PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

FINANCE BILL

(Except clauses 1, 4, 8, 189 and 209, schedules 1, 23, and 33 and certain new clauses and new schedules)

Twelfth Sitting

Thursday 14 June 2012

(Afternoon)

CONTENTS

Clause 38 agreed to.
Schedule 6 agreed to, with amendments.
Clause 39 agreed to.
Schedule 7 agreed to, with amendments.
Clause 40 agreed to.
Schedule 8 agreed to, with amendments.
Clauses 41 and 42 and Schedule 9 agreed to.
Clause 43 and Schedule 10 agreed to.
Clause 44 and Schedule 11 agreed to.
Clauses 45 to 47 agreed to, one with amendments.
Schedule 12 and Clause 48 agreed to.
Schedule 13 agreed to, with amendments.
Clause 49 and Schedule 14 agreed to.
Clauses 50 and 51 agreed to.
Schedule 15 and Clauses 52 to 54 agreed to.
Adjourned till Tuesday 19 June at half-past Ten o'clock.

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The Committee consisted of the following Members:

Chairs: Mr Jim Hood, Mr Peter Bone, † Mr David Amess, Jim Sheridan

† Baldwin, Harriett *(West Worcestershire)* (Con)
† Barclay, Stephen *(North East Cambridgeshire)* (Con)
† Blenkinsop, Tom *(Middlesbrough South and East Cleveland)* (Lab)
† Burley, Mr Aidan *(Cannock Chase)* (Con)
Elphicke, Charlie *(Dover)* (Con)
† Garnier, Mark *(Wyre Forest)* (Con)
† Gauke, Mr David *(Exchequer Secretary to the Treasury)*
† Gilmore, Sheila *(Edinburgh East)* (Lab)
† Gyimah, Mr Sam *(East Surrey)* (Con)
† Hamilton, Fabian *(Leeds North East)* (Lab)
† Hands, Greg *(Chelsea and Fulham)* (Con)
† Harrington, Richard *(Watford)* (Con)
† Hilling, Julie *(Bolton West)* (Lab)
† Hoban, Mr Mark *(Financial Secretary to the Treasury)*
† Jamieson, Cathy *(Kilmarnock and Loudoun)* (Lab/Co-op)
† Kirby, Simon *(Brighton, Kemptown)* (Con)
† Lavery, Ian *(Wansbeck)* (Lab)
McKenzie, Mr Iain *(Inverclyde)* (Lab)
† McKinnell, Catherine *(Newcastle upon Tyne North)* (Lab)
† Malhotra, Seema *(Feltham and Heston)* (Lab/Co-op)
† Mann, John *(Bassetlaw)* (Lab)
† Mearns, Ian *(Gateshead)* (Lab)
† Mills, Nigel *(Amber Valley)* (Con)
† Morrice, Graeme *(Livingston)* (Lab)
† Morris, Grahame M. *(Easington)* (Lab)
† Pugh, John *(Southport)* (LD)
† Rees-Mogg, Jacob *(North East Somerset)* (Con)
† Reeves, Rachel *(Leeds West)* (Lab)
† Smith, Miss Chloe *(Economic Secretary to the Treasury)*
† Swales, Ian *(Redcar)* (LD)
† Syms, Mr Robert *(Poole)* (Con)
† Williams, Stephen *(Bristol West)* (LD)
† Williamson, Gavin *(South Staffordshire)* (Con)
Wilson, Sammy *(East Antrim)* (DUP)

Simon Patrick, James Rhys, *Committee Clerks*

† attended the Committee

Public Bill Committee

Thursday 14 June 2012

(Afternoon)

[Mr David Amess *in the Chair*]

Finance Bill

(Except clauses 1, 4, 8, 189 and 209, schedules 1, 23 and 33 and certain new clauses and new schedules)

Clause 38

Seed enterprise investment scheme

1 pm

Question (this day) again proposed, That the clause stand part of the Bill.

The Chair: I remind the Committee that with this we are discussing the following:

Government amendments 148 to 156.

That schedule 6 be the Sixth schedule to the Bill.

Good afternoon, everyone. It goes without saying that, as a result of the heat, colleagues can remove articles of clothing, within decency.

