PARLIAMENTARY DEBATES

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OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

FINANCE (NO. 3) BILL

(Except clauses 4, 7, 10, 19, 35 and 72)

Eleventh Sitting

Tuesday 7 June 2011

(Morning)

CONTENTS

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Saturday 11 June 2011

STRICT ADHERENCE TO THIS ARRANGEMENT WILL GREATLY FACILITATE THE PROMPT PUBLICATION OF THE BOUND VOLUMES OF PROCEEDINGS IN GENERAL COMMITTEES

The Committee consisted of the following Members:

Chairs: Hugh Bayley, Mr Roger Gale, †Mr Jim Hood

† Aldous, Peter *(Waveney)* (Con)
† Barclay, Stephen *(North East Cambridgeshire)* (Con)
Blenkinsop, Tom *(Middlesbrough South and East Cleveland)* (Lab)
† Blomfield, Paul *(Sheffield Central)* (Lab)
† Bradley, Karen *(Staffordshire Moorlands)* (Con)
† Creasy, Stella *(Walthamstow)* (Lab/Co-op)
† Crockart, Mike *(Edinburgh West)* (LD)
† Crouch, Tracey *(Chatham and Aylesford)* (Con)
† Dakin, Nic *(Scunthorpe)* (Lab)
† Esterson, Bill *(Sefton Central)* (Lab)
† Gauke, Mr David *(Exchequer Secretary to the Treasury)*
† Glindon, Mrs Mary *(North Tyneside)* (Lab)
† Goodwill, Mr Robert *(Scarborough and Whitby)* (Con)
† Greening, Justine *(Economic Secretary to the Treasury)*
† Hanson, Mr David *(Delyn)* (Lab)
† Harrington, Richard *(Watford)* (Con)
† Hoban, Mr Mark *(Financial Secretary to the Treasury)*
† Lee, Jessica *(Erewash)* (Con)
† Lewis, Brandon *(Great Yarmouth)* (Con)
McCarthy, Kerry *(Bristol East)* (Lab)
† McCartney, Karl *(Lincoln)* (Con)
† McClymont, Gregg *(Cumbernauld, Kilsyth and Kirkintilloch East)* (Lab)
† McGovern, Alison *(Wirral South)* (Lab)
† Mearns, Ian *(Gateshead)* (Lab)
† Murray, Ian *(Edinburgh South)* (Lab)
† Nash, Pamela *(Airdrie and Shotts)* (Lab)
† Parish, Neil *(Tiverton and Honiton)* (Con)
† Phillipson, Bridget *(Houghton and Sunderland South)* (Lab)
† Sharma, Alok *(Reading West)* (Con)
† Shelbrooke, Alec *(Elmet and Rothwell)* (Con)
† Smith, Julian *(Skipton and Ripon)* (Con)
† Wharton, James *(Stockton South)* (Con)
† Williams, Roger *(Brecon and Radnorshire)* (LD)
† Williams, Stephen *(Bristol West)* (LD)
Wilson, Sammy *(East Antrim)* (DUP)

Simon Patrick, *Committee Clerk*

† attended the Committee

Public Bill Committee

Tuesday 7 June 2011

(Morning)

[Mr Jim Hood *in the Chair*]

Finance (No. 3) Bill

(Except clauses 4, 7, 10, 19, 35 and 72)

10.30 am

Clause 46 ordered to stand part of the Bill.

Schedule 11 agreed to.

Clause 47

Controlled foreign companies

Mr David Hanson (Delyn) (Lab): I beg to move amendment 100, in 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.'.

The Chair: With this it will be convenient to discuss amendment 101, page 213, line 31, in schedule 13, 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.'.

Mr Hanson: Welcome back to the Chair, Mr Hood. Looking around the room, it seems like only yesterday, but we have been away for a week. I am sure that everyone has had a marvellous time. I place on record my best wishes to the hon. Member for Elmet and Rothwell, who—unlike the rest of us, who have obviously been sweating hard over the clauses before us—used the week away productively by getting married. I wish him well, certainly on behalf of the Opposition.

We tabled the amendment because, whatever the issues around the changes to controlled foreign companies, it is important to make a full assessment of the impact of developing tax issues in developing countries before we approve clauses 47 and 48 and the appropriate schedules. Clause 47 deals with the way profits made by foreign companies and multinationals are treated in the UK for tax purposes. It deals with the treatment of profits made by subsidiary companies, which are companies within a wider group of companies that make up a multinational structure. Those are known as controlled foreign companies.

In the past, multinationals based in the UK have had to pay corporation tax not only on profits that they have made in the UK, but on profits they have made through subsidiaries and branches abroad. The system gave credit for any overseas tax in working out the corporation tax liability, but taxation occurred either when the profits were sent back to the UK or, where the company was in a low-tax territory, by deeming the profits to have arisen in the UK. The CFC rules have stopped companies moving their profits out of the UK to avoid tax, but they have also provided a disincentive to base in the UK. Multinationals have threatened to move their headquarters abroad and some have done so. I will touch on that again shortly.

In government, the Labour party was committed to moving towards a more territorial regime—a regime where profits made in the UK are taxed in the UK but profits made in other countries are not. We consulted extensively on how the rules could be changed to provide more certainty for business to ensure that the UK remained an attractive place for multinational companies to be based, but also to ensure that the UK tax base was not eroded by profits being moved offshore. The general direction of policy was set in this area when we were in government, and the Minister can be assured that we generally support the direction of travel, but we have some concerns, which is why I tabled the amendments.

I am concerned that the Government have not fully thought through the detailed consequences of their changes, particularly the impacts on developing countries. It is not just for me to say that: sometimes I reflect my opinion and sometimes I reflect the opinion of organisations outside the House, which I share and which I feel need to be developed. The Minister will know that ActionAid—a British charity founded in 1972 and working in 50 countries—has raised similar concerns to those in amendments 100 and 101, and it is important that he addresses them.

ActionAid has a range of issues it wishes to see developed further, and the Minister will be aware of the detail. It calls on the Government to do what we have proposed in the amendment: consult developing countries on the proposed changes and consider the impact of the reforms on them—for example, by looking with other Departments at capacity building on corporate taxation, and further extending activity begun by the Labour Government on support in the G20 for country-by-country financial reporting. We could then see where multinational companies were paying tax, and how much. If there were any tax avoidance, tax efficiency or, as some would say, tax dodging—however we want to phrase it—it would be highlighted so that multinational companies were accountable for the taxation that they need to pay as their contribution to society.

Nic Dakin (Scunthorpe) (Lab): I thank my right hon. Friend for spelling out concerns about the proposals. ActionAid is an organisation with a good pedigree and it needs to be taken seriously when it puts these considered and careful thoughts to the Committee. The Government should take it seriously and come back on the points raised.

Mr Hanson: ActionAid is a worthy organisation willing to look at the issues in detail and take positive action itself. It moved its headquarters from the UK to South Africa in 2003 to help to support developing countries. It is trying to shine a light on concerns over ensuring that multinational companies pay a fair share of tax in the appropriate country, and do not use the ability to move business around the world to avoid taxation—a practice particularly disadvantageous to developing countries.

A particular problem is that CFC rules act as a brake on tax avoidance by UK companies, no matter who would lose out from the avoidance. The proposed reforms will release the brake where the tax being avoided is that of a country other than the UK. ActionAid has raised issues about a number of countries and, as the Minister will be aware, recently produced a document on the company SABMiller, which shifted profits out of developing countries through royalty payments to the Netherlands, management fees to Switzerland, procurement via Mauritius and interest payments to Mauritius, so easing its tax burden to the disadvantage of the countries where it was based. It is feared that that will become easier and more common.

The key point is that, although richer countries such as the UK might have the legislative and administrative capacity to cope, the reforms could lead to an intensification of tax avoidance by UK companies in developing countries. ActionAid has estimated that as much as £4 billion in tax in developing countries could be avoided as a result of the proposals before the Committee. I do not know whether that figure is correct; I do know that the Treasury has looked at it, because it received freedom of information requests on the issue. We need an assessment from the Minister of whether that figure is accurate.

I have some FOI responses to ActionAid's £4 billion estimate from officials at the Treasury and the Department for International Development, who looked at the issue in detail. One reason why I tabled the amendment is that those responses show that the Government have not really considered the impact of these measures on developing countries or on the tax take in those countries. In a trail of e-mails that I received recently under FOI, on 16 March an official in Her Majesty's Treasury, whose name has helpfully been blanked out—they may even be in the room as we speak—told an official in DFID:

> "The AA response to the consultation is on the proposals for taxation of foreign branches and CFC interims. The calculation of cost to developing countries is very crude and is simply based on one fifth of profits being moved out of entities in developing countries. I would assume this proxy is based on the impacts of both these reforms due to the scope of their response… we strongly disagree with these numbers but"—

this is very illuminating—

> "have not done any work on this."

ActionAid says that the proposal will cost developing countries about £4 billion, and the Treasury says that it believes that that figure is very crude. If, as the official states in the e-mail, the Treasury has not done any work on this, will the Minister tell me on what basis he disagrees with the £4 billion figure from ActionAid? That communication proves that the Treasury has not done any work on the matter, so how can the Minister say that the £4 billion figure is wrong?

Later in the e-mail chain, an un-named HMT official states in an e-mail to other un-named officials in HMT and in DFID that

> "we think a big focus will be why is there this give away to big business in a time of spending cuts".

I could not agree more. Does the Minister believe that there is a give-away to business in this time of spending cuts, and how big is it? How much will the proposals save big business and how much taxation will big business avoid as a result of them?

Nic Dakin: Is not that exactly the point that ActionAid is making? Its concern is precisely that the proposals may turn out to be a give-away to big business and a loss to the people whom it should properly reach.

Mr Hanson: That is ActionAid's concern; it believes that developing countries may lose £4 billion in taxation as a result of the proposal. If an un-named Treasury official is saying to an un-named DFID official that

> "we think a big focus will be why is there this give away to big business in a time of spending cuts",

the Minister needs to tell me exactly how much he assesses that to be, and whether he shares ActionAid's commitment to £4 billion. Again, although we are talking about rubbish in e-mails, those e-mails also state that the Treasury has not done any work on the figures and factual information.

10.45 am

An e-mail from an un-named official in DFID to un-named officials in HMT, on behalf of the Ministers in the Department, is potentially even more illuminating:

> "Basically, spads want to know whether the Budget is when the stuff is going to hit the fan so that they can start thinking about a plan."

I would like to know whether the stuff has actually hit the fan and whether they have a plan, because that is what SpAds—special advisers—in DFID are asking. Putting that together with, "We have not done any work on this," and, "We think it is a big give-away to big business at a time of spending cuts," and considering that ActionAid anticipates £4 billion being lost to developing countries as a result of the proposals, the amendment is justified.

Alison McGovern (Wirral South) (Lab): Is my right hon. Friend aware that most UK aid spent by DFID assists poor countries in tax collection, because that is the best way for such countries to develop themselves out of poverty? There is a clear conflict between two parts of Government: one side is trying to help developing countries with tax collection while another appears to be doing something else.

