “in respect of the referral”;
- (ii) after “11(3)(b)” insert “or (as the case may be) 7(4)(b)”;
- (c) in paragraph (c)(i) omit “paragraph 10 of”.

Mr Chancellor of the Exchequer

★ Clause 146, page 209, line 14, after “person” insert “(P)”

82

Mr Chancellor of the Exchequer

★ Clause 146, page 209, leave out lines 15 and 16

83

Finance Bill, *continued*

- Mr Chancellor of the Exchequer 84
- ★ Clause 146, page 209, line 17, leave out “the person” and insert “(P)”
- Mr Chancellor of the Exchequer 85
- ★ Clause 146, page 209, line 21, leave out “the” and insert “particular”
- Mr Chancellor of the Exchequer 86
- ★ Clause 146, page 209, line 22, at end insert—
- “(ba) a tax document has been given to HMRC on the basis that the tax advantage arises to P from those arrangements,
- (bb) that document was given to HMRC—
- (i) by P, or
- (ii) by another person in circumstances where P knew, or ought to have known, that the other person gave the document on the basis mentioned in paragraph (ba), and”
- Rob Marris 4
- ★ Clause 146, page 209, line 25, leave out from “penalty” to end and insert “shall be 100% unless the GAAR Advisory Panel or an officer duly delegated by that panel considers that there are exceptional reasons for lessening that percentage.”
- Mr Chancellor of the Exchequer 87
- ★ Clause 146, page 209, line 33, at end insert—
- “() In this section the reference to giving a tax document to HMRC is to be interpreted in accordance with paragraph 11(g) and (h) of Schedule 43C.”
- Mr Chancellor of the Exchequer 88
- ★ Clause 146, page 210, line 16, at end insert—
- “() For the purposes of this paragraph consequential adjustments under section 210 are regarded as part of the counteraction in question.
- () If the counteraction affects the person’s liability to two or more taxes, the taxes concerned are to be considered together for the purpose of determining the value of the counteracted advantage.”
- Mr Chancellor of the Exchequer 89
- ★ Clause 146, page 214, line 33, after “tax” insert “(including any amount chargeable as if it were corporation tax or treated as corporation tax)”
- Mr Chancellor of the Exchequer 90
- ★ Clause 146, page 214, line 34, at end insert “and
- (v) diverted profits tax;”

Finance Bill, *continued*

Mr Chancellor of the Exchequer	91
★ Clause 146, page 215, line 34, after “given” insert “a pooling notice or”	
Mr Chancellor of the Exchequer	92
★ Clause 146, page 215, line 34, leave out “paragraph 1 of”	
Mr Chancellor of the Exchequer	93
★ Clause 146, page 215, line 41, at beginning insert “in the case of a pooling notice,”	
Mr Chancellor of the Exchequer	94
★ Clause 146, page 215, line 47, leave out from beginning to “with” in line 48 and insert “in the case of a notice of binding,”	
Mr Chancellor of the Exchequer	95
★ Clause 146, page 215, line 49, leave out “of binding”	
Mr Chancellor of the Exchequer	96
★ Clause 146, page 216, line 6, leave out “binding” and insert “pooling or binding (as the case may be)”	
Mr Chancellor of the Exchequer	97
★ Clause 146, page 216, line 43, at end insert— “ <i>(ja)</i> an appeal under section 103 of FA 2016 (apprenticeship levy: appeal against an assessment), or”	
Mr Chancellor of the Exchequer	98
★ Clause 146, page 216, line 45, leave out “ <i>(j)</i> ” and insert “ <i>(ja)</i> ”	
Mr Chancellor of the Exchequer	99
★ Clause 146, page 217, line 23, at end insert— “ <i>()</i> Where the taxpayer takes the first step described in sub-paragraph (3)(b), HMRC may proceed as if the taxpayer had not taken the relevant corrective action if the taxpayer fails to enter into the written agreement.”	
<hr/>	
Mr Chancellor of the Exchequer	100
★ Schedule 18, page 480, line 19, at end insert “, associated persons and partnerships”	

Finance Bill, *continued*

Mr Chancellor of the Exchequer

101

★ Schedule 18, page 480, line 32, at end insert—

“() A warning notice given by virtue of paragraph 46C must also explain the effect of paragraph 46E (information in certain cases involving partnerships).”

Mr Chancellor of the Exchequer

102

★ Schedule 18, page 484, line 10, after “decision” insert “, paragraph 5 or 6 of Schedule 43A to that Act (pooled arrangements: notice of final decision) or paragraph 9 of Schedule 43B to that Act (generic referrals: notice of final decision)”

Mr Chancellor of the Exchequer

103

★ Schedule 18, page 484, leave out lines 23 and 24 and insert “the necessary corrective action for the purposes of section 208 of FA 2014 has been taken”

Mr Chancellor of the Exchequer

104

★ Schedule 18, page 484, line 28, at end insert—

“(1A) In sub-paragraph (1) the reference to giving a follower notice to P includes a reference to giving a partnership follower notice in respect of a partnership return in relation to which P is a relevant partner (as defined in paragraph 2(5) of Schedule 31 to FA 2014).”

Mr Chancellor of the Exchequer

105

★ Schedule 18, page 484, line 35, leave out from “advantage” to end of line 36 and insert “has the same meaning as in Chapter 2 of Part 4 of FA 2014 (see section 208(3) of and paragraph 4(3) of Schedule 31 to that Act).”

Mr Chancellor of the Exchequer

106

★ Schedule 18, page 484, line 42, at end insert—

“(6) For the purposes of this paragraph a partnership follower notice is given “in respect of” the partnership return mentioned in paragraph (a) or (b) of paragraph 2(2) of Schedule 31 to FA 2014.”

Mr Chancellor of the Exchequer

107

★ Schedule 18, page 485, line 8, after “election” insert “, or a partnership return is made,”

Mr Chancellor of the Exchequer

108

★ Schedule 18, page 490, line 22, at end insert—

“() If the person mentioned in sub-paragraph (1) is a person carrying on a trade or business in partnership, the information which may be published also includes—

- (a) any trading name of the partnership, and
- (b) information about other members of the partnership of the kind described in sub-paragraph (4)(a) or (b).”

Finance Bill, continued

Mr Chancellor of the Exchequer

109

★ Schedule 18, page 494, line 31, at end insert—

“() In this paragraph “relevant failure”, in relation to a relevant defeat, is to be interpreted in accordance with sub-paragraphs (2) to (7) of paragraph 43.”

Mr Chancellor of the Exchequer

110

★ Schedule 18, page 504, line 43, at end insert—

“Associated persons treated as incurring relevant defeats

- 46A (1) Sub-paragraph (2) applies if a person (“P”) incurs a relevant defeat in relation to any arrangements (otherwise than by virtue of this paragraph).
- (2) Any person (“S”) who is associated with P at the relevant time is also treated for the purposes of paragraphs 2 (duty to give warning notice) and 3(2) (warning period) as having incurred that relevant defeat in relation to those arrangements (but see sub-paragraph (3)).
For the meaning of “associated” see paragraph 46B.
- (3) Sub-paragraph (2) does not apply if P and S are members of the same group of companies (as defined in paragraph 46(9)).
- (4) In relation to a warning notice given to S by virtue of sub-paragraph (2), paragraph 2(4)(c) (certain information to be included in warning notice) is to be read as referring only to paragraphs 3, 17 and 18.
- (5) A warning notice which is given to a person by virtue of sub-paragraph (2) is treated for the purposes of paragraphs 19(1) (duty to give relief restriction notice) and 30 (penalty) as not having been given to that person.
- (6) In sub-paragraph (2) “the relevant time” means the time when P is given a warning notice in respect of the relevant defeat.

Meaning of “associated”

- 46B (1) For the purposes of paragraph 46A two persons are associated with one another if—
- (a) one of them is a body corporate which is controlled by the other, or
- (b) they are bodies corporate under common control.
- (2) Two bodies corporate are under common control if both are controlled—
- (a) by one person,
- (b) by two or more, but fewer than six, individuals, or
- (c) by any number of individuals carrying on business in partnership.
- (3) For the purposes of this section a body corporate (“H”) is taken to control another body corporate (“B”) if—
- (a) H is empowered by statute to control B’s activities, or
- (b) H is B’s holding company within the meaning of section 1159 of and Schedule 6 to the Companies Act 2006.
- (4) For the purposes of this section an individual or individuals are taken to control a body corporate (“B”) if the individual or individuals, were they a body corporate, would be B’s holding company within the meaning of those provisions.

