



HM Treasury, 1 Horse Guards Road, London, SW1A 2HQ

Rt. Hon Sir Lindsay Hoyle MP
Deputy Speaker and Chairman of Ways and Means
House of Commons
London
SW1A 0AA

16 November 2018

Dear Lindsay,

FINANCE (NO.3) BILL 2017-19: CLAUSE 89 (MINOR AMENDMENTS IN CONSEQUENCE OF EU WITHDRAWAL)

I am writing to set out in some more detail the changes which the government intends to make using a power introduced in Clause 89 of the current Finance Bill to amend relevant tax legislation in order to maintain its effect in the event that the UK leaves the EU without a deal.

Clause 89 allows the government to make minor, technical amendments, for example, replacing references to "EU" with "EU and UK", making minor amendments consequential on other changes to the law under section 8 of the European Union (Withdrawal) Act 2018 and changing values in "euros" to values in "sterling".

It also enables the government to amend paragraph 2(4) (a) of Schedule 5 FA 1997 to remove the reference to EU legislation, in order to ensure HMRC's consideration of whether, and the extent to which, a taxpayer is unjustly enriched by repayment of Insurance Premium Tax, Landfill Tax or Excise Duty, is based on UK legislation.

Finally, it allows the government to amend Section 173 of the Finance Act 2006. This will enable the government to preserve the legal gateways for HMRC to exchange information with other public authorities after EU Exit, meaning HMRC can continue to tackle avoidance and evasion effectively and efficiently.

This power will only be used in the event of a 'no deal' EU exit. If no such deal is reached, the legislation will come into effect on 29 March 2019, at the point at which the UK ceases to be an EU Member State. This power enables the government to make necessary minor amendments to tax legislation to ensure its continued effect as now, and to maintain stability for taxpayers. This measure is not a policy change.

Secondary legislation relating to this power is to be made by HMT by statutory instrument. This will be subject to the negative procedure.

The list of changes to tax legislation which the government intends to make using this power are annexed to this letter.

I am depositing a copy of this letter in the Library of the House. The Explanatory Notes, and Notes on Resolutions that have been laid for clause 89 are available on the Finance (No.3) Bill 2017-19 gov.uk webpage.

I am also copying this letter to the Shadow Chief Secretary to the Treasury.

A handwritten signature in blue ink that reads "Robert Jenrick". The signature is written in a cursive style and is positioned above a short horizontal line.

**ROBERT JENRICK MP
EXCHEQUER SECRETARY TO THE TREASURY**

**ANNEX: LIST OF REGULATIONS INTENDED TO BE MADE
UNDER CLAUSE 89 OF FINANCE (NO.3) BILL 2017-19**

The government intends to make the following amendments to tax legislation by way of a statutory instrument laid under the power introduced by Clause 89 of the Finance Bill:

Limb 1(a)

- Amendments to the definition of 'hazardous waste' for landfill tax, required to ensure the definition based on European Parliament & Council Directive 2008/98/EC (Waste Framework Directive) continues to function correctly.
- Amendments to references to an 'EEA state other than the United Kingdom' in the Inheritance Tax Act 1984.
- Amendments to references to '[EU] member state' in legislation relating to Community Amateur Sports Clubs to ensure the continuation of UK tax policy.
- Amendments to maintain eligibility to tax relief for UK persons and investments for stamp duty and stamp duty reserve tax.
- Amendments to retain the current tax treatment in relation to existing financial products and financial services legislation which (i) directly implements EU legislation, (ii) contains EU references and definitions and (iii) applies to EU or EEA entities. Affected taxes include the bank surcharge, bank levy, withholding tax, interest payments, disguised interest, interest, insurance, funds and loan relationships and derivatives.
- Amendments to references to 'EU', 'EEA' and '[EU] member state' in pensions legislation to ensure continuation of tax treatment in relation to pensions.
- Amendment to ensure continuation of existing tax treatment for UK vessels under the UK tonnage tax regime.

Limb 1(b)

- Consequential amendments to tax law in connection with The European Economic Interest Grouping (Amendment) (EU Exit) Regulations 2018 made under s 8 of the European Union (Withdrawal) Act 2018

- Consequential amendments to tax law affecting financial services under regulations made under s 8 of the European Union (Withdrawal) Act 2018 to ensure the effective operation of various taxes including stamp duties, corporation tax and inheritance tax. Examples of such changes include the EEA Passport Rights (Amendment, etc., and Transitional Provisions) (EU Exit) Regulations 2018 and the Central Counterparties (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2018.
- Consequential amendments to tax law in connection with Regulations to be made under s 8 of the European Union (Withdrawal) Act 2018 to give effect to a UK domestic State-aid regime.

Limb 1(a) and (c)

- Amendments to ensure continuation of the current tax treatment in relation to corporation tax structure and corporation tax incentives and reliefs, including changing references to 'EEA' and converting references to 'euros' into sterling.

Limb 1(d)

- Amendment to paragraph 2(4) of Schedule 5 to FA 1997 (indirect taxes: overpayments etc) for the purposes of removing the reference to EU legislation.

Limb 1(e)

- Amendment to s 173 of FA 2006 (international tax enforcement) to permit the disclosure of information to the Commissioners by other public authorities and by the Commissioners (subject to conditions about its use) to persons outside the United Kingdom.