The Exchequer Secretary to the Treasury (Mr David Gauke): It is a great pleasure to welcome you to the Chair, Mr Amess. I am sure that it will be an even greater pleasure for all of us to serve under your chairmanship over the next few hours. I was completing my response to our debate on clause 38 and schedule 6. There are just a handful of points still to make. First, the costs relating to the policy are as set out in Budget 2012. We were asked what the approved sectors would be as far as the availability of the seed enterprise investment scheme is concerned. The measure makes the scheme available to most trades, unless they are on a list of excluded areas. Excluded activities include lending and other financial activities, as well as other, mainly asset-backed trades, which are inherently lower-risk trades.

We were asked about the scheme's impact. I have already touched on the likely regional effect. We think that it will be widespread. However, I can assure the Committee that the Government will collect data on the scheme and publish them, in line with usual practice. The Government have committed to a review of the scheme after four years. That review will include an assessment of the use and impact of the scheme, to allow the Government to assess its effectiveness and value for money. I am a little surprised that the Opposition have not tabled an amendment requesting such a review, but on this occasion I can provide an assurance that we will undertake one.

Let me deal with the point raised by the hon. Member for Leeds West about advertising the scheme and ensuring that there is widespread knowledge of its availability. Officials from Her Majesty's Revenue and Customs have been out to promote the scheme at a number of events, with business angels and entrepreneur groups, in London, Scotland and Northern Ireland. There have been such events across the UK. The Treasury is working to ensure that the scheme will be included in promotions, guidance and events held by the Government on support for small and medium-sized enterprises. The Treasury will also be working with the Department for Business, Innovation and Skills to ensure that the information is disseminated widely. My hon. Friend the Member for Braintree (Mr Newmark) has been taking a very active interest in the scheme and has also been involved in publicising it. However, it is not only the Government who will be involved in that. Angel networks, representative bodies and universities are, and should be, helping to promote the scheme and to bring local investors and entrepreneurs together.

I hope that that further information is helpful to the Committee, and that the clause and schedule can stand part of the Bill.

Question put and agreed to.

Clause 38 accordingly ordered to stand part of the Bill.

Schedule 6

Seed enterprise investment scheme

Amendments made: 148, in schedule 6, page 211, line 14, leave out 'in consequence' and insert

', nor any money raised by the issue spent, in consequence or anticipation'.

Amendment 149, in schedule 6, page 211, leave out lines 17 to 27 and insert—

'(a) the main purpose, or one of the main purposes, of the arrangements is to secure—

(i) that a qualifying business activity is or will be carried on by the issuing company or a qualifying 90% subsidiary of that company, and

(ii) that one or more persons (whether or not including any party to the arrangements) may obtain relevant tax relief in respect of shares issued by the issuing company which raise money for the purposes of that activity or that such shares may comprise part of the qualifying holdings of a VCT,

(aa) that activity is the relevant qualifying business activity,'.

Amendment 150, in schedule 6, page 211, line 33, leave out from 'is' to end of line 34 and insert

', in the course of the arrangements, paid to or for the benefit of a relevant person or relevant persons.'.

Amendment 151, in schedule 6, page 211, line 36, after 'that' insert

'the whole or greater part of'.

Amendment 152, in schedule 6, page 211, line 38, leave out from 'by' to end of line 39 and insert

'a relevant person or relevant persons.'.

Amendment 153, in schedule 6, page 212, line 6, at end insert—

'"relevant person" means a person who is a party to the arrangements or a person connected with such a party;'.

Amendment 154, in schedule 6, page 248, leave out lines 20 and 21.

Amendment 155, in schedule 6, page 248, leave out lines 24 and 25.

Amendment 156, in schedule 6, page 258, line 20, at end insert—

"(1) Schedule 4 (index of defined expressions) is amended as follows.