Finance Bill, continued*Partners treated as incurring relevant defeats*

- 46C (1) Where paragraph 46D applies in relation to a partnership return, each relevant partner is treated for the purposes of this Part of this Act as having incurred the relevant defeat mentioned in paragraph 46D(1)(b), (2) or (3)(b) (as the case may be).
- (2) In this paragraph “relevant partner” means any person who was a partner in the partnership at any time during the relevant reporting period (but see sub-paragraph (3)).
- (3) The “relevant partners” do not include—
- (a) the person mentioned in sub-paragraph (1)(b), (2) or (3)(b) (as the case may be) of paragraph 46D, or
 - (b) any other person who would, apart from this paragraph, incur a relevant defeat in connection with the subject matter of the partnership return mentioned in sub-paragraph (1).
- (4) In this paragraph the “relevant reporting period” means the period in respect of which the partnership return mentioned in sub-paragraph (1), (2) or (3) of paragraph 46D was required.

Partnership returns to which this paragraph applies

- 46D (1) This paragraph applies in relation to a partnership return if—
- (a) that return has been made on the basis that a tax advantage arises to a partner from any arrangements, and
 - (b) that person has incurred, in relation to that tax advantage and those arrangements, a relevant defeat by virtue of Condition A (final counteraction of tax advantage under general anti-abuse rule).
- (2) Where a person has incurred a relevant defeat by virtue of sub-paragraph (1A) of paragraph 13 (Condition B: case involving partnership follower notice) this paragraph applies in relation to the partnership return mentioned in that sub-paragraph.
- (3) This paragraph applies in relation to a partnership return if—
- (a) that return has been made on the basis that a tax advantage arises to a partner from any arrangements, and
 - (b) that person has incurred, in relation to that tax advantage and those arrangements, a relevant defeat by virtue of Condition C (return, claim or election made in reliance on DOTAS arrangements).
- (4) The references in this paragraph to a relevant defeat do not include a relevant defeat incurred by virtue of paragraph 46A(2).

Partnerships: information

- 46E (1) If paragraph 46D applies in relation to a partnership return, the appropriate partner must give HMRC a written notice (a “partnership information notice”) in respect of each sub-period in the information period.
- (2) The “information period” is the period of 5 years beginning with the day after the day of the relevant defeat mentioned in paragraph 46D.
- (3) If, in the case of a partnership, a new information period (relating to another partnership return) begins during an existing information period, those periods are treated for the purposes of this paragraph as a single period (which includes all times that would otherwise fall within either period).
- (4) An information period under this paragraph ends if the partnership ceases.
- (5) A partnership information notice must be given not later than the 30th day after the end of the sub-period to which it relates.

Finance Bill, *continued*

- (6) A partnership information notice must state—
- (a) whether or not any relevant partnership return which was, or was required to be, delivered in the sub-period has been made on the basis that a relevant tax advantage arises, and
 - (b) whether or not there has been a failure to deliver a relevant partnership return in the sub-period.
- (7) In this paragraph—
- (a) “relevant partnership return” means a partnership return in respect of the partnership’s trade, profession or business;
 - (b) “relevant tax advantage” means a tax advantage which particular DOTAS arrangements enable, or might be expected to enable, a person who is or has been a partner in the partnership to obtain.
- (8) If a partnership information notice states that a relevant partnership return has been made on the basis mentioned in sub-paragraph (6)(a) the notice must—
- (a) explain (on the assumptions made for the purposes of the return) how the DOTAS arrangements enable the tax advantage concerned to be obtained, and
 - (b) describe any variation in the amounts required to be stated in the return under section 12AB(1) of TMA 1970 which results from those arrangements.
- (9) HMRC may require the appropriate partner to give HMRC a notice (a “supplementary information notice”) setting out further information in relation to a partnership information notice.
- In relation to a partnership information notice “further information” means information which would have been required to be set out in the notice by virtue of sub-paragraph (6)(a) or (8) had there not been a failure to deliver a relevant partnership return.
- (10) A requirement under sub-paragraph (9) must be made by a written notice and the notice must state the period within which the notice must be complied with.
- (11) If a person fails to comply with a requirement of (or imposed under) this paragraph, HMRC may by written notice extend the information period concerned to the end of the period of 5 years beginning with—
- (a) the day by which the partnership information notice or supplementary information notice was required to be given to HMRC or, as the case requires,
 - (b) the day on which the person gave the defective notice to HMRC,
- or, if earlier, the time when the information period would have expired but for the extension.
- (12) For the purposes of this paragraph—
- (a) the first sub-period in an information period begins with the first day of the information period and ends with a day specified by HMRC,
 - (b) the remainder of the information period is divided into further sub-periods each of which begins immediately after the end of the preceding sub-period and is twelve months long or (if that would be shorter) ends at the end of the information period.
- (13) In this paragraph “the appropriate partner” means the partner in the partnership who is for the time being nominated by HMRC for the purposes of this paragraph.

Finance Bill, *continued*
Partnerships: special provision about taxpayer emendations

- 46F (1) Sub-paragraph (2) applies if a partnership return is amended at any time under section 12ABA of TMA 1970 (amendment of partnership return by representative partner etc) on a basis that—
- (a) results in an increase or decrease in, or
 - (b) otherwise affects the calculation of,
- any amount stated under subsection (1)(b) of section 12AB of that Act (partnership statement) as a partner's share of any income, loss, consideration, tax or credit for any period.
- (2) For the purposes of paragraph 14 (Condition C: counteraction of DOTAS arrangements), the partner is treated as having at that time amended—
- (a) the partner's return under section 8 or 8A of TMA 1970, or
 - (b) the partner's company tax return,
- so as to give effect to the amendments of the partnership return.
- (3) Sub-paragraph (4) applies if a partnership return is amended at any time by HMRC as a result of a disclosure made by the representative partner or that person's successor on a basis that—
- (a) results in an increase or decrease in, or
 - (b) otherwise affects the calculation of,
- any amount stated under subsection (1)(b) of section 12AB (partnership statement) as the share of a particular partner (P) of any income, loss, consideration, tax or credit for any period.
- (4) If the conditions in sub-paragraph (5) are met, P is treated for the purposes of paragraph 14 as having at that time amended—
- (a) P's return under section 8 or 8A of TMA 1970, or
 - (b) P's company tax return,
- so as to give effect to the amendments of the partnership return.
- (5) The conditions are that the disclosure—
- (a) is a full and explicit disclosure of an inaccuracy in the partnership return, and
 - (b) was made at a time when neither the person making the disclosure nor P had reason to believe that HMRC was about to begin enquiries into the partnership return.

Supplementary provision relating to partnerships

- 46G (1) In paragraphs 46C to 46F and this paragraph—
- “partnership” is to be interpreted in accordance with section 12AA of TMA 1970 (and includes a limited liability partnership);
- “the representative partner”, in relation to a partnership return, means the person who was required by a notice served under or for the purposes of section 12AA(2) or (3) of TMA 1970 to deliver the return;
- “successor”, in relation to a person who is the representative partner in the case of a partnership return, has the same meaning as in TMA 1970 (see section 118(1) of that Act).
- (2) For the purposes of this Part of this Act a partnership is treated as the same partnership notwithstanding a change in membership if any person who was a member before the change remains a member after the change.”

Finance Bill, *continued*

- Mr Chancellor of the Exchequer **112**
- ★ Schedule 18, page 507, leave out lines 15 to 20
- Mr Chancellor of the Exchequer **111**
- ★ Schedule 18, page 507, line 38, at end insert—
 ““partnership follower notice” has the meaning given by paragraph 2(2) of
 Schedule 31 to FA 2014;
 “partnership return” means a return under section 12AA of TMA 1970;”
- Mr Chancellor of the Exchequer **113**
- ★ Schedule 18, page 508, line 13, at end insert—
 “() For the purposes of this Schedule a partnership return is regarded as made on
 the basis that a particular tax advantage arises to a person from particular
 arrangements if—
 (a) it is made on the basis that an increase or reduction in one or more of
 the amounts mentioned in section 12AB(1) of TMA 1970 (amounts in
 the partnership statement in a partnership return) results from those
 arrangements, and
 (b) that increase or reduction results in that tax advantage for the person.”
-
- Mr Chancellor of the Exchequer **69**
- ★ Clause 148, page 219, line 15, at end insert—
 “(1A) An authorised officer must make the determination set out in subsection (1B) if
 the officer becomes aware at any time (“the relevant Part 2B time”) that—
 (a) a person meets a condition in subsection (6), (7) or (8), and
 (b) at the relevant Part 2B time another person (“P”), who is carrying on a
 business as a promoter, meets that condition by virtue of Part 2B of
 Schedule 34A (meeting the section 237A conditions: bodies corporate
 and partnerships).
 (1B) The authorised officer must determine whether or not—
 (a) the meeting of the condition by the person as mentioned in subsection
 (1A)(a), and
 (b) P’s meeting of the condition as mentioned in subsection (1A)(b),
 should be regarded as significant in view of the purposes of this Part.”
- Mr Chancellor of the Exchequer **70**
- ★ Clause 148, page 219, line 16, leave out “Subsection (1) does” and insert
 “Subsections (1) and (1A) do”.
- Mr Chancellor of the Exchequer **71**
- ★ Clause 148, page 219, leave out lines 21 to 25.