Mr Hanson: It is important that the Minister tell the Committee what discussions he has had with DFID on those very points. As my hon. Friend says, it is extremely important for developing countries to have a strong, effective tax-raising base with a developed civil service developing and undertaking the type of tax work that we would expect in a developed country such as the United Kingdom. As she says, handouts from western countries are one thing, but development of a strong tax base and delivery of taxation measures are a quite different approach.

It is important that the Minister give some indication of the discussions he has had with DFID over and above the helpful FOIs that I have recently received. According to those FOIs, DFID is worried about when the stuff is going to hit the fan, so that it can start thinking about a plan. That is not saying when the stuff

[Mr Hanson]

is going to hit the fan; it is saying, "So we can start thinking about a plan." What is the plan? Is the plan to say that this does not mean anything? Is the plan to spin out the discussion, or is it to look at whether the £4 billion is a genuine figure? The Minister has some answering to do, including on behalf of his colleagues at DFID.

It is important that we look at the issue, because we expected, and the FOI requests indicate, that a new CFC consultation document would be published in May 2011. We have been away, but it is now June 2011. I looked at the Treasury website this morning and no further consultation document has been forthcoming on the next round of CFC consultations. The consultation document is TBC—to be confirmed—for June. It is important that the Minister is open with the Committee about the next stage of the consideration of CFCs. When is the next consultation likely to be and how does it fit into the regime that we have before us? The FOI e-mails before me discuss how the two link together and what action the Government need to take.

The amendment makes a simple request:

"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."

Accordingly, we should consult developing countries more widely. ActionAid itself says:

"The Treasury has not assessed the impact its proposals are likely to have on developing countries."

ActionAid also says that the Treasury has not consulted anybody except business. Well, business is hardly likely to give a full view of the picture of tax avoidance. The Government need to publish an assessment of the impact that the proposed changes will have on developing countries, consult those developing countries and address the points raised by my hon. Friend the Member for Wirral South on how we look at the issues in the round to develop a stronger base for taxation in those developing countries.

ActionAid looked at a simple list of 10 publicly listed companies whose segment reporting allows for analysis of their financial results in developing countries. The sample showed pre-tax profits in such countries of £16 billion in 2009, which is of general interest to the Committee, and I want to look further at that issue.

The combined market capitalisation of the sample of 10 companies was £345 billion, which led to an estimate of UK listed companies' profits in developing countries of £83 billion. Applying an average global corporation tax rate of 25%, the nominal tax bill for UK companies in 2009 was £21 billion. If developing countries were to lose one fifth of that amount to tax avoidance following the CFC rules, the loss would be the said £4 billion. ActionAid looked at African Barrick Gold, Anglo American, Barclays, G4S, Reckitt Benckiser, SABMiller, Standard Chartered, Unilever, Vodafone, and Xstrata, and that conclusion of £4 billion was based on those 10 companies.

It is important that the Minister examine that issue, and if he does not respond to me, he should respond to the concerns that have genuinely been expressed by a third-party non-governmental organisation about the impact of these measures. The Government should monitor the consequences carefully, because there are concerns that the costs could be higher than expected. Some tax experts believe that the Government are underestimating the long-term costs of the changes, and that the costings do not take sufficient account of the fact that companies will restructure to take advantage of the new regime.

The Government announced that there will be further significant changes to the CFC rules in the 2012 Finance Bill, which could cost the Exchequer £210 million, £540 million, £770 million and £840 million over the next four years, from 2012-13. Those are significant sums at a time when there are, as we know, cuts across the board elsewhere. That again returns us to a point that has been made not by me, but by officials in the Minister's own Department, when they said that

"we think a big focus will be why is there this big give away to big business in a time of spending cuts"

—perhaps to the extent of £840 million a year by 2015-16.

The Minister needs to tell the Committee what his costings are, and not only for this year, because we need to know about the future CFC rules. He has not yet had the courtesy to bring those rules forward for public consultation, despite the fact that, before the clause came before the Committee, he said that we would have the consultation document in May. I admit that our discussions are going slower than they might have done, but that is no reason for him not to have produced the consultation document. Even in his March documents, he said that it would be produced in May. It is now June, so it will happen after we have considered these measures in the Committee. This is not a simple one-off package; it is part of a wider series of Government measures. We need to look at those, and the Minister needs to enable some discussion and consultation about where we are with regard to current and future plans.

Nic Dakin: My right hon. Friend's point is well made. At a time of austerity, when people have to tighten their belts for all sorts of reasons and things are not happening, to go ahead with what is potentially a give-away, and without assessing that beforehand, would be most unwise.

Mr Hanson: I am grateful to my hon. Friend for his intervention.

On 9 November 2009, the Treasury had a Treasury and HMRC stakeholder event, where a helpful slide presentation was given on the policy principles behind both these clauses and future proposals. On CFC reform, the following was indicated:

"There is a continuing need for CFC rules to protect the UK tax base from erosion. However, it is essential that the rules keep pace with the changing economy… the Government considers that there is scope for modernising the CFC rules in a way that will enhance UK competitiveness while providing adequate protection of the UK tax base."

The slide continued:

"No Ministerial decisions have been made yet on details of new regime. Final decisions on the implementation of any revised CFC rules will need to take into account the economic position and wider Government finances".

We will consider clauses 47 and 48 this morning, and we had indications from the Minister that a further consultation document could be published before we considered them, but that has not yet been produced by the Government in respect of 2012. We still have no detail on how the situation will look in the longer term. It is important and integral that the Government commit to improving transparency, particularly in the taxation of branches, so that multinationals can be held to account. The changes have the potential—I say potential, because the Minister can defend his position if it not the case—to reduce transparency, but there is still much detail to be pinned down, particularly with intellectual property. The consultation document, which was expected in May, has not been produced. I would like to know a definitive date for when the next consultation document on CFC rules will be produced, because that is integral. That document should certainly be produced before we conclude consideration of the Bill on the Floor of the House on Report, but I would welcome some confirmation.

Ian Mearns (Gateshead) (Lab): I would also welcome from Ministers not only an indication of when they intend to produce a consultation document, but a list of who they would see fit to consult. There is clearly a view that not all the interested bodies have been consulted.

Mr Hanson: I am grateful to my hon. Friend for his intervention, because it takes us back to our amendment, which simply asks for further discussion with developing countries before the assessment comes into play and before a resolution is laid before and approved by the House. Again, unless I am mistaken—the Minister will have an opportunity to tell me if I am—the only people who have been consulted are the businesses themselves. There has been no discussion with other nations, organisations or volunteer agencies about the proposal, apart from the Minister's helpful production of the clauses in December last year, which led to the response that I have brought to the Committee today from ActionAid, which indicates that it is concerned about a £4 billion loss of income to developing countries as a result of the proposals.

Again, if that figure is wrong, the Minister needs to tell me why and to give me some detail, rather than, as appears to be the case in the FOI request, simply saying that it is wrong because it is wrong. I need to know whether he thinks that that £4 billion is wrong and whether he believes that the tax situation will be accordingly disadvantageous for developing countries.

In considering this matter, I would welcome the Minister's comments on another issue, which relates to the position with the European Union, which I know is a favoured institution of the Minister and one that he pays full tribute and honour to at every opportunity. He will know that in mid-May, either just before or just after the start of the recess, the EU passed some comment on the imposition of the CFC rules. I have a quote from a news article written at the time—I also have the EU statement, which I will find in a moment, somewhere in my pile of papers—which states:

> "The UK must amend its legislation on the tax treatment of controlled foreign companies, as it fails to fulfil European Union (EU) Treaty obligations or adequately take into account relevant court rulings, the European Commission has said. The formal request was made on May 19, and takes the form of a reasoned opinion, representing the second step in EU infringement proceedings. In particular, the Commission points to the continued taxation of the UK profits of subsidiaries established in the EU or in member states of the European Economic Area… The Commission stresses that the UK's legislative response to the landmark Cadbury Schweppes case in 2006 does not eliminate the discriminatory restriction of the anti-abuse CFC regime, as the rules fail to exclude from the CFC regime all subsidiaries established in EU/EEA member states which are not purely artificial".

11 am

We need a response from the Minister on the latest second-stage proposal from the EU. I have found the European Commission document, "Taxation: Commission requests UK to further amend its treatment of controlled foreign corporations", which is dated 19 May. It states:

> "The European Commission has formally requested the United Kingdom to amend its legislation to better take into account the rulings of the EU's Court of Justice on the tax treatment of controlled foreign corporations (CFCs). Despite the 2006 Court's ruling in the Cadbury Schweppes case, the UK is still not complying with EU law on the freedom of establishment and free movement of capital."

Whatever my view or that of the Minister, it is important that he give an update on how he intends to respond to that request.

It is also important for the Minister to indicate whether the type of case which I will now bring to his attention will be caught by the said CFC rules. I came across a helpful article in the *Daily Mail*. As you know, Mr Hood, the *Daily Mail* is always a sound journal, which never inflates its opinions in a wrong or discriminatory way on any matter. It is obviously a source of truth and justice on every issue. A City Focus article written by Mr Rob Davis entitled, "So that's where your office is, Ivan" looks at the position of the world's biggest commodity firm, Glencore, which has

> "A nondescript office in an unremarkable street above a branch of Next"

on the island of Jersey. It goes on to state that

> "the holding company recently floated on the London Stock Exchange…paving the way for the £6.7bn listing."

That is

> "A far cry"—

it says this in the *Daily Mail*, so it must be true—

> "from its pristine operational headquarters in…Switzerland…a rather modest home for a multi-billion dollar enterprise."

The article goes on to state that by basing itself in Jersey,

> "Glencore avoids the Controlled Foreign Companies rules"

of the UK. The Minister has a duty to respond to that. I am happy to supply him with the article if he wishes to look at it in detail. Why is Glencore, which is headed by Ivan Glasenberg and has a £6.7 billion listing on the London stock exchange, able to avoid CFC rules in the UK by basing and incorporating itself in Jersey instead of the UK?

On amendments 100 and 101, I want a full assessment of developing countries' tax revenue before the proposals are introduced. The article states:

> "the firm paid £142m in income tax on profits of £3.2bn, but incurred…no corporation tax because it was structured as a partnership, owned by its staff",

and avoided CFC rules

> "by virtue of this 'office' in Jersey".

It continues:

> "it will make no contribution…to Britain's sparse coffers."

Far be it from me to support something the *Daily Mail* has said. It has, however, drawn attention to the fact that, however the CFC rules work, they have the potential, according ActionAid, to be disadvantageous to developing countries. The *Daily Mail* article of 1 June shows that the CFC rules potentially allow Glencore not to contribute to the UK economy, as it can base itself in Jersey to avoid them. Will the Minister comment on that?

Ian Mearns: I wonder whether the Government consulted Glencore on this issue. How does such a story show the ordinary people of the United Kingdom that we are all in this together? It is quite clear that we are not.

Mr Hanson: In Glencore's defence, my hon. Friend will be pleased to know that it has said it is not gaining a tax advantage but simply avoiding a tax disadvantage. What it has done is perfectly legal. That is the way of the world. I do not know whether it was consulted. Perhaps the Minister could tell me who was consulted on these proposals and what responses he has had to his publication in December of the draft clauses. It is not just the potential loss of £4 billion that ActionAid predicts; companies are also basing themselves in areas where the CFC rules do not apply. Before we give credence to the clause and schedule, and to clause 48 and its schedule, the Minister needs to tell us what he thinks the financial impact of these proposals will be on developing countries.