(2) Insert the following entries at the appropriate places—

"arrangements (in Part 5A)	section 257HJ(1)"
"associate (in Part 5A)	section 257HJ(1)"
"bonus shares (in Part 5A)	section 257HJ(1)"
"compliance certificate (in Part 5A)	section 257EC(1)"
"compliance statement (in Part 5A)	section 257ED(1)"
"director (in Part 5A)	section 257HJ(1)"
"disposal of shares (in Part 5A)	section 257HH"
"EIS relief (in Part 5A)	section 257HJ(1)"
"group (in Part 5A)	section 257HJ(1)"
"group company (in Part 5A)	section 257HJ(1)"
"issue of shares (in Part 5A)	section 257HI"
"market value (in Part 5A)	section 257HJ(6)"
"new qualifying trade (in Part 5A)	section 257HF"
"ordinary shares (in Part 5A)	section 257HJ(1)"
"parent company (in Part 5A)	section 257HJ(1)"
"period A, period B (in Part 5A)	section 257AC"
"permanent establishment (in Part 5A)	section 257HJ(1)"
"qualifying business activity (in Part 5A)	section 257HG"
"qualifying subsidiary (in Part 5A)	section 257HJ(1)"
"qualifying 90% subsidiary (in Part 5A)	section 257HJ(1)"
"research and development (in Part 5A)	section 257HJ(1)"
"SEIS (in Part 5A)	section 257A(2)"
"single company (in Part 5A)	section 257HJ(1)"

(3) In the entry for "control", in the second column, after "257(3)," insert "257HJ(3),".'—*(Mr Gauke.)*

Schedule 6, as amended, agreed to.

Clause 39

ENTERPRISE INVESTMENT SCHEME

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

The Chair: With this it will be convenient to discuss the following:

Amendment 43, in schedule 7, page 260, line 34, leave out '£5 million' and insert '£10 million'.

Government amendments 157 to 168.

That schedule 7 be the Seventh schedule to the Bill.

Clause 40 stand part.

Amendment 44, in schedule 8, page 270, line 37, leave out '£5 million' and insert '£10 million'.

Government amendments 169 to 176.

Government amendments 28 to 31.

That schedule 8 be the Eighth schedule to the Bill.

Rachel Reeves (Leeds West) (Lab): It is a pleasure to serve under your chairmanship, Mr Amess. Clause 39 makes changes to the enterprise investment scheme, which is different from the seed enterprise investment scheme that we discussed earlier under clause 38. The EIS is much older than the SEIS. Created in 1993, it has been described as its little sister. This measure increases the size of companies eligible for the EIS to companies with 250 employees, gross assets of £15 million and a maximum annual investment of £5 million. It also relaxes the rules relating to those who are linked to a company and increases the scope of eligible shares.

Amendment 43 refers to the annual investment limit that applies to the EIS. Given the general state of the economy, businesses that I visit often ask what the Government are doing to support them. The Government are failing to get the economy back on track, to deliver on the national insurance holiday for small businesses that we have called for, and to deliver through the regional growth fund. Bank lending statistics are disappointing at a time when the Government have steered the economy back into recession. As I have said before, bank lending to small businesses is disappointing.

Under the 2011 Budget, the annual investment limit for qualifying companies was increased to £10 million, but since then the Government have quietly slipped it out that the limit will in fact be £5 million. The reason for the reduction had to do with a lack of approval for state aid funding from the EU. Will the Minister tell us what progress he has made in his negotiations, whether there is scope for achieving state aid approval for the promised £10 million in the future, and what effect the difference will have on businesses seeking investment? After all, we are talking about halving the amount from £10 million to £5 million.

More fundamentally, should not the Government have considered the EU state aid implications before making the announcements? They either thought that they could get the change through and failed, or misled people at the beginning. The fact that the Government announced a £10 million figure with some fanfare and later decided that they would slip out the information that the limit would in fact be £5 million should come as no surprise, but what effect does that have on business confidence and certainty about this policy?

What are the Government doing for businesses seeking investment above £5 million but below the £10 million threshold at which venture capitalists tend to invest? The 2009 Rowlands report estimated that between 25,000 and 32,000 UK businesses are growing and/or restructuring and have characteristics that may make them suitable for growth capital, and that

"up to 5,000 of these firms per annum will be viable SMEs which are likely to experience significant problems in accessing capital as the economy emerges from recession. It is likely that those SMEs which are seeking to access growth capital in amounts above £2 million—the current upper limit of public/private provision—and below £10 million—the minimum level at which private equity providers will fund—will face particular difficulties."

I understand that the Minister's hands are somewhat tied, but has his Department commissioned updated data, given the state of the economy? What steps is he taking for businesses that require access to growth capital above the EIS threshold of £5 million but below the £10 million mentioned in the Rowlands report? How much investment does he expect over the next year under the current threshold, and at what cost to the Treasury? Does the Minister have the figures for how much would have been invested under a £10 million threshold?