Finance Bill, *continued*

Mr Chancellor of the Exchequer

72

★ Clause 148, page 219, line 25, at end insert—

“(3A) Subsection (1A) does not apply if, at the relevant Part 2B time, an authorised officer is under a duty to make a determination under section 237(5) in relation to P.

(3B) But in a case where subsection (1) does not apply because of subsection (3), or subsection (1A) does not apply because of subsection (3A), subsection (5) of section 237 has effect as if—

- (a) the references in paragraph (a) of that subsection to “subsection (1)”, and “subsection (1)(a)” included subsection (1) of this section, and
- (b) in paragraph (b) of that subsection the reference to “subsection (1A)(a)” included a reference to subsection (1A)(a) of this section and the reference to subsection (1A)(b) included a reference to subsection (1A)(b) of this section.”

Mr Chancellor of the Exchequer

73

★ Clause 148, page 219, line 28, at end insert—

“() If the authorised officer determines under subsection (1B) that—

- (a) the meeting of the condition by the person as mentioned in subsection (1A)(a), and
- (b) P’s meeting of the condition as mentioned in subsection (1A)(b), should be regarded as significant in view of the purposes of this Part, the officer must give P a conduct notice, unless subsection (5) applies.”

Mr Chancellor of the Exchequer

74

★ Clause 148, page 225, line 7, at end insert—

- “() Part 2A contains provision about when a relevant defeat is treated as occurring in relation to a person;
- () Part 2B contains provision about when a person is treated as meeting a condition in subsection (6), (7) or (8) of section 237A;”

Mr Chancellor of the Exchequer

75

★ Clause 148, page 226, line 9, leave out from “person” to end of line 11 and insert “is carrying on a business as a promoter and—

- (i) the person is or has been a promoter in relation to the arrangements, or
- (ii) that would be the case if the condition in sub-paragraph (2) were met.”

Mr Chancellor of the Exchequer

76

★ Clause 148, page 228, line 26, after first “to” insert “, paragraph 5(2) or 6(2) of Schedule 43A to or paragraph 9(2) of Schedule 43B to”.

Finance Bill, continued

Mr Chancellor of the Exchequer

77

★ Clause 148, page 230, line 9, at end insert—

“PART 2A

RELEVANT DEFEATS: ASSOCIATED PERSONS

Attribution of relevant defeats

- 16A (1) Sub-paragraph (2) applies if—
- (a) there is (or has been) a person (“Q”),
 - (b) arrangements (“the defeated arrangements”) have been entered into,
 - (c) an event occurs such that either—
 - (i) there is a relevant defeat in relation to Q and the defeated arrangements, or
 - (ii) the condition in sub-paragraph (i) would be met if Q had not ceased to exist,
 - (d) at the time of that event a person (“P”) is carrying on a business as a promoter (or is carrying on what would be such a business under the condition in paragraph 3(2)), and
 - (e) Condition 1 or 2 is met in relation to Q and P.
- (2) The event is treated for all purposes of this Part of this Act as a relevant defeat in relation to P and the defeated arrangements (whether or not it is also a relevant defeat in relation to Q, and regardless of whether or not P existed at any time when those arrangements were promoted arrangements in relation to Q).
- (3) Condition 1 is that—
- (a) P is not an individual,
 - (b) at a time when the defeated arrangements were promoted arrangements in relation to Q—
 - (i) P was a relevant body controlled by Q, or
 - (ii) Q was a relevant body controlled by P, and
 - (c) at the time of the event mentioned in sub-paragraph (1)(c)—
 - (i) Q is a relevant body controlled by P,
 - (ii) P is a relevant body controlled by Q, or
 - (iii) P and Q are relevant bodies controlled by a third person.
- (4) Condition 2 is that—
- (a) P and Q are relevant bodies,
 - (b) at a time when the defeated arrangements were promoted arrangements in relation to Q, a third person (“C”) controlled Q, and
 - (c) C controls P at the time of the event mentioned in sub-paragraph (1)(c).
- (5) For the purposes of sub-paragraphs (3)(b) and (4)(b), the question whether arrangements are promoted arrangements in relation to Q at any time is to be determined on the assumption that the reference to “design” in paragraph (b) of section 235(3) (definition of “promoter” in relation to relevant arrangements) is omitted.

Finance Bill, *continued*
Deemed defeat notices

- 16B (1) This paragraph applies if—
- (a) an authorised officer becomes aware at any time (“the relevant time”) that a relevant defeat has occurred in relation to a person (“P”) who is carrying on a business as a promoter,
 - (b) there have occurred, more than 3 years before the relevant time—
 - (i) one third party defeat, or
 - (ii) two third party defeats, and
 - (c) conditions A1 and B1 (in a case within paragraph (b)(i)), or conditions A2 and B2 (in a case within paragraph (b)(ii)), are met.
- (2) Where this paragraph applies by virtue of sub-paragraph (1)(b)(i), this Part of this Act has effect as if an authorised officer had (with due authority), at the time of the time of the third party defeat, given P a single defeat notice under section 241A(2) in respect of it.
- (3) Where this paragraph applies by virtue of sub-paragraph (1)(b)(ii), this Part of this Act has effect as if an authorised officer had (with due authority), at the time of the second of the two third party defeats, given P a double defeat notice under section 241A(3) in respect of the two third party defeats.
- (4) Section 241A(8) has no effect in relation to a notice treated as given as mentioned in subsection (2) or (3).
- (5) Condition A1 is that—
- (a) a conduct notice or a single or double defeat notice has been given to the other person (see sub-paragraph (9)) in respect of the third party defeat,
 - (b) at the time of the third party defeat an authorised officer would have had power by virtue of paragraph 16A to give P a defeat notice in respect of the third party defeat, had the officer been aware that it was a relevant defeat in relation to P, and
 - (c) so far as the authorised officer mentioned in sub-paragraph (1)(a) is aware, the conditions for giving P a defeat notice in respect of the third party defeat have never been met (ignoring this paragraph).
- (6) Condition A2 is that—
- (a) a conduct notice or a single or double defeat notice has been given to the other person (see sub-paragraph (9)) in respect of each, or both, of the third party defeats,
 - (b) at the time of the second third party defeat an authorised officer would have had power by virtue of paragraph 16A to give P a double defeat notice in respect of the third party defeats, had the officer been aware that either of the third party defeats was a relevant defeat in relation to P, and
 - (c) so far as the authorised officer mentioned in sub-paragraph (1)(a) is aware, the conditions for giving P a defeat notice in respect of those third party defeats (or either of them) have never been met (ignoring this paragraph).
- (7) Condition B1 is that, had an authorised officer given P a defeat notice in respect of the third party defeat at the time of that relevant defeat, that defeat notice would still have effect at the relevant time (see sub-paragraph (1)).
- (8) Condition B2 is that, had an authorised officer given P a defeat notice in respect of the two third party defeats at the time of the second of those relevant defeats, that defeat notice would still have effect at the relevant time.
- (9) In this paragraph “third party defeat” means a relevant defeat which has occurred in relation to a person other than P.

Finance Bill, continued*Meaning of “relevant body” and “control”*

- 16C (1) In this Part of this Schedule “relevant body” means—
- (a) a body corporate, or
 - (b) a partnership.
- (2) For the purposes of this Part of this Schedule a person controls a body corporate if the person has power to secure that the affairs of the body corporate are conducted in accordance with the person’s wishes—
- (a) by means of the holding of shares or the possession of voting power in relation to the body corporate or any other relevant body,
 - (b) as a result of any powers conferred by the articles of association or other document regulating the body corporate or any other relevant body, or
 - (c) by means of controlling a partnership.
- (3) For the purposes of this Part of this Schedule a person controls a partnership if the person is a controlling member or the managing partner of the partnership.
- (4) In this paragraph “controlling member” has the same meaning as in Schedule 36 (partnerships).
- (5) In this section “managing partner”, in relation to a partnership, means the member of the partnership who directs, or is on a day-to-day level in control of, the management of the business of the partnership.

PART 2B

MEETING SECTION 237A CONDITIONS: BODIES CORPORATE AND PARTNERSHIPS

Treating persons under another’s control as meeting section 237A condition

- 16D (1) A relevant body (“RB”) is treated as meeting a section 237A condition at the relevant Part 2B time if—
- (a) that condition was met by a person (“C”) at a time when—
 - (i) C was carrying on a business as a promoter, or
 - (ii) RB was carrying on a business as a promoter and C controlled RB, and
 - (b) RB is controlled by C at the relevant Part 2B time.
- (2) Sub-paragraph (1) does not apply if C is an individual.
- (3) For the purposes of determining whether the requirements of sub-paragraph (1) are met by reason of meeting the requirement in sub-paragraph (1)(a)(i), it does not matter whether RB existed at the time when C met the section 237A condition.