Alison McGovern: As a member of the International Development Committee I spend a lot of time talking to people about why and how the UK gives aid. Is my right hon. Friend aware of the anger that exists when the Government appear to have policies that go against developing countries that could save all of us money, and how frustrated people are when things are not thought through properly, leading to such disadvantage to developing countries?

Mr Hanson: My hon. Friend makes an extremely important point. The UK owes a historical debt to many countries throughout the world. Much of the wealth and prosperity that we have shared in this country—and which has helped us to develop things in this great city of London, in my home city of Liverpool and elsewhere—has been made through the exploitation of what are still developing countries. We have taken physical or economic resources out of those countries to build up our country. We therefore have a moral duty to ensure that we do not just help and support developing countries through economic aid given by DFID and through other Departments, but that we look at the tax regime and how it helps them to build a strong tax base which they can use to build up their infrastructures.

In responding to the debate, the Minister needs to give his assessment of the financial impact of the proposal on developing countries, and whether he agrees with the ActionAid £4 million figure. He needs to tell us what consultation on the changes he has had outside business—with developing countries, with non-governmental organisations working in developing countries and with international bodies. He needs to tell us what help and support he will give across Government to help increase capacity building for corporate taxation in developing countries. He should also look at helping to develop the agenda for country-by-country financial reporting, which will expose where multinationals pay tax, and to whom and where they do not pay tax.

The Minister will know that in government my right hon. Friend the Member for Kirkcaldy and Cowdenbeath (Mr Brown) was instrumental in getting this issue on the global agenda in the London G20 summit in 2009. My right hon. Friend the Member for East Ham (Stephen Timms), when he was a Treasury Minister, supported calls for better information exchange on country-by-country reporting and built an OECD agenda on this. It is important that the Minister indicate how he is going to build on Labour's leadership in that area for future G20 discussions, to ensure transparency on taxation and that the rules do not disadvantage developing countries. I would be grateful to hear from him and from any other Members who wish to expose related issues.

The Exchequer Secretary to the Treasury (Mr David Gauke): It is a pleasure to serve under your chairmanship again, Mr Hood. I also join the right hon. Member for Delyn in congratulating my hon. Friend the Member for Elmet and Rothwell on his wedding over the recess—clearly the political wedding of the period. I congratulate him and Mrs Shelbrooke.

I turn to clauses 47 and 48 and the related amendments. It is worth putting the matter in context. As part of the aim to attract and retain private sector investment in UK, the Government are undertaking a significant programme of corporate tax reforms. Those reforms will mean a competitive and stable tax system providing business with the confidence to invest and expand in the UK.

Clause 47 introduces improvements to the controlled foreign company rules to make the current rules easier to operate ahead of full reform in spring 2012. Clause 48 introduces reforms to the taxation of foreign branches to align their tax treatment with that of subsidiaries.

I welcome the broad support that the right hon. Gentleman gave at the beginning of his speech. He highlighted that the previous Government spoke about moving towards a more territorial system. As the speech went on, the level of his support seemed to diminish, and I am not entirely clear whether the official Opposition support what we are trying to do with CFCs and foreign branches.

Mr Hanson: I can help the Minister. I have said that we support the general direction of travel, as it is one that we commenced. The crucial difference is that, although we commenced the direction of travel, we had not reached the stage we are now at, where there has been no assessment of the cost or consultation with developing countries. I want clarity on those issues before we agree to support the clauses.

Mr Gauke: I would perhaps draw another distinction between the period when the previous Government were in power and now. During the previous Government's time, a number of multinational businesses redomiciled out of the UK. Since the announcements on this matter, we have had indications from the likes of WPP that it is coming back. That is the biggest distinction that can be drawn.

Reforming the CFC rules is a key change, needed to create the most competitive corporate tax system in the G20 and to encourage more businesses to be based in the UK. The question of CFC reforms' impact on developing countries has been raised during engagement on the CFC reform proposals with ActionAid and other interested parties, and we have considered that issue carefully. The UK's CFC rules are designed, and always have been, to protect the UK's tax take from the artificial diversion of profits overseas. Similarly, other countries have CFC rules that are designed to protect their local tax bases.

The changes to the taxation of foreign branches in clause 48 include rules that ensure that profits to be exempt must be properly attributable to branches, and result from genuine economic activity in the relevant jurisdiction. That will prevent profits artificially held in other jurisdictions, including the UK and developing countries, becoming exempt. Therefore, the changes to the taxation of foreign branches will have a negligible impact on developing countries. The UK is committed to helping developing countries to reduce tax avoidance and protect their own tax base. Our corporate tax system is not the best way to help those countries; it is designed to protect the UK's taxing rights, not those of other countries. Rather, it is for the countries themselves to have effective systems that build and protect their own tax base, and to ensure that they can access and act upon tax information.

11.15 am

As the hon. Member for Wirral South has said, the UK provides considerable support to developing countries through DFID and Her Majesty's Revenue and Customs to provide robust, fair and sustainable domestic taxation systems. The right hon. Member for Delyn is right that administrative capacity is important for developing countries. That is where our focus lies.

Our tax-capacity building work and technical assistance help to ensure that developing countries are in the best position to collect the tax they are owed. We are helping them to design and operate their own tax rules effectively so they can assess and collect the tax that is properly due. Furthermore, at their last meeting, G20 Finance Ministers urged jurisdictions to extend further their networks of tax information exchange agreements. They also encouraged jurisdictions to consider signing the multilateral convention on mutual administrative assistance in tax matters to ensure that developing countries can benefit from improvements in tax transparency.

The Government do not consider that a full impact assessment of CFC interim changes and the reforms to foreign branch taxation on developing countries' tax bases would be appropriate. Such an impact assessment would need to focus primarily on the nature of tax regimes in the developing countries, making it an assessment not of our tax rules, but of the tax rules of other countries. Such an assessment would not be relevant to the task of creating the most competitive corporate tax system in the G20 and encouraging more businesses to be based in the United Kingdom.

A question was asked about the £4 billion assessment of the cost to developing countries of CFC and branch reform. It is not clear how that estimated cost has been calculated. Initial analysis undertaken by the Treasury and HMRC indicates that the £4 billion is a significant overestimation. Making any analysis of the impacts across a range of countries where the information is not readily available is inherently difficult and uncertain. Any attempt to estimate the interaction between changes to the UK tax rules and tax revenues in other countries will involve a number of assumptions. The Government do not think that any such calculation would be sufficiently robust or accurate to be of value.

The Government are committed to providing advice and guidance to developing countries to enable them to create and maintain their own effective tax regimes. That approach should ensure that those countries have appropriate taxing rights over businesses that operate there.

Mr Hanson: When did the Treasury undertake the analysis of those matters? If the £4 billion figure is not correct, what cost has the Treasury ultimately settled on?

Mr Gauke: As I have just said, the Treasury's view is that it is not possible to come up with a number that is sufficiently robust or accurate to be of value.

Mr Hanson: The FOI e-mail of 16 March from Treasury official blank to Treasury official blank and DFID official blank, which I have before me, says that

"we… have not done any work on this."

Has the work been done since 16 March? If the officials had not done any work on it by 16 March, when was the work done?

Mr Gauke: I will not give the right hon. Gentleman precise dates, but initial analysis has been undertaken by officials. The advice I have received is that the £4 billion figure is a significant overestimation. It is difficult to come up with a definitive number, however, because of the complexities and uncertainties involved, but on the face of it, the ActionAid number does not bear a great deal of scrutiny.

Nic Dakin: I understand the Minister's difficulty in being clear about the numbers, but the numbers are important. If it is clear that £4 billion is too much, are we talking about £1 billion, £2 billion or £3 billion? What order are we talking about?

Mr Gauke: As I say, it is not possible to come up with a number because of the uncertainties in this area. The initial view is that the £4 billion figure is a significant overestimation and that it is not possible to come up with a robust number to provide the detail that hon. Members want.

Mr Hanson: The Minister will recall that amendment 100 says that 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".

All we ask is for that assessment to be done, a figure to be produced and the House of Commons to say, "Thank you very much, Minister. We support it or we do not." At the moment, he is asking us to pass legislation when he cannot give a figure on the impact on developing

[Mr Hanson]

countries' tax bases, and that at the same time, as my hon. Friend the Member for Wirral South pointed out, that DFID is trying to do exactly what the Minister is trying to undertake in a different form.

Mr Gauke: As I say, it is not possible to provide a precise number. There is simply too much uncertainty; it would involve an understanding of the interaction between changes to the UK tax rules and tax revenues in other countries, which involves a large number of assumptions, some of which would inevitably be somewhat questionable. As a consequence, we do not believe that we could come up with a calculation that would be sufficiently robust or accurate to add any value to the debate.

I also make the point that the purpose of the CFC regime has always been about protecting the UK's tax base, not to assist developing countries. The better way to do that is by building up tax capacity, which is what DFID and HMRC are doing, putting considerable resources into it. The Government are delivering on the commitment to spend 0.7% of GNP on international development, something never done before and on which we lead the world.

Paul Blomfield (Sheffield Central) (Lab): I want to press the question of the £4 billion. ActionAid is clearly a credible organisation, with which the Minister suggested there have been discussions. It came up with the figure of £4 billion, on the basis of its own analysis. If, as the Minister says, it is not possible for the Treasury to come up with a sound assessment, on what basis does he rebut ActionAid's figure of £4 billion?

Mr Gauke: This is an area where large numbers often get thrown around. They can attract the eye, but do not necessarily stand up to greater scrutiny. The Treasury's view, based on initial analysis, suggests that that figure is a significant overestimate of the cost.

Alison McGovern: I want to be clear, because any projection concerning the economy using previous behaviour to predict future behaviour involves a large number of assumptions and is inherently full of risk. This week's International Monetary Fund projections drew attention to the risks around its calculations. Is the Minister saying that this matter involves extra complexity, or is he saying it is complex and the Treasury does not wish to commit resources to do that bit of modelling?

Mr Gauke: To come up with a precise number, we would have to have a definitive and exhaustive understanding of the tax systems of all the developing countries likely to be affected. The Treasury does not have that, nor is it likely to acquire it. The purpose of the CFC regime is to protect tax revenue within the UK. The best way to assist developing countries is to improve their tax capability, by improving their administrative capability. The Government do that and put in a lot of effort, as the hon. Lady mentioned.

Alison McGovern: The Minister is generous in giving way. Can I be clear? He says that we could not get hold of that information. Has he checked with DFID colleagues? It is highly likely that a global financial institution such as the World Bank, which we fund, would have access to that information.

Mr Gauke: I dispute the "highly likely" assessment; that is a bold assumption in itself. This is an area where it is not possible to provide the precise numbers. We think that the methodology used by ActionAid results in a significant overestimate.

Nic Dakin *rose—*

Mr Gauke: I shall give way one last time, but we have gone round the track on this a few times.

Nic Dakin: I thank the Minister for his patience in allowing us to probe him a little further. He said earlier that the Treasury has analysed this, and I understand the complexities he describes. In the interests of transparent and open government, is he happy to share the Treasury's analysis so that we can see exactly the point he is making and agree with him?