Clause 40 raises similar questions. Amendment 44 again questions the level of the annual investment limit, which was £10 million and has been reduced to £5 million. It is welcome that state aid approval has been found for the £5 million limit. I will not repeat the comments

[Rachel Reeves]

I made about negotiations and announcements associated with the increase in the previous clause, as those points remain the same, but what effect does the Minister expect the new thresholds to have on take-up on the part of venture capital trusts in the next year, and will he report on that to the House? VCTs channelled £250 million to small and medium-sized enterprises in 2010-11. Given the new threshold, what does the Minister expect to happen to that figure, and what would the effect have been had the Government been able to stick to the original figure of a £10 million annual investment limit?

I note that the Government have tabled amendments to clause 40, and I look forward to hearing from the Minister on them. The amendments seek to move the start date for some venture capital changes from 6 April to Royal Assent of the Bill. In the Budget, there were changes to the amount that any business could receive through the provision that we are discussing and from other state sources in the previous calendar year; that was limited to £2 million. Any amount invested that is over that limit would lose its tax-advantaged status. Many investors have contractual commitments to make investments, and have had very little notice to enable them to make any changes. The deadline of 6 April came very shortly after the Budget. Will the Minister share with us what representations were made to him about the change of the start date? The delay to the change has been welcomed by industry, but once again the Government should have taken that into account before starting the process.

The clause and the amendments to it that the Government had to table are yet more evidence of a flawed process. We have seen rhetoric unravel since the Budget in March, which slapped VAT on pasties, caravans and church renovations, and claimed that a tax increase on pensioners was a mere simplification. It has been estimated that the Government do a U-turn every three weeks. The amendments are yet more evidence of ill-thought-through policy that has had to be changed in response to industry concern, though it will probably never be added to the growing list of U-turns.

Mr Gauke: Perhaps I can address the hon. Lady's concerns. Clause 39 makes a number of changes to the enterprise investment scheme to support and increase equity investment for SMEs, while ensuring that the scheme remains targeted at genuine high-risk investment.

The enterprise investment scheme is designed to encourage direct investment in smaller, high-risk companies by offering a tax incentive to investors in qualifying companies. Since the introduction of the EIS in 1994, approximately £8.1 billion has been contributed to qualifying companies from private investors. Small business is the lifeblood of the economy, and the ability to start and grow companies is vital to the economic well-being of the country. That is particularly the case now, given the need for a private-sector-led recovery. The Government's aim is to encourage investment in start-ups and small, growing companies. That is why we are introducing the reforms to the EIS.

Clause 39 will remove the £500 minimum annual investment limit for investors and will increase the maximum investment limit to £1 million, giving investors increased flexibility in how they invest. It will also relax the rules defining when a person is connected to a company through an interest in its capital, and will widen the definition of shares that qualify for relief. Changes are also being made to prevent tax relief being provided for investment in companies or activities outside the purpose of the schemes. That will ensure that the scheme continues to support genuine risk capital investments and so help smaller, high-risk UK companies to obtain finance.

To achieve that, clause 39 introduces a new disqualifying purpose test for the scheme; provides that acquiring shares in another company will not be a qualifying use of moneys raised; and provides that receipt of feed-in tariffs or similar subsidies will not generally be a qualifying activity. We are also increasing both the size limits of companies that may receive EIS investment and the amount of investment that an investee company may receive in any 12-month period.

Amendment 43, tabled by Opposition Members, seeks to increase the annual investment limit for qualifying companies to £10 million. After a review of the evidence, we have concluded that £5 million is the appropriate figure at which to set the limit. It is the figure that most closely describes the equity gap at the present time. It is the figure at which a majority of companies could be expected to benefit. As with all taxes, we will keep this under review in case circumstances change.

1.15 pm

Rachel Reeves: Could the Minister clarify whether the change was due to his analysis that £5 million was the correct limit, or had to do with state aid rules? If he thinks that the correct limit is £5 million, rather than the previous estimate of £10 million, is that consistent with the Rowlands report of 2009?

Mr Gauke: We have looked again at the evidence. The hon. Lady is right that there are state aid constraints in this area. I should point out that the increase to £5 million more than doubles the current limits and provides one of the most generous schemes in the European Union. The decision was also taken in light of concern that expanding the scheme to extremely large investments would lead to a reduction of smaller investments at the £2 million level, where the equity gap is more acute.