Treating persons in control of others as meeting section 237A condition

- 16E (1) A person other than an individual is treated as meeting a section 237A condition at the relevant Part 2B time if—
- (a) a relevant body (“A”) met the condition at a time when A was controlled by the person, and
 - (b) at the time mentioned in paragraph (a) A, or another relevant body (“B”) which was also at that time controlled by the person, carried on a business as a promoter.
- (2) For the purposes of determining whether the requirements of sub-paragraph (1) are met it does not matter whether A or B (or neither) exists at the relevant Part 2B time.

Finance Bill, continued*Treating persons controlled by the same person as meeting section 237A condition*

- 16F (1) A relevant body (“RB”) is treated as meeting a section 237A condition at the relevant Part 2B time if—
- (a) another relevant body met that condition at a time (“time T”) when it was controlled by a person (“C”),
 - (b) at time T, there was a relevant body controlled by C which carried on a business as a promoter, and
 - (c) RB is controlled by C at the relevant Part 2B time.
- (2) For the purposes of determining whether the requirements of sub-paragraph (1) are met it does not matter whether—
- (a) RB existed at time T, or
 - (b) any relevant body (other than RB) by reason of which the requirements of sub-paragraph (1) are met exists at the relevant Part 2B time.

Interpretation

- 16G (1) In this Part of this Schedule—
- “control” has the same meaning as in Part 2A of this Schedule;
- “relevant body” has the same meaning as in Part 2A of this Schedule;
- “relevant Part 2B time” means the time referred to in section 237A(1A);
- “section 237A condition” means any of the conditions in section 237A(6), (7) and (8).
- (2) For the purposes of paragraphs 16D(1)(a), 16E(1)(a) and 16F(1)(a), the condition in section 237A(6) (occurrence of 3 relevant defeats in the 3 years ending with the relevant time) is taken to have been met by a person at any time if at least 3 relevant defeats have occurred in relation to the person in the period of 3 years ending with that time.”

Mr Chancellor of the Exchequer

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★ Clause 148, page 234, line 27, at end insert—

- “(9A) Schedule 36 (promoters of tax avoidance schemes: partnerships) is amended in accordance with subsections (9B) to (9G).
- (9B) In Part 2, before paragraph 5 insert—

“Defeat notices

4A A defeat notice that is given to a partnership must state that it is a partnership defeat notice.”.

- (9C) In paragraph 7(1)(b) after “a” insert “defeat notice,”.
- (9D) In paragraph 7(2) after “the” insert “defeat notice,”.
- (9E) After paragraph 7 insert—

“Persons leaving partnership: defeat notices

7A (1) Sub-paragraphs (2) and (3) apply where—

- (a) a person (“P”) who was a controlling member of a partnership at the time when a defeat notice (“the original notice”) was given to the partnership has ceased to be a member of the partnership,

Finance Bill, continued

- (b) the defeat notice had effect in relation to the partnership at the time of that cessation, and
 - (c) P is carrying on a business as a promoter.
- (2) An authorised officer may give P a defeat notice.
- (3) If P is carrying on a business as a promoter in partnership with one or more other persons and is a controlling member of that partnership (“the new partnership”), an authorised officer may give a defeat notice to the new partnership.
- (4) A defeat notice given under sub-paragraph (3) ceases to have effect if P ceases to be a member of the new partnership.
- (5) A notice under sub-paragraph (2) or (3) may not be given after the original notice has ceased to have effect.
- (6) A defeat notice given under sub-paragraph (2) or (3) is given in respect of the relevant defeat or relevant defeats to which the original notice relates.”
- (9F) In paragraph 10—
- (a) in sub-paragraph (1)(b) for “conduct notice or a” substitute “, defeat notice, conduct notice or”;
 - (b) in sub-paragraph (3), after “partner—” insert—
“(za) a defeat notice (if the original notice is a defeat notice);”.
 - (c) in sub-paragraph (4), after “(“the new partnership”)—” insert—
“(za) a defeat notice (if the original notice is a defeat notice);”
 - (d) after sub-paragraph (5) insert—
“(5A) A notice under sub-paragraph (3)(za) or (4)(za) may not be given after the end of the look-forward period of the original notice.”
- (9G) After paragraph 11 insert—
- “11A The look-forward period for a notice under paragraph 7A(2) or (3) or 10(3)(za) or (4)(za)—
- (a) begins on the day after the day on which the notice is given, and
 - (b) continues to the end of the look-forward period for the original notice (as defined in paragraph 7A(1)(a) or 10(2), as the case may be).”

Mr Chancellor of the Exchequer

79

★ Clause 148, page 234, line 27, at end insert—

“(9A) Part 2 of Schedule 2 to the National Insurance Contributions Act 2015 (application of Part 5 of FA 2014 to national insurance contributions) is amended in accordance with subsections (9B) and (9C).

Finance Bill, continued

(9B) After paragraph 30 insert—

“Threshold conditions

- 30A (1) In paragraph 5 of Schedule 34 (non-compliance with Part 7 of FA 2004), in sub-paragraph (4)—
- (a) paragraph (a) includes a reference to a decision having been made for corresponding NICs purposes that P is to be deemed not to have failed to comply with the provision concerned as P had a reasonable excuse for not doing the thing required to be done, and
 - (b) the reference in paragraph (c) to a determination is to be read accordingly.
- (2) In this paragraph “corresponding NICs purposes” means the purposes of any provision of regulations under section 132A of SSAA 1992.

Relevant defeats

- 30B (1) Schedule 34A (promoters of tax avoidance schemes: defeated arrangements) has effect with the following modifications.
- (2) References to an assessment (or an assessment to tax) include a NICs decision relating to a person’s liability for relevant contributions.
 - (3) References to adjustments include a payment in respect of a liability to pay relevant contributions (and the definition of “adjustments” in paragraph 17 accordingly has effect as if such payments were included in it).
 - (4) In paragraph 9(3) the reference to an enquiry into a return includes a relevant contributions dispute (as defined in paragraph 6 of this Schedule).
 - (5) In paragraph 21(3)—
 - (a) paragraph (a) includes a reference to a decision having been made for corresponding NICs purposes that the person is to be deemed not to have failed to comply with the provision concerned as the person had a reasonable excuse for not doing the thing required to be done, and
 - (b) the reference in paragraph (c) to a determination is to be read accordingly.

“Corresponding NICs purposes” means the purposes of any provision of regulations under section 132A of SSAA 1992.”

(9C) In paragraph 31 (interpretation)—

- (a) before paragraph (a) insert—
 - “(za) “NICs decision” means a decision under section 8 of SSC(TF)A 1999 or Article 7 of the Social Security Contributions (Transfer of Functions, etc) (Northern Ireland) Order 1999 (SI 1999/671);”
- (b) in paragraph (b), for “are to sections of” substitute “or Schedules are to sections of, or Schedules to”.”

Finance Bill, continued

Mr Chancellor of the Exchequer

81

★ Clause 148, page 235, line 2, at end insert—

“(12A) For the purposes of subsection (11) a person (“Q”) is an “associated person” in relation to another person (“P”) at any time when any of the following conditions is met—

- (a) P is a relevant body which is controlled by Q;
- (b) Q is a relevant body, P is not an individual and Q is controlled by P;
- (c) P and Q are relevant bodies and a third person controls P and Q.

(12B) In subsection (12A) “relevant body” and “control” are to be interpreted in accordance with paragraph 16C of Schedule 34A to FA 2014.”

Caroline Flint
Meg Hillier
Nigel Mills
John Pugh
Deidre Brock
Bridget Phillipson

Mrs Anne-Marie Trevelyan
Mr Stewart Jackson
Mr David Davis
Rob Marris
Albert Owen
Gareth Thomas
Patrick Grady
John McDonnell

Chris Evans
David Mowat
Mr Richard Bacon
Mr George Howarth
Peter Dowd
Norman Lamb
Anna Turley
Richard Burgon

Karin Smyth
Dame Margaret Hodge
Mr David Hanson
Jess Phillips
Stephen Timms
Catherine McKinnell
Seema Malhotra
Rebecca Long Bailey

1

Schedule 19, page 516, line 21, at end insert—

“(2A) A group tax strategy of a qualifying group which is a MNE group must also include a country-by-country report.

(2B) In paragraph (2A) “country-by-country report” has the meaning given by the Taxes (Base Erosion and Profit Shifting) (Country by Country Reporting) Regulations 2016.”

Rob Marris

5

★ Schedule 19, page 516, leave out line 39 and insert—

“(2) The director or directors of the head of the group are personally jointly and severally liable to a penalty of £25,000 if:”

Rob Marris

6

★ Schedule 19, page 517, line 1, leave out “head of the group is” and insert “director or directors, held jointly and severally liable, of the head of the group are”.

Rob Marris

7

★ Schedule 19, page 517, line 5, leave out “head of the group is” and insert “director or directors, held jointly and severally liable, of the head of the group are”.

