



House of Commons

Tuesday 7 June 2011

PUBLIC BILL COMMITTEE PROCEEDINGS

FINANCE (No. 3) BILL

(except Clauses 4, 7, 10, 19, 35 and 72)

[ELEVENTH AND TWELFTH SITTINGS]

Clause 46 agreed to.

Schedule 11 agreed to.

David Hanson
Kerry McCarthy

Negated on division 100

Clause 47, page 28, line 11, at end add—

- ‘(2) Notwithstanding the provisions of paragraph 14 of Schedule 12, the Schedule will not come into force until a full impact assessment on developing countries’ tax revenue has been laid before and approved by the House of Commons.’

Clause agreed to.

David Gauke

Agreed to 118

Schedule 12, page 189, leave out lines 8 to 13 and insert—

- ‘15B(1) An exempt period begins in relation to a company (“X”) at a time (“the relevant time”) when—
- (a) X is resident outside the United Kingdom,
 - (b) X is controlled by persons resident in the United Kingdom,
 - (c) there is at least one relevant UK corporate investor in X, and
 - (d) the requirements of paragraph 15C or 15D are met.
- (2) There is a “relevant UK corporate investor in X” at a particular time if, at that time, there is a company which—
- (a) is resident in the United Kingdom, and

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- (b) would, on the assumptions set out in sub-paragraph (3), be a company to which an apportionment of X's chargeable profits for the relevant accounting period would fall to be made in circumstances where section 747(5) would not prevent tax being chargeable on the company under section 747(4).
- (3) The assumptions are—
- (a) X has chargeable profits for the relevant accounting period,
 - (b) an apportionment of those profits falls to be made under section 747(3) for that period, and
 - (c) no reduction of those profits arises under section 751A, 751AA or 751AB.
- (4) "The relevant accounting period" means the accounting period of X in which the time mentioned in sub-paragraph (2) falls.
- 15C (1) The requirements of this paragraph are that—
- (a) no company was, at any time before the relevant time, a relevant UK corporate investor in X,'.

David Gauke

Agreed to 119

Schedule 12, page 189, line 17, leave out 'such control' and insert 'the control of persons resident in the United Kingdom'.

David Gauke

Agreed to 120

Schedule 12, page 190, leave out lines 16 to 19 and insert—

- (c) no company was, at any time during that accounting period, a relevant UK corporate investor in X,
- (d) no company was, immediately before the relevant time, a relevant UK corporate investor in X,'.

David Gauke

Agreed to 121

Schedule 12, page 190, line 26, at end insert—

- (2) In determining for the purposes of sub-paragraph (1)(e)(ii) whether a company is under the control of two or more bodies corporate taken together, a body corporate which holds less than 10% of the issued ordinary shares of that company is to be disregarded.
- (3) For the purposes of sub-paragraph (2), a body corporate is treated as holding any shares held by persons who are connected or associated with the body corporate.'.

David Gauke

Agreed to 122

Schedule 12, page 192, line 14, at end insert—

"relevant UK corporate investor in X" has the meaning given by paragraph 15B(2);'.

Schedule, as amended, agreed to.

Clause 48 agreed to.

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David Gauke

Agreed to 123

Schedule 13, page 199, line 2, leave out ‘the relevant profits’ and insert ‘that’.