The weight of the evidence suggests that for the majority of businesses the shortfall in the supply of equity extended to around £5 million, with investment below £2 million remaining the point on the scale where the equity gap is most acute. There are some sectors and companies that require larger investments, and these will not be able to benefit from an annual investment of £10 million. However, they should still benefit from the increase to £5 million, and the Government's UK innovation investment fund is in place to provide sectoral support when it comes to those in the £2 million to £10 million range. Obviously the Government will keep the situation under review to ensure that Government support remains effective in helping to address the equity gap.

On the question of how many companies will lose out because the limit is only £5 million rather than £10 million, let me just say that the £2 million was introduced from July 2007 for the EIS. Data for 2007-08, the last year with no limit, shows that only seven companies raised in excess of £5 million. The majority of companies raising EIS moneys raised sums below

£250,000. I hope that provides some reassurance that the scale of the issue we are talking about is not as concerning as the hon. Lady may fear.

Turning to amendments 157 to 168, as with schedule 6, an amendment is required to the anti-abuse provisions in schedule 7 to ensure that they are effectively targeted. That is the purpose of those amendments.

I come now to clause 40. It is helpful to be able to debate clauses 39 and 40 together. I should like to say a word or two about venture capital trusts. The VCT scheme is designed to encourage indirect investment via intermediaries, known as VCTs, in smaller, higher-risk companies by offering a tax incentive to investors in the trust company. VCTs have been in operation since April 1995, with around £4.3 billion raised. As with the EIS, VCTs support small business, which is vital in achieving the Government's objective of a private-sector-led recovery.

Clause 40 removes the £1 million limit on investment by a VCT in a single company, giving VCTs more flexibility in the investments they can make. It will ensure that the scheme continues to support genuine risk capital investments, preventing tax relief from being provided for investment in companies or activities outside the purpose of the schemes, and so helping smaller, higher-risk UK companies to obtain finance. As I said a moment ago, that is achieved by introducing a new disqualifying purpose test for the scheme; by ensuring that acquiring shares in another company will not be a qualifying use of moneys raised; and by ensuring that receipt of feed-in tariffs or similar subsidies will not generally be a qualifying activity. The measures increase both the size and limits of companies that may receive VCT investment, and the amount of investment that an investee company may receive in any 12-month period. The changes made by clause 40 will increase receipts by approximately £25 million per annum.

The Opposition's amendment 44 would increase the threshold to £10 million. As I have explained in relation to schedule 7, £5 million is the figure that most closely describes the equity gap at present; it is the figure at which a majority of companies could be expected to benefit, but we will of course keep that figure under review.

Amendments 28 to 31 relate to paragraphs 2 and 3 of schedule 8, which ensure that a VCT may not make an investment in a company over the limit agreed with the European Commission, in view of state aid rules. The annual limit is not a new concept. However, the legislation now requires VCT managers to take into account other risk capital state aid received by an investee company in determining how much it may invest. As these elements of the legislative changes have arisen in the course of recent discussions with the Commission, there has been no opportunity to consult on them with industry. I therefore intend to delay bringing paragraphs 2 and 3 into effect until the date on which the Bill is passed, giving VCT managers some leeway to finalise deals already in the pipeline.

Amendment 31 is a minor drafting correction to the commencement provisions relating to the increases in company size limits and investment limits. Paragraph 20(2) should refer to "shares or securities" rather than merely to "shares", as VCT investments may comprise both or either. As I explained a moment ago, an amendment is also required to the anti-abuse provisions in schedule 8 to ensure that they are targeted effectively.

In conclusion, the changes will ensure that EIS and VCTs continue to support small and medium-sized companies that rely on equity investment for their development and growth. I commend the clauses and schedule to the Committee.

Question put and agreed to.

Clause 39 accordingly ordered to stand part of the Bill.

Amendments made: 157, in schedule 7, page 261, line 16, leave out 'in consequence' and insert

', nor any money raised by the issue employed, in consequence or anticipation'.

Amendment 158, in schedule 7, page 261, leave out lines 19 to 29 and insert—

'(a) the main purpose, or one of the main purposes, of the arrangements is to secure—

(i) that a qualifying business activity is or will be carried on by the issuing company or a qualifying 90% subsidiary of that company, and

(ii) that one or more persons (whether or not including any party to the arrangements) may obtain relevant tax relief in respect of shares issued by the issuing company which raise money for the purposes of that activity or that such shares may comprise part of the qualifying holdings of a VCT,

(aa) that activity is the relevant qualifying business activity,'.