Mr Gauke: As I say, it is an initial analysis without the full body of work, which would be considerable and possibly not something that could even be achieved by the Treasury. There was an initial assessment after 16 March and the view is that that figure is a significant overestimate. That is not unusual in this field, where large numbers tend to be thrown around about tax avoidance and tax gaps, and where the methodology frequently does not stand up to great scrutiny.

All consultation documents are published on the Treasury website with an open invitation for responses. Officials can engage with businesses and professional firms with experience of a range of clients when developing policy. Indeed, that is something that this Government have strengthened and improved. We are committed to consulting on tax policy reforms and will set out our approach to that. Again, that has been welcomed by the right hon. Member for Delyn. Effective consultation helps to ensure that changes are well targeted and have no unintended consequences, and that the legislation is right first time. The Government engage with parties that will be affected by policy changes as that provides a better understanding of the impacts of those changes on business and on the Exchequer.

I have met with representatives of NGOs and officials from DFID to discuss country-by-country reporting. If anyone wants to respond to consultations, they can do so. The consultation on CFCs, which will inform the legislation that we are likely to have before us next year, will be published later this month. We will reflect on the comments from the EU in that consultation and we want to ensure that the consultation is as well developed as possible. I know that the right hon. Gentleman is anxious to read every page of it, but he will have to wait another week or so.

Delaying the introduction of these clauses would create further uncertainty in this area of reform. Businesses have been waiting for the CFC reforms to be concluded since 2006 and this uncertainty has been blamed for driving some businesses out of the UK. The introduction of branch exemption in this Finance Bill will allow those in the insurance sector to restructure before the

Solvency II EU regulatory changes. Delaying the legislation would undermine the Government's commitment to certainty of tax treatment. Therefore, these clauses should be introduced without delay, as a certain and competitive tax system is crucial for private sector investment and growth. I therefore ask the right hon. Gentleman to withdraw the amendment.

11.30 am

Mr Hanson: I am afraid that I am not very happy with the Minister's response. He has not addressed the points made by my hon. Friends the Members for Gateshead, for Sheffield Central and for Wirral South. We fully accept that this is about helping to repatriate taxation to the UK and ensuring that taxation in the UK is fair, and we wish that general move well. I must say, however, that there is a potential consequence for developing countries, and ActionAid has estimated that to be some £4 billion. I remind the Committee that no work had been done on that figure by 16 March, according to a HMT official at 18:39 in e-mail chain A, which I must take at face value, to a DFID official and another HMT official regarding CFCs and ActionAid's point, and the Minister is saying that an interim assessment was undertaken between 16 March and now.

All we are asking is for the Minister to tell us precisely what that interim assessment shows, because he is asking us to commit the House of Commons to supporting clause 47 and, shortly, clause 48, which impact on CFCs. If we are to believe ActionAid—why should I not believe an NGO such as ActionAid?—which has worked on this, the clauses could cost developing countries £4 billion. If that is true, it is a considerable amount of money for those countries.

I have no reason to disbelieve ActionAid, but I was willing to give the Minister the benefit of the doubt and let him say to me that ActionAid's figure is wrong, that he has done a proper assessment and that the figure is £2 billion or £1 billion, or even that there is no impact at all. However, he has not yet been able to put any definitive figure on the impact on developing countries. I remind the Committee of the only thing that we are asking for in amendment 100:

> "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."

All we are saying is, "Please, Minister, make an assessment of what the impact is of this particular clause on developing countries."

ActionAid has given just one example. In Ghana, which is not one of the world's richest countries,

> "one pound in seven of tax revenue comes from corporate taxation, mostly from large taxpayers including subsidiaries of UK multinationals."

I do not know what the impact of the clause will be on Ghana. Can the Minister tell me today what impact it will have on Ghana's developing tax base? If he cannot, why is he refusing to accept amendment 100 and why is he not allowing us a full impact assessment of the effect on the tax revenue of developing countries? I do not want to vote for something that could impact on one seventh of the tax revenue of the state of Ghana, which is one of the poorest countries in the world.

Ian Mearns: I hark back to when the Minister was replying to the debate and he reiterated the Government's commitment to 0.7% of GDP going to overseas aid, but that will be self-defeating if UK companies with bases abroad are to default on their tax in third-world countries. What is the point of helping countries with up to 0.7% of British GDP if we then deduct from their other revenues?

Mr Hanson: My hon. Friend makes an important point, because many developing countries, according to ActionAid—if I am to believe what it says, this is a correct figure—do not receive even 15% of their national wealth in tax from corporate businesses, because they do not have the capacity or the organisation to do so.

Amendment 100 does not mean that we do not want the clause to progress or that we do not agree with the direction of travel of repatriating businesses to and keeping them in the United Kingdom. It simply asks what the impact will be on developing countries. If it is not the £4 billion that ActionAid states, what is it?

Alison McGovern: Does my right hon. Friend share my concern that the Minister's responses to my interventions demonstrated a lack of understanding of how we could find out the answers to some of those questions? In the case of Ghana, which my right hon. Friend mentioned, we could ask the Royal African Society, experts at DFID or experts at Chatham House. There is a range of people who might have the answer to that question, but the Minister did not seem inclined to ask them.

Mr Hanson: It is interesting that the Minister can give an indication and some figures, which I quoted to him and which he has not contradicted, on what the cost will be in the United Kingdom, but he cannot give an indication of what it will be in developing countries. I have the help and support of ActionAid to raise these issues, and I have one researcher; the Minister has the whole of the Treasury. When I was a Minister, if I wanted to know something I would ask officials, who would go away and produce information. If I pressed them hard enough, they would produce a report on such matters for me.

I will withdraw the amendment if the Minister tells me that, between now and consideration on Report, or by Royal Assent, he will look at these issues and produce an assessment of ActionAid's figures, and that he will consider the matter in more detail than has been the case since 16 March. I remind the Committee that no work has been done on this, as the HMT official told the DFID official on 16 March in the e-mails that I quoted. I am sorry to say that it seems as though no assessment whatever has been made of the impact of these changes.

Nic Dakin: The Minister has indicated that an analysis has been done that was clear enough to demonstrate that £4 billion is way off the mark. Would my right hon. Friend find it helpful if the Minister shared that analysis with him, according to the principle of open and transparent government?

Mr Hanson: I am grateful to my hon. Friend for that intervention. As I said, if the Minister were to do so, I would withdraw the amendment, in which we request

[Mr Hanson]

"a full impact assessment on developing countries' tax revenue".

If analysis has been done that shows that £4 billion is not the correct figure, perhaps the Minister will share it with me now or make a commitment to place a copy in the Library of the House. Let us be fair to him and say that he should do so by 30 June, which would give him time to consider the matter, include a few more blanks like the ones in the e-mail chain and delete appropriate individual names. We could have an assessment of what that £4 billion really is. I shall support the measures, but I am not willing to do so until we know what the impacts will be.

I hope that the Minister will accept the amendment. We will reflect on the measures after that, but I hope he will accept the suggestion of a full impact assessment. If he does not, he is saying to the Committee and to the House that we will support clause 47 even though we do not know what that means for Ghana and other developing countries, and we do not know what it means for those whom ActionAid seeks to support. For those reasons, unless he gives me further comfort, I do not feel minded to withdraw the amendment. I am ever the optimist, however, and am hopeful that when I sit down, the Minister will stand up and agree that the amendment has some merit, so that I can withdraw it on the basis of assurances received from him following the interventions made by my hon. Friends.

The Chair: When the right hon. Gentleman sits down, the Chairman stands up. I understand that he wants to press the amendment to a vote.

Question put, That the amendment be made.

The Committee divided: Ayes 11, Noes 18.

Division No. 8]

AYES

Blomfield, Paul
Dakin, Nic
Esterson, Bill
Glindon, Mrs Mary
Hanson, rh Mr David
McClymont, Gregg
McGovern, Alison
Mearns, Ian
Murray, Ian
Nash, Pamela
Phillipson, Bridget

NOES

Aldous, Peter
Barclay, Stephen
Bradley, Karen
Crockart, Mike
Crouch, Tracey
Gauke, Mr David
Goodwill, Mr Robert
Greening, Justine
Hoban, Mr Mark
Lee, Jessica
Lewis, Brandon
McCartney, Karl
Parish, Neil
Shelbrooke, Alec
Smith, Julian
Wharton, James
Williams, Roger
Williams, Stephen

Question accordingly negatived.

Question proposed, That the clause stand part of the Bill.

The Chair: With this it will be convenient to discuss the following: Government amendments 118 to 122.

That schedule 12 be the Twelfth schedule to the Bill.

Mr Gauke: Clause 47 and schedule 12 introduce improvements to the CFC rules, which will make those rules easier to operate and more competitive, where possible, ahead of full reform in 2012. The existing CFC rules protect the Exchequer from the artificial diversion of UK profits to overseas low-tax jurisdictions, but those rules could be modernised better to reflect the way that businesses operate in a globalised economy, while ensuring that adequate protection for the UK tax base is retained. As a result, CFC reform is a key part of the corporation tax changes that we set out in the corporate tax reform document, which was published in November 2010. The changes in clause 47 are the first step towards a CFC regime that helps to achieve our aim of having the most competitive corporate tax system in the G20 and providing the right conditions for business investment and growth. That will be achieved by adopting a more territorial approach that refocuses CFC protection on artificially diverted UK profits and gives groups greater freedom to manage overseas operations.

The clause introduces three new exemptions. The first provides more certainty for business by removing certain intra-group trading activities from a potential CFC charge—intra-group service companies, for example—where a risk is not posed to the UK tax base. The second exempts CFCs that derive their profits from foreign intellectual property, where, similarly, a risk is not posed to the UK tax base. Those two exemptions provide certainty to UK multinationals that such commercial overseas operations, which could be caught be the current rules, will be exempt ahead of full CFC reform in 2012.

The third exemption provides an exempt period of up to three years for overseas subsidiaries that, as a consequence of a reorganisation or change to UK ownership, come within the scope of the CFC regime. That will provide a group with appropriate time to reorganise its overseas affairs, so that it complies with UK CFC rules. The aim is to make the UK a more attractive location for headquartered companies, and for the UK investment that can arise as a result of that, as well as assisting UK businesses that undertake overseas acquisitions.

The third exemption is subject to amendments that correct a technical defect that was included in the original draft legislation, but which has only recently been identified. The defect concerns the conditions that a foreign subsidiary must meet if it is to qualify for the exemption. As drafted, the requirements relating to control of the subsidiary are more tightly drawn than intended, and they could prevent such subsidiaries from benefiting from the exemption in circumstances where they should be free to do so. The amendments address those unwanted restrictions and ensure that the exemption will work as intended.

A further change made by clause 47 provides an alternative to the exemption for CFCs with low profit levels. The threshold for the new de minimis exemption is £200,000, which is four times the threshold of the existing test. To reduce the compliance burden, the measure of profits is based on the CFC's accounts, rather than on its taxable profits. Finally, the transitional rules for exempting certain types of holding company have been extended by one year. Those final two improvements aim to ease the compliance burden of the existing rules. The changes take effect for accounting periods beginning on or after 1 January 2011, apart from the extension of the transitional holding company rules, which is deemed always to have had effect.