David Gauke

Agreed to 124

Schedule 13, page 205, leave out lines 3 to 12 and insert—

- (b) there is a transferred total opening negative amount in relation to the business transferred.
- (2) In a case where the transferor had not made an election under section 18A before the transfer took place, or such an election had not had effect before that time, the “transferred total opening negative amount” is the amount that would have been the total opening negative amount in the case of the transferor at the beginning of the transferor’s first relevant accounting period if—
- (a) the only business carried on by the transferor was the business transferred,
 - (b) the transfer had not taken place,
 - (c) the transferor’s first relevant accounting period had begun on the day after the transfer day, and
 - (d) any reference in section 18J(3) to the accounting period in which the election is made were a reference to the period beginning with the accounting period in which the transfer took place and ending with the transfer day.
- (3) In a case where an election made by the transferor under section 18A had effect before the transfer took place, the “transferred total opening negative amount” is—
- (a) the amount that would have been the total opening negative amount in the case of the transferor on the transfer day if the accounting period in which the transfer took place had ended on that day (the “remaining total opening negative amount”), less
 - (b) the amount that would have been the remaining total opening negative amount if the transferor had never carried on the business transferred.
- But the transferred total opening negative amount cannot be below nil.
- (4) In a case where—
- (a) an election made by the transferee under section 18A first has effect after the transfer takes place, and
 - (b) the accounting period of the transferee in which the transfer took place is an affected prior accounting period for the purposes of section 18J(2),
- there is to be added to the adjusted foreign permanent establishments amount in relation to that accounting period a negative amount equal to so much (if any) of the transferred total opening negative amount as is attributable to profits or losses arising after the beginning of the earliest affected prior accounting period of the transferee.
- (5) In a case where an election made by the transferee under section 18A had effect before the transfer took place, sections 18K to 18N have effect in relation to the transferee and the transferred total opening negative amount as if—
- (a) any reference to the total opening negative amount were a reference to the transferred total opening negative amount,
 - (b) any reference to the first relevant accounting period were a reference to the period beginning with the day after the transfer day and ending immediately before the start of the next accounting period of the transferee, and

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- (c) the requirement in section 18L(2) that a streaming election be made at the same time as the company's election under section 18A did not apply.
- (6) Where for the purposes of this section it is necessary to apportion the profits and losses for any accounting period to different parts of that period, that apportionment is to be made on a just and reasonable basis.
- (7) Any amount included in a transferred total opening negative amount is to be disregarded in the application of sections 18J to 18N in the case of the transferor after the transfer day.
- (8) In this section "the transfer day" means the day on which the transfer of the business takes place.'

David Gauke

Agreed to 125

Schedule 13, page 206, leave out from the beginning of line 43 to the end of line 6 on page 207.

David Gauke

Agreed to 126

Schedule 13, page 207, line 8, at end insert—

'7A In section 845(4) (exceptions to rule that transfer between company and related party treated as being at market value)—

- (a) omit the "and" at the end of paragraph (c), and
 (b) after that paragraph insert—

“(ca) section 848A (assets held for purposes of exempt foreign permanent establishments), and”.

7B After section 848 insert—

“848A Assets held for purposes of exempt foreign permanent establishments

- (1) This section applies if—
- (a) subsection (1) of section 775 (transfers within a group) would apply in relation to the transfer but for paragraph (c) of subsection (4) of that section, and
- (b) the asset has not at all times when the election under section 18A had effect been held by the transferor wholly for the purposes of a permanent establishment such as is mentioned in that paragraph.

- (2) The transfer is treated for the purposes of this Part as being at the following value—

$$\text{WDV} + \text{FPEA}$$

where—

WDV is the tax written-down value of the asset, and

FPEA is the amount which, for the purposes of Chapter 3A of Part 2, would in the case of the transferor be the foreign permanent establishments amount attributable to the transfer for the accounting period in which it took place if the transfer were at market value.”.

David Gauke

Agreed to 127

Schedule 13, page 208, line 18, at end insert '(with the result that that amount includes the amount which for the purposes of that Chapter would in the case of the company be the foreign permanent establishments amount attributable to the disposal for

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the accounting period in which it was made if the disposal were not a no gain/no loss disposal).

- () For the purposes of this section a no gain/no loss disposal is one on which by virtue of section 152 or any of the no gain/no loss provisions neither a gain nor a loss accrues to the company making the disposal.”.

David Hanson
Kerry McCarthy

Negated on division **101**

Schedule **13**, page **213**, line **31**, leave out ‘on the day on which this Act is passed’ and insert ‘when a full impact assessment on developing countries’ tax revenue has been laid before and approved by the House of Commons.’.