Finance Bill, *continued*

Rob Marris

8

★ Schedule 19, page 517, leave out lines 11 to 15 and insert—

“(5) At the end of that period, the director or directors of the head of the group—

- (a) are personally jointly and severally liable to a further penalty of £25,000, and
- (b) where the failure mentioned in sub-paragraph (4)(b) continues, are liable to a further penalty of £25,000 at the end of each subsequent month in which no such group tax strategy is published.”

Rob Marris

9

★ Schedule 19, page 517, line 15, at end insert—

“(6) Any director held personally liable to pay a penalty under this Part cannot be reimbursed by the head of the group or any entity within or associated with that group.

- (7) If the head of the group or any entity as described in subsection (6) is found to have either fully or partially reimbursed a director or directors for the penalty for which they were personally liable, the head of the group or the entity will in turn be liable for a penalty of £100,000.”

Rob Marris

10

★ Schedule 19, page 518, leave out line 24 and insert—

“(2) The director or directors of the head of the group are personally jointly and severally liable to a penalty of £25,000 if.”

Rob Marris

11

★ Schedule 19, page 518, line 29, leave out “head of the group is” and insert “director or directors, held jointly and severally liable, of the head of the group are”.

Rob Marris

12

★ Schedule 19, page 518, line 33, leave out “head of the group is” and insert “director or directors, held jointly and severally liable, of the head of the group are”.

Rob Marris

13

★ Schedule 19, page 518, leave out lines 39 to 43 and insert—

“(5) At the end of that period, the director or directors of the head of the group—

- (a) are personally jointly and severally liable to a further penalty of £25,000, and
- (b) where the failure mentioned in sub-paragraph (4)(b) continues, are liable to a further penalty of £25,000 at the end of each subsequent month in which no such group tax strategy is published.”

Finance Bill, *continued*

Rob Marris

14

- ★ Schedule 19, page 518, line 43, at end insert—

- “(6) Any director held personally liable to pay a penalty under this Part cannot be reimbursed by the head of the group or any entity within or associated with that group.
- (7) If the head of the group or any entity as described in subsection (6) is found to have either fully or partially reimbursed a director or directors for the penalty for which they were personally liable, the head of the group or the entity will in turn be liable for a penalty of £100,000.”

Rob Marris

15

- ★ Schedule 19, page 520, leave out line 12 and insert—

- “(2) The director or directors of the company are personally jointly and severally liable to a penalty of £25,000 if:”

Rob Marris

16

- ★ Schedule 19, page 520, line 17, leave out “head of the group is” and insert “director or directors, held jointly and severally liable, of the head of the group are”

Rob Marris

17

- ★ Schedule 19, page 520, leave out lines 27 to 31 and insert—

- “(5) At the end of that period, the director or directors of the head of the group—
- (a) are personally jointly and severally liable to a further penalty of £25,000, and
- (b) where the failure mentioned in sub-paragraph (4)(b) continues, are liable to a further penalty of £25,000 at the end of each subsequent month in which no such group tax strategy is published.”

Rob Marris

18

- ★ Schedule 19, page 520, line 31, at end insert—

- “(6) Any director held personally liable to pay a penalty under this Part cannot be reimbursed by the head of the group or any entity within or associated with that group.
- (7) If the head of the group or any entity as described in subsection (6) is found to have either fully or partially reimbursed a director or directors for the penalty for which they were personally liable, the head of the group or the entity will in turn be liable for a penalty of £100,000.”

Rob Marris

19

- ★ Schedule 20, page 534, line 23, at end insert “, or P has introduced Q to a person R with whom P has a business relationship, where P knows or should know that R is likely to facilitate Q to carry out offshore tax evasion or non-compliance.”

Finance Bill, continued

Rob Marris

20

- ★ Schedule 20, page 535, line 5, at end insert “; and P will be deemed to have known if P wilfully or recklessly failed to make such enquiries that a reasonable and honest person would have made”.
-

Rob Marris

NC4

- ★ To move the following Clause—

“Report on the workings of the General Anti-Abuse Rule

- (1) The Chancellor of the Exchequer shall, within one year of the passing of this Act, publish a report on the workings of the General Anti-Abuse Rule.
 - (2) The report must include but need not be limited to—
 - (a) the number of meetings held by the General Anti-Abuse Rule Advisory Panel;
 - (b) the date by which the procedures of the Advisory Panel were published;
 - (c) the number of cases referred to the Advisory Panel and by whom;
 - (d) the number of cases on which a decision has been made by the Advisory Panel;
 - (e) the number of outstanding cases on which a decision has not been made by the Advisory Panel, and the dates on which those cases were first referred to the Advisory Panel.”
-

Rob Marris

NC5

- ★ To move the following Clause—

“Report on the number of deliberate tax defaulters

The Chancellor of the Exchequer shall, within one year of the passing of this Act, publish a report containing the number of deliberate tax defaulters whose details have been published, and an estimate of the number of taxpayers who have been deterred from deliberately defaulting as a result of the provisions contained in section 94 of FA 2009 as amended by this Act.”

Finance Bill, *continued*

Rob Marris

NC6

- ★ To move the following Clause—

“Report on the asset-based penalty for offshore inaccuracies and failures

- (1) The Chancellor of the Exchequer shall, within one year of the passing of this Act, publish a report on the impact of the asset-based penalty for offshore inaccuracies and failures.
 - (2) The report must include but need not be limited to—
 - (a) how much tax revenue has been recouped due to this measure;
 - (b) the amount of monies paid in asset-based penalties; and
 - (c) the number of persons upon whom asset-based penalties have been levied.”
-

Rob Marris

NC7

- ★ To move the following Clause—

“Report on the impact of the criminal offences relating to offshore income, assets and activities

- (1) The Chancellor of the Exchequer shall, within one year of the passing of this Act, publish a report on the impact of the criminal offences relating to offshore income, assets and activities.
 - (2) The report must include but need not be limited to—
 - (a) the number of persons who have been charged with offences under each of sections 106B, 106C and 106D of TMA 1970;
 - (b) the number of persons who have been convicted of any such offence;
 - (c) the average fine imposed; and
 - (d) the number of people upon whom a custodial sentence has been imposed for any such offence.”
-

CLAUSES 41 TO 44, CLAUSES 65 TO 71, NEW CLAUSES AND NEW SCHEDULES RELATING TO THE SUBJECT MATTER OF THOSE CLAUSES

Rob Marris

21

- ★ Page 81, line 18, leave out Clause 42
-

Finance Bill, continued*CLAUSE 72, SCHEDULES 11 AND 12, CLAUSES 73 TO 75, SCHEDULE 13, CLAUSE 76, SCHEDULE 14, CLAUSES 77 TO 81, NEW CLAUSES AND NEW SCHEDULES RELATING TO CAPITAL GAINS TAX*

Mr Chancellor of the Exchequer

30

- ★ Clause 73, page 132, line 8, leave out “before “A1” insert “ZA1,”” and insert “after “A1,” insert “A1A,””

Mr Chancellor of the Exchequer

31

- ★ Clause 73, page 132, line 10, leave out subsections (3) and (4)

Mr Chancellor of the Exchequer

32

- ★ Clause 73, page 132, leave out line 23 and insert—
 ““(1AA) Condition A1A is that P makes a material disposal of business assets which consists of the disposal of the whole of P’s interest in the assets of a partnership, and—
 (a) that interest is an interest of less than 5%,
 (b) P holds at least a 5% interest in the partnership’s assets throughout a continuous period of at least 3 years in the 8 years ending with the date of the disposal, and
 (c) at the date of the disposal, no partnership purchase arrangements exist.
 (1AB) Subject to subsection (6A), for the purposes of conditions A1 and A1A,”

Mr Chancellor of the Exchequer

33

- ★ Clause 73, page 132, line 42, leave out “ZA1 or A1” and insert “A1 or A1A”

Mr Chancellor of the Exchequer

34

- ★ Clause 73, page 133, line 27, leave out “this section” and insert “subsections (2)(a), (3) to (10) and (12) to (14)”

Mr Chancellor of the Exchequer

35

- ★ Clause 73, page 133, line 28, at end insert—
 “() The amendments made by subsections (2)(b) and (11) have effect in relation to disposals of assets which are acquired on or after 13 June 2016.”