11.45 am

This measure has been subject to an open and transparent consultation on both the general principles and the detailed clauses. Following an initial announcement in June 2010, we published detailed proposals on 29 November 2010 as part of the corporate tax reform document. Draft legislation was published on 9 December 2010 for consultation. Representative bodies, companies and firms of professional advisers provided more than 20 responses to the draft legislation. The Bill published on 31 March included a number of changes reflecting those responses. Those changes include relaxing several of the conditions for the intra-group trading and intellectual property exemptions to ensure that they achieve their proposed objectives.

Reforming the CFC rules is a key element of a competitive corporation tax regime. We have already had clear signs that businesses see our CFC reform proposals, including the changes made by this clause, as evidence that the UK's corporate tax system is once again becoming an attractive environment for international business.

[IAN MURRAY *in the Chair*]

I move that this clause and this schedule, as amended, stand part of the Bill, Mr Murray. May I say what a pleasure it is to serve under your chairmanship.

Mr Hanson: May I say what a surprise and what a pleasure it is to see you in the Chair, Mr Murray.

I am content with the Minister's explanation. We had a good debate on amendment 100, which was defeated. Despite my strong and deeply held reservations on the need to consult and assess developing countries, we will not vote against clause stand part or the schedule.

Question put and agreed to.

Clause 47 accordingly ordered to stand part of the Bill.

Schedule 12

CONTROLLED FOREIGN COMPANIES

Amendments made: 118, in 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

(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,'.

Amendment 119, in schedule 12, page 189, line 17, leave out 'such control' and insert 'the control of persons resident in the United Kingdom'.

Amendment 120, in 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,'.

Amendment 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.'.

Amendment 122, in schedule 12, page 192, line 14, at end insert—

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

Schedule 12, as amended, agreed to.

Clause 48

PROFITS OF FOREIGN PERMANENT ESTABLISHMENTS ETC

Question proposed, That the clause stand part of the Bill.

The Chair: With this it will be convenient to discuss the following: Government amendments 123 to 128.

That schedule 13 be the Thirteenth schedule to the Bill.

Mr Gauke: Clause 48 and schedule 13 provide an opt-in exemption from corporation tax for the profits of foreign branches of UK companies. Where an election is made, a UK company with a foreign branch will now only be subject to corporation tax on its UK profits. That change will contribute to the competitiveness of the UK tax system by ensuring that the UK remains a location in which businesses want to locate and invest.

The Government aim to create the most competitive corporate tax regime in the G20. We are sending out a signal that Britain is open for business. The corporate tax road map published in November set out the key changes that will ensure that the UK's corporate tax regime becomes an asset. We have already discussed the keystone measure—the cuts in corporation tax—that will support a private sector recovery that generates growth, creates jobs and contributes to the public finances.

[MR JIM HOOD *in the Chair*]

We have just looked at another part of the package, the interim changes to the UK's outdated CFC rules. The reform of foreign branch taxation will further improve competitiveness by taking a more territorial approach to income earned abroad and by more closely aligning the tax treatment of foreign branches and

[Mr Gauke]

subsidiaries. That will allow companies to make commercial decisions on the structure of their overseas operations without significant distortions caused by the tax treatment. For too long, businesses have been leaving the UK due to concerns about tax competitiveness. We want to attract them back, and this measure will help us do so.

Moving to the detail of the clause, the changes will allow companies the option to elect for exemption from corporation tax on the profits of their foreign branches. That election will be made at company level and will be irrevocable. The opt-in exemption will apply to foreign branch profits including chargeable gains and investment income. Exempt profits will be defined by reference to the UK's tax treaty with the branch territory. For branches in territories where there is no treaty, the measure of the exempt profit will be determined by the OECD model treaty. The Government will not extend the exemption to non-treaty territories for branches of small companies because the risk of tax loss through diversion of personal income is too high. That is consistent with the tax treatment of foreign subsidiaries.

Mr Hood, it is good to see you in the Chair, although I can assure you that the hon. Member for Edinburgh South did a splendid job. As the Committee knows, the Government are committed to tackling all forms of tax evasion and avoidance. The clause includes anti-avoidance protection to prevent artificial movement of taxable profits from the UK into an exempt branch. That will provide similar protection to the Exchequer as that achieved by the CFC rules in respect of foreign subsidiaries, and will mean that only genuine economic activities carried on overseas will be exempt from UK corporation tax.

The provisions will also offer protection to the Exchequer where branch loss relief has been claimed, but is not matched by branch profits in the six years prior to any election. Any company entering this exemption with outstanding loss relief will still be taxed on the profits of their branches until this balance is recouped. New losses made after the election will be cancelled, and will not be eligible for relief in the UK.

Based on current corporate structures, the proposal could benefit around 150 companies, primarily those owned by large UK multinational groups, plus a small number of companies owned by non-UK multinational groups that operate foreign branches out of the UK.

The measure has been subject to consultation on both the policy design and draft legislation. We received more than 50 responses from representative bodies, affected companies and members of the public. In designing the new regime we have reflected consultation responses to ensure that it meets the needs of all affected sectors. Some respondents raised some issues on the transitional and anti-avoidance provisions. Those have now been addressed, ensuring the regime provides certainty to business and protection to the Exchequer.

I have chosen to maintain the policy objectives of greater consistency of tax treatment of branches and subsidiaries, and of moving towards a more territorial tax system, and have decided not to offer any form of loss relief within exemption.

Those companies for whom loss relief is important can still benefit from the relief by choosing to remain within the current regime. In the coming year we will ensure that the changes to the CFC regime work for all business models—both branches and subsidiaries. We will monitor the interaction between branch exemption and regulatory changes for the insurance industry. Since the publication of the draft clauses we have worked with the life insurance sector to ensure that branch exemption is available to them.

The Government are tabling six amendments in three groups to ensure that the legislation functions as intended and to provide certainty to business and protection to the Exchequer.

Amendment 123 applies to the anti-diversion rule, which will prevent any branch profits that have been artificially diverted from the UK from becoming exempt. It is designed to be broadly consistent with the CFC rules. The amendment makes it clear that chargeable gains are not within the scope of the anti-diversion rule, consistent with the CFC rules on which it is based. Amending the rules will prevent any loss of tax, while providing business with clarity.

Amendments 124 and 128 will ensure that the transitional rules apply to transferred businesses in the same way as any other business that moves into exemption for the first time. The transitional rule protects the Exchequer where loss relief has previously been given to a branch and would not otherwise be clawed back—by taxing subsequent profits—once branch profits become exempt. Branch exemption is an optional regime and the election is made on a company-by-company basis. That gives groups of companies flexibility in their use of exemption, but means that we need to ensure that the transitional rule cannot be side-stepped by intra-group transfers of business.

As drafted, the clause does not give the right result in two significant circumstances. First, where the transferor of the business is not UK resident there would be an inappropriate application of the rule to losses for which no corporation tax relief was ever given. That would act as a disincentive to a company looking to invest in the UK by moving its branch headquarters here. It runs counter to the policy aim of creating competitive conditions for businesses wanting to invest in the UK.

Secondly, the rule will not be fully effective where the transfer of business is made to another group company, which is exempt before the transfer takes place. As currently drafted, this would enable companies to side-step the transitional rules through transfers of business to companies already in exemption.

Let me turn now to the final group of amendments. There are rules in existing legislation for chargeable gains and for intangible fixed assets that deal with intra-group transfers of assets. Those rules ensure that no tax charge arises on any gain realised in an intra-group transfer. Instead, any charge is deferred until such time as the asset is disposed of from the group.

It is necessary for the branch exemption legislation to set aside such rules, otherwise a gain made exempt under branch exemption would re-emerge as a taxable gain when the asset is eventually sold outside the group. To prevent that, there are rules in schedule 13 to ensure that the exemption of a gain and a cancellation of a loss arising on a branch asset are made permanent within the group of companies.

Amending the rules in relation to intra-group transfers and replacement of business assets will ensure that they have the intended effects, providing certainty for business and preventing risk of tax loss. These amendments ensure that the legislation works as intended, providing certainty for businesses and protection to the Exchequer, and I urge the Committee to accept them. This measure will ensure that the UK remains a competitive location for businesses and it more closely aligns the tax treatment of branches and subsidiaries. I therefore propose that this clause and schedule stands part of the Bill.

Mr Hanson: I am grateful to the Minister for his explanation of clause 48 and schedule 13. Let me give notice that I intend to press amendment 101 to schedule 13 to a Division when the opportunity arises. I want to ensure that we have the same principle that we have just debated apply to clause 48 as well, but I will not go over old ground for the sake of the debate here today.

I have a couple of points on clause 48. The Minister has helpfully explained that branch exemption and distribution exemption, as introduced in 2009, effectively mean that profits earned through foreign operations of UK resident companies will not generally be taxed in the UK except by reason of the controlled foreign company rules or other rules intended to prevent the artificial diversion of profits from the UK.

One legitimate area of concern is that because both subsidiaries and branches of companies are eligible for exemptions there could be a significant loss of transparency, which the Minister has touched on. None the less, I would welcome his further assurances that branches that do not have the same reporting requirements in many countries that subsidiaries have will not result in a reduction of transparency of taxation measures.

I am concerned that the difference between a branch and a subsidiary is clear. There are countries where that difference is palpable. I want the Minister to tell me whether he and his officials have considered that difference, whether he has any concerns about the reduction in transparency that those changes will bring, particularly with regard to the treatment of branches, and whether he will give us an assurance that he will continue to press in the G20 for greater transparency so that multinational companies can be held to account for their actions. I will be grateful to the Minister if he can give me a response. If he cannot, I will push amendment 101 to a Division.

Mr Gauke: First, may I say that I am grateful to the right hon. Gentleman for his support of what we are trying to do in clause 48 and schedule 13. He is right to make the point that the regime for subsidiaries was introduced by the previous Government, and the clause and schedule ensure greater consistency between subsidiaries and branches. We believe that is the right thing to do because it will help to create a level playing field across different business operating models and in some respects tax considerations should not drive the choice of business model—subsidiaries versus branches.

12 noon

A UK-resident company must prepare accounts showing worldwide profits, including all branches. So there will still be that level of transparency. It will not be affected by clause 48 and schedule 13. The right hon. Gentleman touched on the broader issue of greater transparency within the tax system and I have made the point in public before that companies should be willing to go out and explain their tax arrangements in greater detail so that there is a better understanding of taxation of multinational companies.

Obviously, at an international level there is considerable momentum towards increasing transparency, which is something that my right hon. Friend the Chancellor has spoken about very widely in relation to extractive industries. We support greater transparency in that area specifically, but also more generally we look favourably on steps to ensure that the opportunities for avoidance that may have existed historically can be reduced. We think that the measures contained here are proportionate, appropriate and a step in the right direction. We want to move towards a more territorial regime in which we tax the profits that arise within the UK but do not try to tax profits that arise elsewhere. That is the direction that we are pursuing in the clause. I hope that it will have the support of all members of the Committee.

Question put and agreed to.

Clause 48 ordered to stand part of the Bill.

Schedule 13

PROFITS OF FOREIGN PERMANENT ESTABLISHMENTS ETC

Amendments made: 123, in schedule 13, page 199, line 2, leave out 'the relevant profits' and insert 'that'.

Amendment 124, in 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

(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.'.