David Gauke

Agreed to **128**

Schedule **13**, page **215**, line **28**, at end insert—

‘33A(1) This paragraph applies if—

- (a) section 180 of CTA 2009 (as inserted by this Schedule) applies in relation to a transfer of business, and
 - (b) (apart from this paragraph) the effect of subsection (4) of that section would be that a relevant losses amount falling within paragraph 33(1)(a) would be ignored for the purposes of section 18J(2) of that Act.
- (2) There is to be added to the adjusted foreign permanent establishments amount in relation to the accounting period of the transferee in which the transfer took place a negative amount equal to that relevant losses amount.’.

Schedule, as amended, agreed to.

Clauses 49 to 52 agreed to.

Schedule 14 agreed to.

David Gauke

Agreed to **185**

Clause **53**, page **32**, leave out lines 18 to 32 and insert—

- ‘(7) Where a person prepares or is required to prepare accounts in accordance with new standards for a period of account, the Taxes Acts (other than this section) have effect as if the person prepared or was required to prepare accounts, for that period, in accordance with the corresponding old standards.
- (8) For the purposes of subsection (7)—’.

David Gauke

Agreed to **186**

Clause **53**, page **33**, leave out lines 3 and 4.

Clause, as amended, agreed to.

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Clauses 54 to 56 agreed to.

Bill Esterson
John McDonnell [R]

Not selected **193**

- ★ Clause 57, page 35, line 38, at end insert ‘provided that if a company to which this section applies does not train one UK rating for every fifteen crew employed, and the capital allowances claimable by the company under this section would be lower than if the section had not come into force, this section shall be deemed not to have come into force in respect of that company.’.

Clause agreed to.

Clauses 58 to 64 agreed to.

Schedule 15 agreed to.

Clause 65 agreed to.

Schedule 16 agreed to.

Mr David Hanson
Kerry McCarthy

Negatived on division **188**

Clause 66, page 39, line 7, at end add—

‘The Chancellor of the Exchequer must, no later than 1 April 2012, compile and lay before the House of Commons a report containing an assessment of the impact of this section and Schedule 17, including the impact in creating marginal effective rates of taxation of over 100 per cent. (when considering the impact of this section and the relevant income tax rates in force)’.

Clause agreed to.

David Gauke

Agreed to **129**

Schedule 17, page 277, line 23, leave out from ‘adjustment’ to end of line 25 and insert ‘is reflected in the closing amount the amount of the adjustment is to be added to the closing amount.

- (8D) But no amount is to be added under subsection (8C) by reason of an adjustment made in consequence of the scheme administrator satisfying a liability under section 237B in a case where subsection (6) of that section applied.”’.
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David Gauke

Agreed to **130**

Schedule **17**, page **280**, line **2**, after ‘reduction’ insert ‘(to the extent that it is not reflected in an amount added under subsection (8A))’.

David Gauke

Agreed to **131**

Schedule **17**, page **280**, line **16**, leave out from ‘event 2,’ to end of line 17 and insert ‘the annual rate of the pension to which the individual became entitled.’.

David Gauke

Agreed to **132**

Schedule **17**, page **280**, line **27**, leave out from ‘adjustment’ to end of line 28 and insert ‘is reflected in PE or LSE the amount of the adjustment is to be added to PE or LSE. (8D) But no amount is to be added under subsection (8C) by reason of an adjustment made in consequence of the scheme administrator satisfying a liability under section 237B in a case where subsection (6) of that section applied.’.

David Gauke

Agreed to **133**

Schedule **17**, page **285**, line **3**, leave out ‘the day before’.

Schedule, as amended, agreed to.

Clause 67 agreed to.

Mr David Hanson
Kerry McCarthy

Negated on division **189**

Schedule **18**, page **290**, line **2**, leave out ‘£18,000’ and insert ‘£21,500’.

Mr David Hanson
Kerry McCarthy

Not called **190**

Schedule **18**, page **290**, line **9**, leave out ‘£18,000’ and insert ‘£21,500’.

Mr David Hanson
Kerry McCarthy

Not called **191**

Schedule **18**, page **290**, line **17**, leave out ‘£18,000’ and insert ‘£21,500’.