Mr Chancellor of the Exchequer

36

- ★ Schedule 13, page 413, line 30, leave out “omit subsection (4A)” and insert “subsection (4A) is treated as never having had effect, and is omitted accordingly”

Mr Chancellor of the Exchequer

37

- ★Schedule 13, p a g e 421, line 30, after “Schedule” insert “(except paragraph 3)”

Finance Bill, *continued*

Mr Chancellor of the Exchequer

38

- ★ Schedule 13, page 421, line 31, at end insert “, but only for the purposes of determining what is a trading company or trading group at times on or after that date.
- (2) In conditions B and D in section 169I of TCGA 1992 (material disposal of business assets)—
- (a) a reference to a company ceasing to be a trading company does not include a case where, as a result of the coming into force of the amendments made by this Schedule, a company which was a trading company immediately before 18 March 2015 is treated as ceasing on that day to be a trading company, and
- (b) a reference to a company ceasing to be a member of a trading group does not include a case where, as a result of the coming into force of the amendments made by this Schedule, a company which was a member of a trading group immediately before 18 March 2015 is treated as ceasing on that day to be a member of a trading group.
- (3) Sub-paragraph (2) is without prejudice to the operation of section 43(4) of FA 2015.”
-

Mr Chancellor of the Exchequer

39

- ★ Schedule 14, page 422, line 7, after second “of” insert “(and disposals of interests in)”

Mr Chancellor of the Exchequer

40

- ★ Schedule 14, page 422, leave out lines 18 and 19 and insert—
- “(6) Sections 169VGA and 169VGB make provision about disposals by trustees of a settlement.
- (6A) Section 169VGC makes provision about disposals of interests in shares.
- (6B) Sections 169VGD and 169VGE provide for a cap on the amount of investors’ relief that can be claimed.
- (6C) Section 169VGF makes provision about claims for investors’ relief.”

Mr Chancellor of the Exchequer

41

- ★ Schedule 14, page 422, line 27, after second “of” insert “(or of an interest in)”

Mr Chancellor of the Exchequer

42

- ★ Schedule 14, page 423, leave out lines 11 to 14 and insert—
- “(g) at no time in the share-holding period was the investor or a person connected with the investor a relevant employee in respect of that company (within the meaning given by section 169VQA), and”

Finance Bill, continued

Mr Chancellor of the Exchequer

43

★ Schedule 14, page 424, leave out line 8 and insert—

“(4) In this section—

(a) subsection (1) is subject to section 169VGA (disposals by trustees of a settlement: further conditions for relief), and

(b) subsection (2) is subject to—

section 169VGB (reduction of relief for certain disposals by trustees of a settlement), and sections 169VGD and 169VGE (cap on investors’ relief).”

Mr Chancellor of the Exchequer

44

★ Schedule 14, page 424, leave out lines 14 and 15 and insert—

“(6) For the application of this section to disposals of interests in shares, see section 169VGC.

(7) In this Chapter a “qualifying person” means—

(a) an individual, or

(b) the trustees of a settlement.”

Mr Chancellor of the Exchequer

45

★ Schedule 14, page 424, line 29, leave out from “shares” to “and” in line 30 and insert “found under subsection (4),”

Mr Chancellor of the Exchequer

46

★ Schedule 14, page 424, line 31, leave out “that disposal.” and insert “the disposal concerned.”

Mr Chancellor of the Exchequer

47

★ Schedule 14, page 424, line 32, leave out from “The” to end of line 33 and insert “number of qualifying shares found under this subsection is—”

Mr Chancellor of the Exchequer

48

★ Schedule 14, page 424, line 35, leave out “disposal,” and insert “disposal concerned,”

Mr Chancellor of the Exchequer

49

★ Schedule 14, page 424, line 41, leave out “169VC(1)” and insert “169VC(1)(a)”

Mr Chancellor of the Exchequer

50

★ Schedule 14, page 425, line 1, leave out “by the qualifying person”

Finance Bill, *continued*

Mr Chancellor of the Exchequer

51

- ★ Schedule 14, page 426, line 44, leave out from beginning to end of line 13 on page 427 and insert—

“169VGA Disposals by trustees: further conditions for relief

- (1) Where a disposal falling within section 169VC(1)(a) and (b) is made by the trustees of a settlement, section 169VC does not apply to the disposal unless there is at least one individual who is an eligible beneficiary in respect of the disposal.
- (2) For the purposes of this section, an individual is an “eligible beneficiary” in respect of the disposal if—
 - (a) at the time immediately before the disposal, the individual has under the settlement an interest in possession in settled property that includes or consists of the holding of shares mentioned in section 169VC(1),
 - (b) the individual has had such an interest in possession under the settlement throughout the period of 3 years ending with the date of the disposal,
 - (c) at no time in that period has the individual been a relevant employee in respect of the company that issued the shares (within the meaning given by section 169VQA), and
 - (d) the individual has (by the time of the claim under section 169VC in respect of the disposal) elected to be treated as an eligible beneficiary in respect of the disposal.
- (3) For the purposes of subsection (2)(d), an individual elects to be treated as an eligible beneficiary in respect of a disposal if the individual tells the trustees (by whatever means) that he or she wishes to be so treated; and an election under subsection (2)(d) may be withdrawn by the individual at any time until the claim is made.
- (4) In this section “interest in possession” does not include an interest in possession for a fixed term.
- (5) In relation to a disposal made by the trustees of a settlement, any reference in section 169VB(2)(g) to the investor is to be read as a reference to any trustee of the settlement.

169VGB Disposals by trustees: relief reduced in certain cases

- (1) Subsection (2) applies where—
 - (a) a disposal falling within section 169VC(1)(a) and (b) is made by the trustees of a settlement,
 - (b) section 169VC applies to the disposal by reason of there being at least one individual who is an eligible beneficiary in respect of the disposal (see section 169VGA), and
 - (c) at the time immediately before the disposal, there are two or more persons each of whom has under the settlement an interest in possession in the settled property.
- (2) In such a case the reference in section 169VC(2) to the relevant gain is to be read as a reference—
 - (a) to the eligible beneficiary’s share of the relevant gain (see subsections (3) to (6)), or

Finance Bill, continued

- (b) if there is more than one individual who is an eligible beneficiary in respect of the disposal, to so much of the relevant gain as is equal to the aggregate of the eligible beneficiaries' shares of that gain.
- (3) In this section—
 “eligible beneficiary” has the meaning given by section 169VGA(2);
 “relevant gain” has the meaning given by section 169VC(3);
 “the settled property” means settled property that includes or consists of the holding of shares mentioned in section 169VC(1).
- (4) Subsection (5) applies to determine for the purposes of this Chapter, in relation to any individual who is an eligible beneficiary in respect of a disposal within section 169VC(1) made by the trustees of a settlement, that individual's share of the relevant gain.
- (5) That individual's share of the relevant gain on the disposal is so much of the relevant gain on the disposal as bears to the whole of that gain the same proportion as X bears to Y, where—
 X is the interest in possession (other than for a fixed term) which, at the time immediately before the disposal, that individual has under the settlement in the income from the holding of shares mentioned in section 169VC(1), and
 Y is all the interests in that income that persons (including that individual) with interests in possession in that holding have under the settlement at that time.

169VGC Disposals of interests in shares: joint holdings etc

- (1) In section 169VC(1)(a), the reference to the case where a qualifying person disposes of a holding, or part of a holding, of shares in a company includes the case where a qualifying person disposes of an interest in a relevant holding.
- (2) In this section a “relevant holding” means either—
 (a) a number of shares in a company which are of the same class and were acquired in the same capacity jointly by the same two or more persons including the qualifying person, or
 (b) a number of shares in a company which are of the same class and were acquired in the same capacity by the qualifying person solely.
- (3) In this section—
 (a) “an interest” in a relevant holding means any interests of the qualifying person, in any of the shares in the relevant holding, which are by virtue of section 104 to be regarded as a single asset, and
 (b) references to an interest include part of an interest.
- (4) Where section 169VC(1) applies by reason of this section, section 169VD(3) and (4) have effect as if any reference to the number of shares disposed of were a reference to the number of shares an interest in which is disposed of.
- (5) In relation to a disposal by the trustees of a settlement of an interest in a relevant holding falling within subsection (2)(a), sections 169VGA(2) and 169VGB(3) and (5) have effect as if any reference to

Finance Bill, continued

the holding of shares mentioned in section 169VC(1) were to the interest disposed of.

- (6) In accordance with subsection (1)—
- (a) in sections 169VI(1)(d), 169VK(1)(d) and 169VN(1)(d) (reorganisations), any reference to a disposal of all or part of a holding includes a disposal by the qualifying person of an interest in the holding, and
 - (b) the reference in section 169VO(2) to a disposal of the original shares is to be read, in relation to a case where the original shares fall within subsection (2)(a) above, as a reference to a disposal of the qualifying person's interest in those shares.

169VGD Cap on relief for disposal by an individual

- (1) This section applies if, on a disposal within section 169VC(1) made by an individual (“the individual concerned”), the aggregate of—
- (a) the amount of the relevant gain on the disposal (“the gain in question”),
 - (b) the total amount of any gains that, in relation to earlier disposals by the individual concerned, were charged at the rate in section 169VC(2), and
 - (c) the total amount of any reckonable trust gains that, on any previous trust disposals in respect of which the individual concerned was an eligible beneficiary, were charged at the rate in section 169VC(2),

exceeds £10 million.