Amendment 125, in schedule 13, page 206, leave out from the beginning of line 43 to the end of line 6 on page 207.

Amendment 126, in 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—

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."'.

Amendment 127, in 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 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."'.—*(Mr Gauke.)*

Amendment proposed: 101, in 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.'.—*(Mr Hanson.)*

Question put, That the amendment be made.

The Committee divided: Ayes 11, Noes 16.

Division No. 9]

AYES

Blomfield, Paul
Dakin, Nic
Esterson, Bill
Glindon, Mrs Mary
Hanson, rh Mr David
McClymont, Gregg
McGovern, Alison
Mearns, Ian
Murray, Ian
Nash, Pamela
Phillipson, Bridget

NOES

Aldous, Peter
Barclay, Stephen
Bradley, Karen
Crockart, Mike
Crouch, Tracey
Gauke, Mr David
Goodwill, Mr Robert
Greening, Justine
Harrington, Richard
Hoban, Mr Mark
Lee, Jessica
McCartney, Karl
Parish, Neil
Shelbrooke, Alec
Wharton, James
Williams, Roger

Question accordingly negatived.

Amendment made: 128, in schedule 13, page 215, line 28, at end insert—

33A (1) This paragraph applies if—

(a) section 18O 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.'.—*(Mr Gauke.)*

Schedule 13, as amended, agreed to.

Clause 49

MEANING OF "INVESTMENT TRUST"

Question proposed, That the clause stand part of the Bill.

Mr Hanson: I will not detain the Committee for long. I want to ask the Minister a couple of questions about process, rather than content. It is a moveable feast, and I am on my own today. The Minister will know that the clause allows the Treasury to make regulations about the circumstances in which the commissioners for Her

Majesty's Revenue and Customs may approve applications from a company to be an investment trust. At line 11 on page 30, the clause states:

"A statutory instrument containing the first regulations under this section may not be made unless a draft of the instrument has been laid before and approved by a resolution of the House of Commons."

On page 31, clause 50 states that draft regulations must be

"laid before and approved by a resolution of the House of Commons."

Are those to be negative or positive resolutions, and how will they be brought forward? Proposed new chapter 3A of part 13 of the Corporation Tax Act 2010 states that

"The Treasury may by regulations provide"

that a transaction be specified. I am interested in the practicalities of that, to clarify how the Treasury intends to bring forward such regulations. I have no particular concerns about the proposals in clause 49, but I seek clarity on the resolution procedure and—if he knows the answer—on when the Minister expects such regulations to be brought forward after Royal Assent.

The Financial Secretary to the Treasury (Mr Mark Hoban): I am grateful to the right hon. Gentleman for raising those questions. Let me first say a little about clause 49. It makes changes to introduce a new tax framework for investment trusts, including the removal of rules that have imposed unnecessary restrictions on the commercial activities of investment trusts in the UK. The changes introduce a new, modernised framework that provides increased certainty for investors and reduced costs to businesses. It is worth bearing it in mind that the rules have remained unchanged since 1965, so they are perhaps overdue for reform and modernisation given the change in the investment landscape over the past 46 years. The changes have been greeted with support from the investment trust community, which welcomes the proposals that we have set out.

In respect of the questions that the right hon. Member for Delyn has asked, the first exercise of the powers in both clauses 49 and 50 will be subject to the affirmative procedure, so there will be a debate in Committee. Subsequent uses of those powers will be dealt with through the negative procedure, under which hon. Members will be required to pray against those motions to enable a debate to take place. I assure the right hon. Gentleman that the first use of the powers will be subject to the affirmative procedure, so there will be the opportunity for proper parliamentary scrutiny as a matter of course.

The changes will be brought forward in the autumn of this year. I hope that, with the Committee's support, clause 49 will stand part of the Bill.

Question put and agreed to.

Clause 49 accordingly ordered to stand part of the Bill.

Clause 50

Power to make provision about treatment of transactions

Question proposed, That the clause stand part of the Bill.

Mr Hanson: I do not intend to delay the Committee for too long. The Opposition support the clause, which enables the Treasury to provide certainty on the tax treatment of transactions made by investment trusts by providing that they are not treated as trading transactions. The only reason why I wish to comment on the clause is that representations on clauses 49 and 50 were made to me by the Association of Investment Companies.

The association, like me, recommends that the clauses are accepted without amendment. However, I am intrigued to note that it said in its letter:

"There are still further details to work on in the regulations of the Bill. However, given the very constructive engagement between the Government and industry to date, the AIC is confident that an optimum result will be achieved."

Will the Minister give an indication of what further work is required and what discussions he has had with the association? I naively presumed that the clause was the completed article and that all such discussions would have been finalised before the Government brought the provision to Committee, yet the association indicates that further work is to be done on regulations. Perhaps the Minister can help. Is this the final version, or is there further work to be done?

Mr Hoban: As the right hon. Gentleman will be aware, the clause is perfectly formed. It simply gives the power to make regulations but does not set out the details. However, a draft set of regulations has been published. As my hon. Friend the Exchequer Secretary said earlier, we seek to consult and engage with the industry on the fine detail of regulations to ensure that they work. We are going through that process now.

We published a draft of the regulations before consultation, but we need to work with those of our colleagues in BIS who have responsibility for company law to ensure that we get the drafting right so that they meet the needs of investment trust companies and fit within the framework of company law. I assure the right hon. Gentleman that work is proceeding; we have put the regulations out to consultation, and are working with the Association of Investment Companies and with BIS to get the detail right.

Mr Hanson: I am grateful for the Minister's response, but I would welcome confirmation that his answer to the question that I asked about clause 49 applies also to clause 50—that the Treasury's regulations, made under proposed new section 622A(1), will use the affirmative resolution procedure.

The Minister has indicated that the draft resolution guidelines are not yet finalised—I was aware of that—and that there is still some work to be done, but how does he intend bringing them forward and, just for clarity, when does he intend placing them before the House following Royal Assent?

Mr Hoban: I thought that I had answered the right hon. Gentleman's question about process when dealing with clause 49. He will see from proposed new section 622A(3) that the first regulations made under these powers will be subject to the affirmative resolution procedure—that is fairly standard practice—and that under subsection (4) subsequent regulations would use the negative procedure. As I said earlier, we will publish the final guidelines in October.

Mr Hanson: Just for clarity, the clause does not mention the positive or negative procedures.

Mr Hoban: The right hon. Gentleman has experience as a Minister, as he reminds us from time to time, and I am sure that he will recognise that the wording of subsections (3) and (4) is fairly standard for the positive and negative procedures. He may wish to raise the matter with the Modernisation Committee, suggesting that other language should be used. However, I believe that we should stick with tradition, as those two subsections demonstrate from their meaning that they refer to the positive and negative procedures.

Question put and agreed to.

Clause 50 accordingly ordered to stand part of the Bill.

Clause 51

TAXABLE BENEFITS: CALCULATING THE APPROPRIATE PERCENTAGE FOR CARS

Question proposed, That the clause stand part of the Bill.

12.15 pm

Mr Hanson: I want to discuss the clause because it raises interesting issues on which it is important that the Minister responds. It relates to taxable benefits on company cars and, with effect from 6 April 2013, modifies the current appropriate percentage bands and carbon dioxide emission thresholds by revising the relevant threshold down to 95g of CO_2 per kilometre from the current 100 grams.

The background to the clause is relatively straightforward in that the appropriate percentage of CO_2 emissions multiplied by the list price of a car, adjusted for any taxable adjusted accessories, provides the level of chargeable benefit for company car tax for employees and the level of class 1A national insurance contributions for employers. From 6 April 2012, the graduated table of company car tax bands will provide for a 0% band for zero-emission cars, which is welcome, a 5% band for ultra-low emission cars, which means emissions of 1 to 75 grams of CO_2 per kilometre, and a new 10% band for other low-emission cars, but with a 1% increase for each rise in emissions of 5 grams of CO_2 per kilometre above 100 grams of CO_2 to a maximum of 35%.

The clause changes the 10% band for low-emission cars to 76 to 95 grams of CO_2 per kilometre from 6 April 2013. The rule under which there is a 1% increase in the appropriate percentage for each rise in emissions of 5 grams of CO_2 per kilometre above 100 grams of CO_2 to a maximum of 35% will apply instead to each rise in emissions of 5 grams of CO_2 per kilometre above 95 grams of CO_2. Long-winded and complex as it is, that means that there will be an impact on nearly all company car drivers from April 2013.

I would welcome the Minister's confirmation that this is in effect a tax rise for all those who drive a company car that is anything other than ultra-green in its CO_2 emissions. I will not urge my hon. Friends to vote against the proposals, but I recall that before the election, the Labour Government were accused on a number of occasions of introducing "stealth taxes"—I think that was the phrase, as my hon. Friends may recall in due course. Will the Minister confirm that this is a tax rise for company car drivers from April 2013? How many people and businesses will the changes hit? What incomes do they have? What is the likely total tax take of the change?

I refer to another esteemed organ of the media: *The Daily Telegraph*, which, like the *Daily Mail*, I agree with and look at; I obviously support everything it says. I understand that it is the gospel truth on these matters. It said on 23 March 2011:

> "The Chancellor has increased the amount they pay by one per cent with drivers of larger cars…being hardest hit…This will mean, for example, that the driver of a two litre Ford Mondeo, who is a higher rate taxpayer, will face an annual tax bill for the car of £2,127, an increase of £76. It is estimated that the change will earn the Treasury an additional £125 million"

a year.

> "Only drivers of company cars emitting less than 95 grams of CO_2 per kilometer—such as the Toyota Prius —will be exempt from the increases. "

I would welcome the Minister's confirmation that company car drivers will pay more. That is not because we are going to vote against the clause, but because I would like to hear from the Minister that she is increasing taxation on company car owners and drivers by that amount. Will she give me figures on what it will mean for an additional normal car, and what it means in total for the Treasury take?

Bill Esterson (Sefton Central) (Lab): My right hon. Friend rightly asks a Government Minister to put it on the record that this is a tax increase. Does he agree that it is ironic that the Government are taking this line—not just for the reason he rightly gives—since for many years they have claimed to be a friend of the motorist? Although I do not want to vote against the measure, I think it is important that the Government are honest about what they are doing.

Mr Hanson: I am grateful to my hon. Friend. The *Daily Telegraph*, which rarely gets these things wrong, has said:

> "On taking office the Coalition promised to end what it described as the 'war on the motorist'. But last night the company car tax rises drew an angry response.
>
> 'This budget isn't particularly good news for company car drivers,' said Kieren Puffett, Editor of the Parker's car buying website."

That was in the *Daily Telegraph*; it must be true. The coalition did promise to end the war on motorists. I want the Minister to tell the Committee that this measure will increase the cost to company car drivers. I want an assessment of how much and how many company car drivers will be hit.

Karl McCartney (Lincoln) (Con): As ever, I am honoured to serve under your chairmanship, Mr Hood. Is the right hon. Member for Delyn aware that there are fewer ministerial cars under the coalition Government than under the previous Government? What car does the right hon. Gentleman drive, if he drives at all?

Mr Hanson: First, there are fewer ministerial cars under this Government than the previous one. I previously used a Government car, as on occasions I had to leave the confines of the Department to come to Divisions, and I found it useful to have that support.