Mr David Hanson
Kerry McCarthy

Not called **192**

Schedule **18**, page **290**, line **24**, leave out ‘£18,000’ and insert ‘£21,500’.

Schedule agreed to.

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Mr David Hanson
Kerry McCarthy

Withdrawn 187

Schedule 19, page 297, line 1, at end insert—

- ‘(4) The Secretary of State will review the steps for determining the amount of the bank levy outlined in paragraph 6(2) and lay a report before the House of Commons, before 31 December 2011. This review shall include the Government’s analysis behind the rate and threshold chosen for the bank levy and provide a forecast for the change in both gross and net yield that would be achieved if the Secretary of State were to reduce the amounts in Step 5 from £20,000,000,000 to £10,000,000,000.’.

David Gauke

Agreed to 134

Schedule 19, page 302, line 30, after ‘liabilities’ insert ‘(“M’s liabilities”)

David Gauke

Agreed to 135

Schedule 19, page 302, line 31, after ‘to M’ insert ‘(“N’s liabilities”)

David Gauke

Agreed to 136

Schedule 19, page 302, line 34, leave out ‘to N’.

David Gauke

Agreed to 137

Schedule 19, page 302, line 34, leave out ‘to M’.

David Gauke

Agreed to 138

Schedule 19, page 302, line 43, leave out ‘and’ and insert—

- ‘() a liability which M has to N to which sub-paragraph (2A) applies is to be treated as a liability to which an asset of N corresponds, and’.

David Gauke

Agreed to 139

Schedule 19, page 302, line 47, at end insert—

‘(2A) This sub-paragraph applies to a liability which M has to N if—

- (a) as at the end of the chargeable period, the assets of the relevant group include a financial asset in respect of an advance of cash made by M to N,
- (b) underlying that asset, as collateral, are securities which have been transferred by M to another person,
- (c) the liability is a financial liability in respect of M’s obligation to return the securities or similar securities to N, and
- (d) the provision mentioned in sub-paragraph (1)(c) covers both the financial asset mentioned in paragraph (a) and that financial liability.

Section 556 of CTA 2009 (meaning of securities and similar securities) applies for the purposes of this sub-paragraph as it applies for the purposes of Chapter 10 of Part 6 of that Act.’.

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- David Gauke
Schedule 19, page 303, line 1, leave out ‘to N’. *Agreed to 140*
- David Gauke
Schedule 19, page 303, line 6, leave out ‘to M’. *Agreed to 141*
- David Gauke
Schedule 19, page 306, line 34, leave out paragraph (a) and insert—
‘(a) an entity (“M”) within sub-paragraph (9) has liabilities to another entity (“N”) not within that sub-paragraph, and N has assets which correspond to those liabilities (“M’s liabilities”),’ *Agreed to 142*
- David Gauke
Schedule 19, page 306, line 38, after ‘to M’ insert ‘(“N’s liabilities”)’. *Agreed to 143*
- David Gauke
Schedule 19, page 306, line 41, leave out ‘to N’. *Agreed to 144*
- David Gauke
Schedule 19, page 306, line 41, leave out ‘to M’. *Agreed to 145*
- David Gauke
Schedule 19, page 307, line 1, leave out ‘In’ and insert ‘For the purposes of’. *Agreed to 146*
- David Gauke
Schedule 19, page 307, line 3, at end insert—
‘() if N is a relevant foreign bank covered by paragraph 17(17), liabilities of M to N are to be ignored so far as N’s assets corresponding to those liabilities are assets of the permanent establishment through which N carries on a trade in the United Kingdom as determined at Step 2 in paragraph 24(1),’. *Agreed to 147*
- David Gauke
Schedule 19, page 307, line 6, leave out ‘and’ and insert—
‘() a liability which M has to N to which sub-paragraph (10A) applies is to be treated as a liability to which an asset of N corresponds, and’. *Agreed to 148*
- David Gauke
Schedule 19, page 307, line 10, at end insert—
‘(10A) This sub-paragraph applies to a liability which M has to N if—
(a) as at the end of the chargeable period, the assets of M include a financial asset in respect of an advance of cash made by M to N, *Agreed to 149*

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- (b) underlying that asset, as collateral, are securities which have been transferred by M to another person,
- (c) the liability is a financial liability in respect of M's obligation to return the securities or similar securities to N, and
- (d) the provision mentioned in sub-paragraph (8)(c) covers both the financial asset mentioned in paragraph (a) and that financial liability.