Amendment 159, in schedule 7, page 261, line 35, leave out from 'is' to end of line 36 and insert

', in the course of the arrangements, paid to or for the benefit of a relevant person or relevant persons.'.

Amendment 160, in schedule 7, page 261, line 38, after 'that' insert

'the whole or greater part of'.

Amendment 161, in schedule 7, page 261, line 40, leave out from 'by' to end of line 41 and insert

'a relevant person or relevant persons.'.

Amendment 162, in schedule 7, page 262, line 10, at end insert—

'"relevant person" means a person who is a party to the arrangements or a person connected with such a party;'.

Amendment 163, in schedule 7, page 266, line 33, leave out 'in consequence' and insert

', nor any money raised by the issue employed, in consequence or anticipation'.

Amendment 164, in schedule 7, page 266, line 36, leave out from beginning to 'and' in line 8 on page 267 and insert—

'(a) the main purpose, or one of the main purposes, of the arrangements is to secure—

(i) that a qualifying business activity is or will be carried on by the company or a qualifying 90% subsidiary of the company, and

(ii) that one or more persons (whether or not including any party to the arrangements) may obtain relevant tax relief in respect of shares issued by the company which raise money for the purposes of that activity or that such shares may comprise part of the qualifying holdings of a venture capital trust,

(aa) that activity is the relevant qualifying business activity,'.

Amendment 165, in schedule 7, page 267, line 13, leave out from 'is' to end of line 14 and insert

', in the course of the arrangements, paid to or for the benefit of a relevant person or relevant persons.'.

Amendment 166, in schedule 7, page 267, line 16, after 'that' insert

'the whole or greater part of'.

Amendment 167, in schedule 7, page 267, line 18, leave out from 'by' to end of line 19 and insert

'a relevant person or relevant persons.'.

Amendment 168, in schedule 7, page 267, line 36, at end insert—

'"relevant person" means a person who is a party to the arrangements or a person connected with such a party;'.—*(Mr Gauke.)*

Schedule 7, as amended, agreed to.

Clause 40 ordered to stand part of the Bill.

Amendments made: 169, in schedule 8, page 271, line 30, leave out 'in consequence' and insert

', nor any money raised by the issue employed, in consequence or anticipation'.

Amendment 170, in schedule 8, page 271, line 33, leave out from beginning to end of line 1 on page 272 and insert—

'(a) the main purpose, or one of the main purposes, of the arrangements is to secure—

(i) that a qualifying activity is or will be carried on by the relevant company or a qualifying 90% subsidiary of that company, and

(ii) that shares or securities issued by the relevant company may be comprised in any company's qualifying holdings or that one or more persons may obtain relevant tax relief in respect of such shares which raise money for the purposes of that qualifying activity,

(aa) that qualifying activity is the relevant qualifying activity by reference to which the requirement in section 293(1)(b) (money raised to be employed within two years for relevant qualifying activity) is met in relation to the relevant holding,'.

Amendment 171, in schedule 8, page 272, line 7, leave out from 'is' to end of line 8 and insert

', in the course of the arrangements, paid to or for the benefit of a relevant person or relevant persons.'.

Amendment 172, in schedule 8, page 272, line 10, after 'that' insert

'the whole or greater part of'.

Amendment 173, in schedule 8, page 272, line 11, leave out 'business'.

Amendment 174, in schedule 8, page 272, line 12, leave out from 'by' to end of line 13 and insert

'a relevant person or relevant persons.'.

Amendment 175, in schedule 8, page 272, line 26, at end insert—

'"relevant person" means a person who is a party to the arrangements or a person connected with such a party;'.

Amendment 176, in schedule 8, page 272, leave out lines 27 to 31 and insert—

'"qualifying activity" has the same meaning as in section 291;".

Amendment 28, in schedule 8, page 275, line 16, leave out '6 April 2012' and insert

'the day on which this Act is passed'.

Amendment 29, in schedule 8, page 275, line 18, leave out 'date' and insert 'day'.

Amendment 30, in schedule 8, page 275, line 21, leave out 'date' and insert 'day'.

Amendment 31, in schedule 8, page 275, line 31, leave out sub-paragraph (2) and insert—

'(2) Those amendments have effect for the purpose of determining whether shares or securities issued on or after 6 April 2012 are to be regarded as comprised in a company's qualifying holdings.'.—*(Mr Gauke.)*

Schedule 8, as amended, agreed to.