- (2) The rate in section 169VC(2) applies only to so much (if any) of the gain in question as, when added to the aggregate of the total amounts mentioned in subsection (1)(b) and (c), does not exceed £10 million.
- (3) Section 4 (rates of capital gains tax) applies to so much of the gain in question as is not subject to the rate in section 169VC(2).

- (4) In this section—

“eligible beneficiary”, in relation to a disposal, is to be read in accordance with section 169VGA(2);

“reckonable trust gain”, in relation to a trust disposal in respect of which the individual concerned was an eligible beneficiary, means—

- (a) if section 169VGB(1)(c) applied in relation to the disposal, that individual's share of the relevant gain on that disposal, within the meaning given by section 169VGB(4) and (5);
- (b) otherwise, the relevant gain on that disposal;

“the relevant gain”, in relation to a disposal, has the meaning given by section 169VC(3);

“trust disposal” means a disposal by the trustees of a settlement.

169VGE Cap on relief for disposal by trustees of a settlement

- (1) This section applies where—
- (a) a disposal (“the disposal in question”) is made by the trustees of a settlement,
 - (b) that disposal is within section 169VC(1), and

Finance Bill, *continued*

- (c) there is an excess amount in relation to an individual who is an eligible beneficiary in respect of the disposal in question (“the individual concerned”).
- (2) For the purposes of this section there is an “excess amount” in relation to the individual concerned if the aggregate of—
- (a) the amount of the current gain,
 - (b) the total amount of any gains that, in relation to earlier disposals made by the individual concerned, were charged at the rate in section 169VC(2), and
 - (c) the total amount of any reckonable trust gains that, on any previous trust disposals in respect of which the individual concerned was an eligible beneficiary, were charged at the rate in section 169VC(2),
- exceeds £10 million.
- (3) The rate in section 169VC(2) applies to the current gain only to the extent (if any) that the current gain when added to the aggregate of the total amounts mentioned in subsection (2)(b) and (c) does not exceed £10 million.
- (4) Section 4 (rates of capital gains tax) applies to so much of the current gain as is not subject to the rate in section 169VC(2).
- (5) In this section—
- “the current gain” means the reckonable trust gain on the disposal in question;
 - “eligible beneficiary”, in relation to a disposal, is to be read in accordance with section 169VGA(2);
 - “reckonable trust gain”, in relation to any trust disposal in respect of which the individual concerned is an eligible beneficiary, means—
 - (a) if section 169VGB(1)(c) applies in relation to the disposal, that individual’s share of the relevant gain on that disposal, within the meaning given by section 169VGB(4) and (5);
 - (b) otherwise, the relevant gain on that disposal;
 - “the relevant gain”, in relation to a disposal, has the meaning given by section 169VC(3);
 - “trust disposal” means a disposal by the trustees of a settlement.

169VGF Claims for relief

- (1) Any claim for investors’ relief must be made—
- (a) in the case of a disposal by an individual, by that individual;
 - (b) in the case of a disposal by the trustees of a settlement, jointly by—
 - (i) the trustees, and
 - (ii) the eligible beneficiary in respect of the disposal, within the meaning given by section 169VGA(2) (or, if more than one, all those eligible beneficiaries).
- (2) Any claim for investors’ relief in respect of a disposal must be made on or before the first anniversary of the 31 January following the tax year in which the disposal is made.”

Finance Bill, continued

- Mr Chancellor of the Exchequer 52
- ★ Schedule 14, page 430, line 28, leave out from first “in” to end of line 29 and insert “an exchange of shares treated under section 169VL or 169VM as a reorganisation of share capital,”
- Mr Chancellor of the Exchequer 53
- ★ Schedule 14, page 430, line 33, leave out “reorganisation or”
- Mr Chancellor of the Exchequer 54
- ★ Schedule 14, page 430, line 39, leave out “reorganisation or”
- Mr Chancellor of the Exchequer 55
- ★ Schedule 14, page 430, line 42, leave out “reorganisation or”
- Mr Chancellor of the Exchequer 56
- ★ Schedule 14, page 430, line 45, at end insert—
- “(2A) Accordingly—
- (a) in section 169VB(2)(f) and (g) as they apply to the original share, any reference to the share-holding period is to be read as to the period mentioned in subsection (2)(a) above, and
- (b) in section 169VB(2)(f) and (g) as they apply to a share representing the original share, any reference to the share-holding period is to be read as to the period mentioned in subsection (2)(b) above.”
- Mr Chancellor of the Exchequer 57
- ★ Schedule 14, page 431, line 1, leave out “subsection (2) applies” and insert “subsections (2) and (2A) apply”
- Mr Chancellor of the Exchequer 58
- ★ Schedule 14, page 431, leave out lines 16 and 17 and insert—
- “(3) Any election under this section must be made—
- (a) if the reorganisation or exchange of shares would (apart from section 127) involve a disposal by the trustees of a settlement, jointly by—
- (i) the trustees, and
- (ii) the person who if the disposal were made would be the eligible beneficiary in respect of the disposal, within the meaning given by section 169VGA(2) (or, if more than one, all the persons who would be such eligible beneficiaries);
- (b) otherwise, by the individual concerned.”

Finance Bill, *continued*

Mr Chancellor of the Exchequer

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- ★ Schedule 14, page 431, line 32, leave out from “of” to “and” in line 34 and insert “arrangements the main purpose, or one of the main purposes, of which is to secure a tax advantage to any person,”

Mr Chancellor of the Exchequer

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- ★ Schedule 14, page 431, line 36, at end insert—
 “() In subsection (1) “arrangements” and “tax advantage” have the same meaning as in section 16A.”

Mr Chancellor of the Exchequer

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- ★ Schedule 14, page 432, line 3, at end insert—
 “() In this Chapter, apart from subsections (2) and (3), references to a person’s having subscribed for a share include the person’s having subscribed for the share jointly with any other person (and references to a person’s holding a share or to a share being issued to a person are to be read accordingly).”

Mr Chancellor of the Exchequer

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- ★ Schedule 14, page 432, line 23, at end insert—
“169VQA “Relevant employee”
- (1) This section applies to determine for the purposes of—
 - (a) section 169VB(2)(g), or
 - (b) section 169VGA(2)(c),
 whether a particular person has at any time in the relevant period been a “relevant employee” in respect of the issuing company.
 - (2) A person who has at any time in the relevant period been an officer or employee of—
 - (a) the issuing company, or
 - (b) a connected company,
 is to be regarded as having at that time been a relevant employee in respect of the issuing company, but this is subject to subsections (3) and (5).
 - (3) If—
 - (a) a person is an unremunerated director of the issuing company or a connected company at any time in the relevant period, and
 - (b) the condition in subsection (4) is met,
 the fact that the person holds that directorship at that time does not make the person a relevant employee in respect of the issuing company at that time.
 - (4) The condition referred to in subsection (3) is that at no time before the relevant period had the person mentioned in that subsection, or a person connected with that person, been—
 - (a) connected with the issuing company, or

Finance Bill, continued

- (b) involved in carrying on (whether on the person's own account or as a partner, director or employee) the whole or any part of the trade, business or profession carried on by the issuing company or a company connected with that company.
- (5) If—
- (a) a person becomes an employee of the issuing company or a connected company at a time which is—
- (i) within the relevant period, but
 - (ii) not within the first 180 days of that period,
- (b) at the beginning of the relevant period, there was no reasonable prospect that the person would become such an employee within the relevant period, and
- (c) the person is not at any time in the relevant period a director of the issuing company or a connected company,
- that employment of the person does not make the person a relevant employee in respect of the issuing company at any time in the relevant period.
- (6) For the purposes of subsection (5) there is a “reasonable prospect” of a thing if it is more likely than not.
- (7) In this section—
- “director” is to be read in accordance with section 452 of CTA 2010,
- “connected company” means a company which at any time in the relevant period is connected with the issuing company (and it does not matter for this purpose whether that time is a time when the person in question is an officer or employee of either company);
- “the issuing company” means the company mentioned in (as the case may be) section 169VB(2)(g) or 169VGA(2)(c);
- “the relevant period” means the period mentioned in (as the case may be) section 169VB(2)(g) or section 169VGA(2)(c);
- “unremunerated director” has the meaning given by section 169VQB.