Section 556 of CTA 2009 (meaning of securities and similar securities) applies for the purposes of this sub-paragraph as it applies for the purposes of Chapter 10 of Part 6 of that Act.'

David Gauke

Schedule 19, page 307, line 13, leave out 'to N'.

Agreed to 150

David Gauke

Schedule 19, page 307, line 18, leave out 'to M'.

Agreed to 151

David Gauke

Schedule 19, page 310, line 46, leave out paragraph (a) and insert—
'(a) an entity ("M") within sub-paragraph (9) has liabilities to another entity ("N") not within that sub-paragraph, and N has assets which correspond to those liabilities ("M's liabilities"),'

Agreed to 152

David Gauke

Schedule 19, page 311, line 3, after 'to M' insert '("N's liabilities")'.

Agreed to 153

David Gauke

Schedule 19, page 311, line 6, leave out 'to N'.

Agreed to 154

David Gauke

Schedule 19, page 311, line 6, leave out 'to M'.

Agreed to 155

David Gauke

Schedule 19, page 311, line 13, leave out 'In sub-paragraph (8)(c)' and insert 'For the purposes of sub-paragraph (8)'.

Agreed to 156

David Gauke

Schedule 19, page 311, line 15, at end insert—

Agreed to 157

- '() if N is a relevant foreign bank covered by paragraph 19(17), liabilities of M to N are to be ignored so far as N's assets corresponding to those liabilities are assets of the permanent establishment through which N carries on a trade in the United Kingdom as determined at Step 2 in paragraph 24(1),'

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David Gauke

Agreed to 158

Schedule 19, page 311, line 18, leave out ‘and’ and insert—
 ‘() a liability which M has to N to which sub-paragraph (10A) applies is to be treated as a liability to which an asset of N corresponds, and’.

David Gauke

Agreed to 159

Schedule 19, page 311, line 22, at end insert—
 ‘(10A) This sub-paragraph applies to a liability which M has to N if—
 (a) as at the end of the chargeable period, the assets of M include a financial asset in respect of an advance of cash made by M to N,
 (b) underlying that asset, as collateral, are securities which have been transferred by M to another person,
 (c) the liability is a financial liability in respect of M’s obligation to return the securities or similar securities to N, and
 (d) the provision mentioned in sub-paragraph (8)(c) covers both the financial asset mentioned in paragraph (a) and that financial liability.
 Section 556 of CTA 2009 (meaning of securities and similar securities) applies for the purposes of this sub-paragraph as it applies for the purposes of Chapter 10 of Part 6 of that Act.’.

David Gauke

Agreed to 160

Schedule 19, page 311, line 25, leave out ‘to N’.

David Gauke

Agreed to 161

Schedule 19, page 311, line 30, leave out ‘to M’.

David Gauke

Agreed to 162

Schedule 19, page 312, line 37, after ‘liabilities’ insert ‘(“the relevant entity’s liabilities”)’.

David Gauke

Agreed to 163

Schedule 19, page 312, line 39, after ‘entity’ insert ‘(“N’s liabilities”)’.

David Gauke

Agreed to 164

Schedule 19, page 312, line 42, leave out ‘to N’.

David Gauke

Agreed to 165

Schedule 19, page 312, line 43, leave out ‘to the relevant entity’.

David Gauke

Agreed to 166

Schedule 19, page 312, line 47, leave out ‘In’ and insert ‘For the purposes of’.

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David Gauke

Agreed to 167

- Schedule 19, page 313, line 3, leave out ‘and’ and insert—
 ‘() a liability which the relevant entity has to N to which sub-paragraph (2A) applies is to be treated as a liability to which an asset of N corresponds, and’.