The Economic Secretary to the Treasury (Justine Greening): Is the right hon. Gentleman saying that he took a ministerial car to get to a Division?

Mr Hanson: The Minister will know that meetings in the Home Office to discuss security threats affecting airports and trains—which I dealt with as Minister responsible for counter-terrorism—were on occasion disturbed by Divisions. I came to the House from the Home Office, which is more than eight minutes' walk away, to vote. That is not a particularly contentious point. Ministers in the current Government will, on occasion, jump in a car when a Division bells rings, to go from a Government office to the House of Commons to vote. That is a side issue in today's discussions.

To answer the hon. Member for Lincoln, with due respect it is none of his business nor anyone else's what car I drive now. If he wants to talk to me afterwards I will put it on the record outside. It is not a company car and it is not a Jag or a Rover. The clause is about company cars. My car is paid for from my salary as a Member of Parliament, which is the only income that I, unlike some other Members, receive. That is a matter for me and my bank. The clause is about company cars. Will the Minister and the hon. Gentleman tell me that the clause raises the cost of company cars, is a stealth tax and has a green purpose, which we support, as mentioned by my hon. Friend the Member for Sefton Central? I want to hear from the Minister how much the measure costs. Will she confirm the £125 million figure from the *Daily Telegraph*? Will she give me the average increase for company car drivers of the cost of the measure? Will she give an estimate of the total number of motorists who will be hit by the rise?

Alison McGovern: Does my right hon. Friend agree that when the history of this Government is written, and there is a footnote about cars, the car that will be remembered is the one that drove behind the Prime Minister as he cycled into the House of Commons?

Mr Hanson: The key issue *[Interruption.]*

The Chair: Order.

Mr Hanson: My hon. Friend has made her point in her own inimitable way.

I just want the Minister to stand up and say that she has raised taxation on company cars and that she has done it to be greener. I want her to tell us how much it raises and how many company car drivers are being hit by the measure, simply so that we can have that on the record.

Ian Murray (Edinburgh South) (Lab): My right hon. Friend mentioned the article in *The Daily Telegraph* and the section that refers to "the war on motorists", but is this not another example of the Government's war on the squeezed middle? A significantly larger number of people are being pulled into higher-rate tax. Living standards are plummeting to the levels of the 1920s. The measure is just another tax on people who work very hard for very little.

Mr Hanson: My hon. Friend makes a valuable point. I am only quoting from *The Daily Telegraph*, so it may be wrong—who knows?—but it says that

"the driver of a two litre Ford Mondeo, who is a higher rate taxpayer, will face an annual tax bill for the car of £2,127, an increase of £76."

That, coupled with the increase in value added tax and the loss of child care benefits, as we discussed in earlier sittings, and with a range of other measures, is an important issue. I will not vote against the clause, but I at least want the Minister to stand up and give some response. I am sure that she will say that the Government have increased the threshold for which the reimbursement is taxable from 40p to 45p a mile, which is welcome, but will the Minister please tell us exactly how much is being raised, how many people are being hit and what the average cost is? Will she also tell us whether the resources gained from that additional taxation will go to the transport budget and help to meet the potholes repair bill, or will they just go towards the general deficit?

Bill Esterson: My right hon. Friend is asking the right questions. Does he agree that, along with the proposal, it would be useful for the Minister to provide a combined analysis of the increased cost of motoring, the VAT increase and the various fuel duty increases that we have debated in Committee? We would then have an assessment of just how much more motorists have to pay.

Mr Hanson: That would be helpful, because the combined impact of all the changes is significant for motorists.

I say to the Minister, so that she can reflect on these matters, that the measure, while it will increase costs for motorists and company car users and while it will raise money for the Treasury, is specifically designed to be a green measure and, therefore, to help to reduce the environmental impact of larger vehicles. I ask the Minister again what assessment she has made of the environmental or behaviour-changing effects of the proposals? Does she have a target to get company car drivers, and therefore fleet buyers, to reduce the litre size of the engines of the cars purchased? At the moment, she has indicated that the measure will, on average, impact on the two-litre motorist. Has she done any modelling in the Treasury of the potential impact on the size of cars bought by fleet buyers? We need an assessment of whether the change in taxation will change the behaviour of those who currently have company cars and who will hold them for the next three, four or more years. Has the Minister made any assessment of the number of people who will be affected by the change based on not only their future behaviour but their previous behaviour? That is important.

When introducing the measure, the then Financial Secretary, Mr Paul Boateng, said in a written answer:

"The new company car tax system from April 2002 is designed to achieve lower levels of harmful emissions from cars."—[*Official Report*, 4 July 2001; Vol. 371, c. 171W.]

That will only be the case if lower levels of emissions are put in place for fleets of company cars. Has the Minister modelled that in any way, shape or form? If she has, could she share that modelling with the Committee?

12.30 pm

Many employees who have company cars are given them for four years or, in some cases, even longer if they are on longer-term contracts. Decisions have been made based on the current rate of taxation. This change was announced in the 2011 Budget and will come into effect in two years' time. Therefore, people will be hit in two years' time who may still have their current cars. What is the Minister's assessment of the impact? She appears to have assessed that the measure will raise £125 million for the Exchequer in 2013-14. How many company car drivers will that hit in 2013-14 and, indeed, what will the impact be of the £130 million in 2014-15 and the £135 million in 2015-16? What are the numbers and what is the impact? Will the Minister give that information to the Committee?

Justine Greening: Mr Hood, it is a pleasure to see you in the Chair today. Clause 51 makes changes to company car tax rates that will take effect from 2013. The shadow Minister calls it a stealth tax, but I hardly think that a tax that will be introduced in two years can be described in such a way. In fact, company car tax provides for the benefit-in-kind charges under income tax and employer's national insurance contributions that apply to company cars. As I said, these rates were announced at least two years in advance precisely to give business some certainty about the level of tax involved in the provision of a company car. That broadly mirrors the previous Government's approach in giving advance notice of company car tax regime changes.

As we have heard, the typical lifespan of company cars is around four years, so less than half of current cars will be affected. The right hon. Member for Delyn asked about the number of cars that will be affected. About 30 million cars are driven around the UK and about 1.1 million of those are company cars. We assess that less than half of current company cars will be affected by the measure.

As the right hon. Member for Delyn pointed out, the company car tax regime was reformed in 2002, and is now based on CO_2 emissions. As we explained, that has had the effect of encouraging the uptake and development of more fuel-efficient cars in company fleets and has resulted in average new car emissions being reduced by around 30g/km by 2010. The changes made by the clause are in response to the continuing and rapid advances in vehicle technology. For example, industry data show that for the average brand new company car, the average CO_2 emission level fell from 166.6 g/km in 2006 to 153.4 g/km in 2009. That is a reduction of 2.7% per annum, which I am sure all hon. Members welcome. To help to encourage businesses and drivers of company cars to drive the most environmentally-friendly cars, the clause sets out key changes to apply in 2013-14.

From 6 April 2013, the appropriate percentages for all vehicles with CO_2 emissions between 95g/km and 219g/km will be increased by 1 percentage point. Effectively, that will result in a freeze in rates for cars emitting under 95g of CO_2 per kilometre. Committee members will know that it is an EU target that all new cars will emit only 95g or less by 2020. So to achieve this overall measure, the relevant CO_2 thresholds in the graduated table of company car tax bands will be moved down by 5g per kilometre. Zero CO_2 -emitting cars retain the appropriate percentage of 0%, and the 5% rate will also remain for ultra-low carbon cars emitting between 1g and 75g of CO_2 per kilometre. The right hon. Member for Delyn referred to the importance of the company car fleet, which feeds into the second-hand car market, so encouraging the uptake of cleaner company cars will also have beneficial effects on the second-hand car fleet in due course.

It is not easy to estimate how much extra company car drivers will pay, because that will depend on the list price, the CO_2 emissions, and the employee's income tax rate in 2013, but an illustrative example is that a Ford Focus driver paying the basic rate of income tax could see an increase of around £34.

The hon. Member for Sefton Central asked about the Budget's overall impact on motorists. It introduces a £1.9 billion package to support motoring and motorists, and we have worked to ensure that it will alleviate the substantial pressure on the cost of living that has resulted from high oil prices feeding into high petrol prices.

Ian Mearns: Yet around the end of May, the *Daily Mail* said that the Budget proposals for company car drivers amounted to stealth taxes that are detrimental to business drivers.

Justine Greening: Well, as I think has been pointed out, the company car drivers who will bear most of the tax increase will be those with the biggest and most CO_2-emitting cars. Ultimately, we must strike a balance between ensuring that the company car tax regime keeps up with changing technology, and that the tax regime has the same impact on people who are lucky enough to have a company car—most people with a job in this country do not have a car as part of that job—and encourages them to pick an environmentally friendly car.

Another key part of the Budget is the second tranche of the rise in the personal allowance, which will help more than 1 million people by taking them out of tax altogether, and 23 million more broadly by reducing their income tax. We are introducing support across the board to help people who are in work. Overall, the changes incentivise manufacturers to develop and businesses to purchase low-carbon vehicles while ensuring the sustainability of public finance, and helping to reduce the UK's CO_2 transport emissions. The measure strikes the right balance.

Question put and agreed to.

Clause 51 ordered to stand part of the Bill.

Clause 52

FURNISHED HOLIDAY LETTINGS

Question proposed, That the clause stand part of the Bill.

Mr Hanson: I want a short debate on the principles of clause 52 and the accompanying schedule 14, and some of the comments that have been made on them. They make three changes to the special rules for the tax treatment of income from the commercial letting of furnished holiday accommodation. They extend the rules, restrict tax relief for losses, and tighten qualifying criteria.

The first change extends the special rules to the letting of property outside the UK but in the European economic area. The second change removes income tax relief for losses against general income and terminal losses, and removes corporation tax relief for losses against total profits. The third change extends the length of the periods for which the accommodation must be available to be let, and is actually let if it is to qualify as holiday accommodation. The first and second changes take effect from the 2011-12 income tax year, and for corporation tax beginning on or after 1 April 2011. The third change takes effect for income tax from 2012-13 and for corporation tax on or after 1 April 2011.

The Minister will know that those proposals caused some discussion prior to the election when they were proposed by the then Labour Government, and that some changes have accordingly been made. I should like some clarity from the Minister on a number of areas that are still a cause for concern.

As we know, clause 52 covers the changes on how aspects of income and gains from furnished holiday lettings will be taxed. A property letting qualifies as a furnished holiday letting if it passes a series of tests outlined in the legislation, such as the number of days it is let out for and the time it is available to let.

I have had a number of fair representations from the Chartered Institute of Taxation relating to the available-for-let test. The current proposal is to increase the test from 140 days to 200 days a year, which could create some difficulties for some businesses that operate furnished holiday lettings—in particular, where planning or other conditions attached to a property restrict the periods during which a property can be occupied.

The CIOT makes the strong point that the let test increase from 70 to 105 days will be problematic in some parts of the United Kingdom. My hon. Friend the Member for Edinburgh South and the hon. Member for East Antrim—if he was here—will be interested in this issue because the length of the days in the far north of the country means that the tourist season in both Scotland and Northern Ireland is very short, so dealing with that higher let-out day count from 70 to 105 days will be difficult.