169VQB “Unremunerated director”

- (1) For the purposes of section 169VQA a person (“the person concerned”) is an “unremunerated director” of the issuing company or a connected company at a particular time in the relevant period if that person is a director of that company at that time and—
- (a) does not receive in the relevant period any disqualifying payment from the issuing company or a related person, and
 - (b) is not entitled to receive any such payment in respect of that period or any part of it.
- (2) In this section “disqualifying payment” means any payment other than—
- (a) a payment or reimbursement of travelling or other expenses wholly, exclusively and necessarily incurred by the person concerned in the performance of his or her duties as a director,
 - (b) any interest which represents no more than a reasonable commercial return on money lent to the issuing company or a related person,

Finance Bill, continued

- (c) any dividend or other distribution which does not exceed a normal return on the investment to which the dividend or distribution relates,
 - (d) any payment for the supply of goods which does not exceed their market value,
 - (e) any payment of rent for any property occupied by the issuing company or a related person which does not exceed a reasonable and commercial rent for the property, or
 - (f) any necessary and reasonable remuneration which is—
 - (i) paid for qualifying services that are provided to the issuing company or a related person in the course of a trade or profession carried on wholly or partly in the United Kingdom, and
 - (ii) taken into account in calculating for tax purposes the profits of that trade or profession.
- (3) In this section a “related person” means—
- (a) a connected company of which the person concerned is a director, or
 - (b) any person connected with the issuing company or with a company within paragraph (a).
- (4) In this section any reference to a payment to the person concerned includes a payment made to that person indirectly or to that person’s order or for that person’s benefit.
- (5) In this section “qualifying services” means services which are—
- (a) not secretarial or managerial services, and
 - (b) not services of a kind provided by the person to whom they are provided.
- (6) In this section the following expressions have the same meaning as in section 169VQA—
- “connected company”;
 - “director”;
 - “issuing company”;
 - “relevant period”.

Mr Chancellor of the Exchequer

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★ Schedule 14, page 432, line 25, at end insert—

““employee” (except in the expression “relevant employee”, which is to be read in accordance with section 169QVA) has the meaning given by section 4 of ITEPA 2003;”

Mr Chancellor of the Exchequer

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★ Schedule 14, page 432, line 38, leave out “169VC(6)” and insert “169VC(7)”

Mr Chancellor of the Exchequer

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★ Schedule 14, page 433, line 7, at end insert “on a particular date”

Finance Bill, continued

- Mr Chancellor of the Exchequer
- ★ Schedule 14, page 433, line 30, after “(b)” insert “in relation to the shares” 66
- Mr Chancellor of the Exchequer
- ★ Schedule 14, page 433, line 31, at end insert “in relation to them” 67
- Mr Chancellor of the Exchequer
- ★ Schedule 14, page 433, line 37, at beginning insert “In sub-paragraphs (3) and (4) and” 68
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- Mr Chancellor of the Exchequer
- ★ Clause 77, page 135, line 31, at end insert— 29
- “(3A) Section 236F of TCGA 1992 (reorganisation of share capital involving employee shareholder shares) is amended in accordance with subsections (3B) and (3C).
- (3B) After subsection (1) insert—
- “(1A) Subsection (1B) applies where—
- (a) an exempt employee shareholder share (“the original EES share”) is held by a person (“P”) before, and is concerned in, a reorganisation, and
- (b) the original EES share is disposed of on the reorganisation.
- (1B) P is to be treated as if the original EES share were disposed of for consideration of an amount determined in accordance with subsections (1D) to (1H) (the “relevant amount”).
- (1C) In this section “notional gain” means the gain, if any, that would accrue to P if the original EES share were disposed of on the reorganisation for consideration of an amount equal to the market value of the share.
- (1D) Subsections (1E) to (1G) apply where a notional gain would accrue to P on the disposal of the original EES share.
- (1E) Where the whole of the notional gain would be a chargeable gain by virtue of section 236B(1A), the relevant amount is the amount that would secure that on the disposal neither a gain nor a loss would accrue to P.
- (1F) Where part (but not the whole) of the notional gain would be a chargeable gain by virtue of section 236B(1A), the relevant amount is the maximum amount, not exceeding the market value of the share, that would secure that on the disposal no chargeable gain would accrue to P.
- (1G) Where no part of the notional gain would be a chargeable gain by virtue of section 236B(1A), the relevant amount is equal to the amount of the notional gain.
- (1H) Where no notional gain would accrue to P on the disposal of the original EES share, the relevant amount is the amount that would secure that on the disposal neither a gain nor a loss would accrue to P.

Finance Bill, continued

- (1I) In determining for the purposes of this section whether any part of a notional gain is a chargeable gain by virtue of section 236B(1A), subsection (1B) is to be disregarded.
- (1J) Where more than one original EES share is disposed of by P on a reorganisation, references in this section to the disposal of the original EES share are to be treated as references to the disposal of all of the original EES shares disposed of on the reorganisation.
- (1K) In this section “reorganisation” has the same meaning as in section 127.”
- (3C) In subsection (2) for “reference in subsection (1) to section 127 includes” substitute “references in this section to section 127 include”.”

Roger Mullin

NC2

To move the following Clause—

“Review of remuneration of investment fund managers

The Chancellor of the Exchequer must commission a review of ways in which the law could be amended to ensure that no element of the remuneration paid to an investment fund manager may be treated as a capital gain, and that such remuneration shall be treated for tax purposes wholly as income, and must publish the report of the review within six months of the passing of this Act.”

ORDER OF THE HOUSE [11 APRIL 2016]

That the following provisions shall apply to the Finance (No. 2) Bill:

Committal

1. The following shall be committed to a Committee of the whole House—
 - (1) Clauses 7 to 18 and Schedules 2 and 3 (employment income);
 - (2) Clauses 41 and 42 (corporation tax: charge and rates);
 - (3) Clauses 43 and 44 (corporation tax: research and development);
 - (4) Clauses 65 to 71 (capital allowances, trade and property business profits);
 - (5) Clauses 72 to 81 and Schedules 11 to 14 (capital gains tax);
 - (6) Clause 129 (insurance premium tax);
 - (7) Clauses 132 to 136 (climate change levy);
 - (8) Clauses 144 to 154 and Schedules 18 to 22 (tax avoidance and evasion);
 - (9) any new Clauses or new Schedules relating to—
 - (a) employment income,
 - (b) the subject matter of Clauses 41 to 44 and 65 to 71,
 - (c) capital gains tax,
 - (d) insurance premium tax,
 - (e) climate change levy, and
 - (f) tax avoidance and evasion.

Finance Bill, continued

2. The remainder of the Bill shall be committed to a Public Bill Committee.

Proceedings in committee

3. Proceedings in Committee of the whole House shall be completed in two days.
4. Those proceedings shall be taken on each of those days as shown in the first column of the following Table and in the order so shown.
5. Each part of the proceedings shall (so far as not previously concluded) be brought to a conclusion at the time specified in relation to it in the second column of the Table.
6. Standing Order No. 83B (programming committees) shall not apply to proceedings in Committee of the whole House.

TABLE*Proceedings* *Time for conclusion of proceedings**First day*

Clauses 7 to 12, Schedule 2, Clauses 13 to 16, Schedule 3, Clauses 17 and 18, new clauses and new Schedules relating to employment income	Two hours from commencement of proceedings on the Bill on the first day
Clauses 132 to 136, new clauses and new Schedules relating to climate change levy	Four hours from commencement of proceedings on the Bill on the first day
Clause 129 and new clauses and new Schedules relating to insurance premium tax	Six hours from commencement of proceedings on the Bill on the first day

*Proceedings**Time for conclusion of proceedings**Second day*

Clauses 144 to 147, Schedule 18, Clauses 148 and 149, Schedule 19, Clause 150, Schedule 20, Clause 151, Schedule 21, Clauses 152 and 153, Schedule 22, Clause 154, new clauses and new Schedules relating to tax avoidance and evasion	Two hours from commencement of proceedings on the Bill on the second day
Clauses 41 to 44, Clauses 65 to 71, new clauses and new Schedules relating to the subject matter of those clauses	Four hours from commencement of proceedings on the Bill on the second day
Clause 72, Schedules 11 and 12, Clauses 73 to 75, Schedule 13, Clause 76, Schedule 14, Clauses 77 to 81, new Clauses and new Schedules relating to capital gains tax	Six hours from commencement of proceedings on the Bill on the second day

Finance Bill, *continued**Proceedings in Public Bill Committee etc*

7. Proceedings in the Public Bill Committee shall (so far as not previously concluded) be brought to a conclusion on 14 July.
8. The Public Bill Committee shall have leave to sit twice on the first day on which it meets.
9. When the provisions of the Bill considered, respectively, by the Committee of the whole House and by the Public Bill Committee have been reported to the House, the Bill shall be proceeded with as if it had been reported as a whole to the House from the Public Bill Committee.

Consideration and Third Reading

10. Proceedings on Consideration, any proceedings in Legislative Grand Committee and proceedings on Third Reading shall be completed in two days.
 11. Proceedings on Consideration and proceedings in Legislative Grand Committee shall (so far as not previously concluded) be brought to a conclusion one hour before the moment of interruption on the second day of proceedings on Consideration.
 12. Proceedings on Third Reading shall (so far as not previously concluded) be brought to a conclusion at the moment of interruption on that day.
 13. Standing Order No. 83B (programming committees) shall not apply to proceedings on Consideration and up to and including Third Reading.
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