David Gauke

Agreed to 168

- Schedule 19, page 313, line 7, at end insert—
 ‘(2A) This sub-paragraph applies to a liability which the relevant entity has to N if—
 (a) as at the end of the chargeable period, the assets of the relevant entity include a financial asset in respect of an advance of cash made by the relevant entity to N,
 (b) underlying that asset, as collateral, are securities which have been transferred by the relevant entity to another person,
 (c) the liability is a financial liability in respect of the relevant entity’s obligation to return the securities or similar securities to N, and
 (d) the provision mentioned in sub-paragraph (1)(c) covers both the financial asset mentioned in paragraph (a) and that financial liability.
 Section 556 of CTA 2009 (meaning of securities and similar securities) applies for the purposes of this sub-paragraph as it applies for the purposes of Chapter 10 of Part 6 of that Act.’.

David Gauke

Agreed to 169

- Schedule 19, page 313, line 9, after ‘of the’ insert ‘relevant’.

David Gauke

Agreed to 170

- Schedule 19, page 313, line 10, leave out ‘its liabilities to N’ and insert ‘the relevant entity’s liabilities’.

David Gauke

Agreed to 171

- Schedule 19, page 313, line 16, leave out ‘to the relevant entity’.

David Gauke

Agreed to 172

- Schedule 19, page 314, line 30, after ‘liabilities’ insert ‘(“the bank’s liabilities”)

David Gauke

Agreed to 173

- Schedule 19, page 314, line 32, after ‘bank’ insert ‘(“N’s liabilities”)

David Gauke

Agreed to 174

- Schedule 19, page 314, line 35, leave out ‘to N’.

David Gauke

Agreed to 175

- Schedule 19, page 314, line 36, leave out ‘to the bank’.

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David Gauke

Agreed to 176

Schedule 19, page 314, line 46, leave out 'In' and insert 'For the purposes of'.

David Gauke

Agreed to 177

Schedule 19, page 315, line 5, leave out 'and' and insert—
 '() a liability which the relevant foreign bank has to N to which sub-paragraph (3A) applies is to be treated as a liability to which an asset of N corresponds, and'.

David Gauke

Agreed to 178

Schedule 19, page 315, line 9, at end insert—
 '(3A) This sub-paragraph applies to a liability which the relevant foreign bank has to N if—
 (a) as at the end of the chargeable period, the assets of the relevant foreign bank include a financial asset in respect of an advance of cash made by the relevant foreign bank to N,
 (b) underlying that asset, as collateral, are securities which have been transferred by the bank to another person,
 (c) the liability is a financial liability in respect of the bank's obligation to return the securities or similar securities to N, and
 (d) the provision mentioned in sub-paragraph (1)(c) covers both the financial asset mentioned in paragraph (a) and that financial liability.
 Section 556 of CTA 2009 (meaning of securities and similar securities) applies for the purposes of this sub-paragraph as it applies for the purposes of Chapter 10 of Part 6 of that Act.'

David Gauke

Agreed to 179

Schedule 19, page 315, line 25, leave out 'its liabilities to N' and insert 'the bank's liabilities'.

David Gauke

Agreed to 180

Schedule 19, page 315, line 30, leave out 'to the bank'.

David Gauke

Agreed to 181

Schedule 19, page 328, line 36, leave out paragraph (b) and insert—
 '(b) a covered bond vehicle, or'.

David Gauke

Agreed to 182

Schedule 19, page 329, line 3, at end insert—
 "covered bond vehicle" means a limited liability partnership—
 (a) which is a party to a capital market arrangement, or a transaction in pursuance of a capital market arrangement,
 (b) whose trade or business (ignoring any incidental activities) consists wholly of one or both of the following—
 (i) providing guarantees, and

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- (ii) acquiring, owning and managing assets directly or indirectly forming the whole or part of the security for the capital market arrangement, and
- (c) which is within the charge to corporation tax;’.

Schedule, as amended, agreed to.

[Adjourned until Thursday at 9.00 am