I could have tabled an amendment that covered those particular issues, but I thought that it would be better to test out the Minister in our clause stand part discussions. Can he assure me that he has considered the issue in detail and that he is satisfied that the let test from 70 to 105 days will not adversely affect those distant parts of the United Kingdom, such as Scotland and Northern Ireland, where the tourist season is particularly short? Do the Government intend to keep the qualifying period under review in the light of the effect that these changes might have on some of the more remote tourist areas in the United Kingdom?

The old test of 70 days was roughly equal to the UK holiday letting season, and the 105 days might be more difficult to achieve. The new rules will also extend to countries in the EEA. What assessment has the Treasury made of the specific cost to the Exchequer of extending the plans to countries outside the UK? These points are worthy of a response from the Minister because they have been raised before and are still a matter of some concern.

There have also been discussions on the uncertainty among taxpayers on the distinction between a trading business and a rental business such as a furnished holiday letting. I would welcome some clarity from the Minister on the boundary between self-catering accommodation, bed-and-breakfast and budget hotels, because it is difficult to determine.

What comment does the Minister have on the representations that have been made by the Institute of Chartered Accountants in England and Wales that the distinction based on whether a furnished holiday letting owner lives on site and therefore is in occupation is based on established case law? Such an interpretation is not widely applied. The Minister needs to address this lack of clarity over the distinction and the lack of guidance from HMRC.

One of the issues that the CIOT has put to me about this particular clause is that there should be, as part of the review of small business taxation, some clarification of the boundary between those who operate trading businesses and rental businesses to provide greater certainty for taxpayers. It has also asked how and when the impact of these changes will be felt. In particular, it is referring to the economic impact on the recovery. Is the Minister likely to review this policy at any time? Will he look at this on an annual basis? Is this now set in stone for the period of the clause? What assessment would he make of the fragile potential tourist industry and the impact of these changes?

12.45 pm

The definition of furnished holiday letting is based on the number of letting days and it could be argued that that is a blunt instrument because the number of letting days varies in different parts of the United Kingdom. Is there any assessment of having a different letting day period for different areas? I know that is difficult but the Minister will be aware that Northern Ireland, the north of Scotland, west Wales, west Cornwall and the Scilly Isles have different lengths of tourist season from other parts of the UK where there are furnished holiday lets.

Those few comments reflect the points that have been put to me and I wonder whether the Minister can satisfy those outside the House who have concerns.

Mr Gauke: Clause 52 makes changes to the furnished holiday lettings regime in a way that is fair to UK businesses. It supports the Government's objective of maintaining a competitive and stable tax system that is compliant with European law. To that end, current legislation on furnished holiday lettings will be amended to ensure that the tax treatment of those with furnished holiday letting properties within the European economic area is the same as the tax treatment of those with furnished holiday lettings properties within the UK; to support the role of the tourism industry in the UK economy and the employment and enterprise it provides; and to ensure that the tax rules for furnished holiday lettings are appropriately targeted, affordable and provide value for money.

The furnished holiday lettings rules allowed beneficial tax treatment to UK property businesses, but not to those in the EU. That may not have been compatible with EU law, so the previous Government announced in 2009 that they would abolish the regime after a temporary extension to the EEA. It is worth putting this debate in some kind of context, because the plans that we inherited would have abolished the furnished holiday lettings treatment for all businesses, regardless of days of availability of letting. As part of the wash-up before the election, we negotiated the removal of the clause abolishing the regime. To have pressed ahead

[Mr Gauke]

would have had an adverse effect on UK businesses and the UK tourism industry. Instead, we committed in the coalition agreement and the June Budget to finding a path that would retain the rules, consulting the industry to ensure that the solution was workable, fair and fiscally responsible.

The changes made by schedule 14 will affect around 65,000 businesses, most of which are run by individuals. The existing furnished holiday lettings legislation applies to properties that are used to provide commercial furnished holiday lettings. Income from such lettings is technically property income—the old schedule A for those who remember these things. But the income qualifies for certain specified tax treatments for trades: enhanced capital allowances, sideways loss relief, certain capital gains reliefs and pensionable relevant UK earnings. To qualify for that tax treatment, the business must be carried on commercially, and with a view to a profit, and pass certain other tests. Two of the tests concern periods of availability to let at 140 days and actual lettings of 70 days per year.

To ensure that the extension of the relief to the EEA is affordable, changes to the legislation are being made to target the tax allowances at businesses run on a truly commercial basis. Such commercial businesses support the UK tourism industry and the economy. Accordingly, we have retained the reliefs related to capital allowances, capital gains and pension advantages as these are most beneficial to commercial businesses. However, the provision for sideways loss relief has been removed. In addition, to reflect the modern extended holiday season, the period for which a property is required to be available is increased to 210 days and that for which it is actually let to 105 days.

As part of our consultation during the autumn, the Government acknowledged the possible obligation to extend the regime to EEA properties. Accordingly, the consultation proposed to change the qualifying conditions and limit some of the tax advantages to offset the additional cost to the Exchequer of the extension. At the same time properties let as commercial businesses would continue to benefit from favourable treatment.

A number of comments were made during the consultation and we tried, wherever possible, to accommodate them. First, some respondents were concerned that the increase in the thresholds for qualifying days would be difficult to meet. The original proposal was changed to allow a period of up to two years when the need to meet the actually let threshold could be waived, providing there was a genuine intention to let. Additionally, the Government have decided to delay the introduction of the threshold change by a year to help businesses adapt to the new requirements. Secondly, some respondents were concerned that the new thresholds would have a negative impact on more remote letting, especially in Scotland—a point raised by the right hon. Gentleman.

It may be more difficult for certain outlying areas to meet the tests every year, but the new period of grace should go a long way to help those businesses meet the tests. We do not believe that we can introduce differential thresholds. That would raise state aid difficulties. The new thresholds were those that we were advised by the main interest group would reflect a level attainable by properly commercial businesses. We have consulted extensively, as I said, but received no proposals on geographical or seasonal definitions, which would allow thresholds to be varied in a way that meets policy objectives and legal requirements.

The Government recognise that remote locations face particular challenges. They also have particular attractions. The Government encourage people in remote locations to find innovative ways of exploiting their advantages and overcoming their obstacles so as to meet new occupancy thresholds. The period of grace is designed to help businesses that fail to meet the occupancy threshold for up to two years. Therefore, a business needs to meet the thresholds for only one year, not three. The introduction of the increased thresholds has been delayed by a year to allow businesses to adapt their letting strategies. Those should be particularly helpful to regions where the new rules may be more challenging.

In response to the consultation, some respondents regretted the removal of sideways loss relief, especially in the early years, but the package should be viewed as a whole. Although loss relief is restricted, beneficial capital allowances and capital gains treatments have been retained.

The right hon. Member for Delyn asked how much it cost to extend the revised rules to the EEA. Extending the regime to EEA states and reversing the repeal of the furnished holiday lettings rules is estimated to cost the Exchequer £20 million in 2011-12. However, the changes made by the Bill will rapidly reduce the costs going forward, as the restrictions to loss relief and the increase in the thresholds feed through. It is anticipated that there will be decreased yield from chargeable gains in the longer term, but insufficient information is held to produce a robust estimate of that decrease.

The right hon. Gentleman asked about the distinction between furnished holiday lettings and, for example, bed and breakfasts and hotels and so on. The distinction depends on whether the business is a trade or property business. Furnished holiday lettings are actually property rental businesses that are treated as trades for certain tax purposes. The activities performed by the proprietor do not amount to a trade. However, if the proprietor provides significant services—for example, meals—the business may be a trade, in which case it would enjoy all the trade tax benefits. The status of the business will depend on the individual facts of the case.

The right hon. Gentleman asked whether there is an intention to review the issue. There is no intention for a formal review but, as he will be aware, all taxes are reviewed from time to time. We do not have any intention at this point of reopening this particular area. We believe that the retention of the furnished holiday lettings regime has been widely appreciated by the tourism industry. The changes to rules will provide for EU-compliant legislation in a targeted and cost-effective way. We have a good compromise, which protects revenue but maintains the furnished holiday lettings regime that the previous Government sought to remove. We believe that it serves a valuable purpose and we are pleased to have been able to continue in this targeted way.

Question put and agreed to.

Clause 52 accordingly ordered to stand part of the Bill.

Schedule 14 agreed to.

Clause 53

LEASES AND CHANGES TO ACCOUNTING STANDARDS

Mr Gauke: I beg to move amendment 185, in 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)—'.

The Chair: With this it will be convenient to discuss the following: Government amendment 186.

Clause stand part.

Mr Gauke: Clause 53 introduces legislation to ensure that the existing tax rules that rely on the accounting treatment of lease transactions continue to operate as they currently do. Much of the corporation tax and income tax code for lease transactions is based on accounting definitions and the resulting entries in accounts prepared in accordance with either UK generally accepted accounting practice or international accounting standards.

Fundamental changes to lease accounting are expected in international accounting standards during 2011. The changes proposed will remove the distinction between finance leases and operating leases, amend or remove other currently defined terms and alter the way that amounts are quantified for accounts purposes.

UK generally accepted accounting practice may also introduce similar fundamental changes to lease accounting as early as 2013. If the proposals go ahead as planned, the current tax rules will not work as originally intended and, in some situations, will not work at all.

Clause 53 will require businesses that account for lease transactions to treat them, for tax purposes, as if the proposed changes to lease accounting had not taken place. The clause will apply to any business, whether as lessee or lessor or both, that accounts for lease transactions using a lease accounting standard that is newly issued or changed on or after 1 January 2011. The clause is not intended to alter the current tax treatment of leases in any way, and as such is expected to be revenue neutral.

Amendments 185 and 186 ensure that the clause operates correctly in all cases. The draft legislation was published for consultation in December 2010. No comments were received during the consultation period. As such, the legislation was unaltered when the Finance Bill was published in March. However, it has recently been brought to our attention that in certain limited circumstances, when a business chooses to change from one standard to the other, it would be required to ignore the move for all tax purposes, not just for purposes related to the taxation of leases. That would create not only an administrative burden for the business but also potential avoidance opportunities, as profits might be deferred or removed entirely from the tax net. To prevent this unintended consequence, the amendments will ensure that the generally accepted accounting practice that a business uses for calculating taxable profits is the same as that used in the accounts for all matters except for leasing transactions. The proposed amendment also simplifies the legislation.

Clause 53 is an interim measure. When the dust has settled and we have some certainty regarding the accounting changes, we will review the appropriate way forward for leasing taxation in the light of the new rules. The review will focus on providing stability and certainty for the future, and, of course, any consultation would be carried out under the new tax policy-making framework.

The clause will require tax profits and losses for lease transactions to be calculated as they are currently, irrespective of any changes made to the way the lease transactions are accounted for. This will provide some clarity to businesses involved in those transactions in the interim period before the new accounting standards are introduced. I therefore commend the clause and I urge the Committee to accept the amendments.

Amendment agreed to.

Amendment made: 186, in clause 53, page 33, leave out lines 3 and 4.—*(Mr Gauke.)*

Clause 53, as amended, ordered to stand part of the Bill.

Clauses 54 and 55 ordered to stand part of the Bill.

1 pm

The Chairman adjourned the Committee without Question put (Standing Order No. 88).

Adjourned till this day at half-past Four o'clock.