Clause 41

Plant and machinery: restricting exception for manufacturers and suppliers

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

Rachel Reeves: Clauses 41 to 46—I will speak on clause 41—have to do with specific measures on capital allowances and relate mostly to anti-avoidance measures. We support the attempts to close loopholes in tax legislation and to crack down on tax avoidance. On a wider level, the Government this week released consultation on the general anti-avoidance rule, which we will scrutinise, because we all have a responsibility to ensure that companies and individuals pay their fair share of tax. We support the measure, but we have some specific questions about the clauses in this part of the Bill.

In a previous sitting, my hon. Friend the Member for Pontypridd (Owen Smith) talked about the effect of the Government's choices with regard to capital allowances on a plastics manufacturer in Ebbw Vale. Last year, the Government decided to cut corporation tax, paid for by a £2.6 million cut in capital allowances. When considering these measures, it is important to remember that context, and it is vital that the Government show some consistency on the issue, and any issues relating to capital allowances. We know that changes to capital allowances have the largest impact on firms with capital-intensive operations. Although these measures are aimed at tax avoidance, it is important to bear in mind who will be dealing with the new rules in the course of the business.

Clause 41 is designed to tackle a specific avoidance scheme in relation to plant and machinery. What steps will be taken by HMRC to ensure that the measures work as planned to close the loophole, and to ensure that manufacturers and suppliers cannot use these measures to facilitate avoidance?

Mr Gauke: Clause 41 is related to the changes being introduced by clause 42 and schedule 9 to improve the generic plant and machinery capital allowance anti-avoidance rules. The clause removes the special exception known as the "manufacturers and suppliers" exception from those generic rules, but only when the transaction has an avoidance purpose. The capital allowance anti-avoidance rules applying to transactions involving plant or machinery are being amended in the Bill to make them more effective at preventing tax avoidance.

We announced this proposal in the 2011 Budget, and a formal consultation took place over the summer of 2011. One of our original proposals was to repeal a

section of the Capital Allowances Act 2001, which broadly excludes transactions from the anti-avoidance rules when plant or machinery is acquired new from manufacturers and suppliers. There were concerns that this exception was being exploited for avoidance purposes.

During the consultation, HMRC became aware that an avoidance scheme was being marketed that was designed to take advantage of the manufacturers and suppliers exception in advance of its repeal. To counter that scheme, the Government announced that this particular exception would be repealed, in part, with effect from 12 August 2011.

In our statement at that time, we also said that consultation responses would be taken into account when finalising the legislation. Respondents to the consultation subsequently pointed out that certain commercial transactions between connected parties that have no avoidance purpose could be adversely affected by the August announcement. We therefore decided, in effect, to reinstate the manufacturers and suppliers exception, but only for transactions that do not have an avoidance purpose.

The modified repeal, which is effective from 12 August 2011 in terms of this clause, counters abuse, which is the concern raised by the hon. Lady, without adversely affecting commercial transactions that have no avoidance purpose. I hope that the clause can stand part of the Bill.

Question put and agreed to.

Clause 41 accordingly ordered to stand part of the Bill.

Clause 42

Plant and machinery allowances: anti-avoidance

1.30 pm

Nigel Mills (Amber Valley) (Con): I beg to move amendment 34, in clause 42, page 27, line 2, at end add—

'The Chancellor of the Exchequer shall instruct the Office of Tax Simplification to prepare a report considering whether reforming the capital allowances regime, including by switching to using accounts depreciation, would be a more effective method of tackling avoidance. The report shall be placed in the House of Commons Library.'.

The Chair: With this it will be convenient to discuss the following:

Clause stand part.

That schedule 9 be the Ninth Schedule to the Bill.

Nigel Mills: This is a repeat of what I tried to do a year ago: to persuade the Government to consider whether the Office of Tax Simplification should look at the whole capital allowances regime to see whether there is a better way of achieving the Government's laudable aims. I have no objection to any of the anti-avoidance measures in schedule 9; they are eminently sensible and much needed. However, each year, we have to tinker with the capital allowances regime to add a few new anti-avoidance bits, and tweak a few bits to encourage the things we would like to encourage or to discourage the things we would like to discourage.

Fundamentally, the regime is intended to give businesses tax relief for the economic cost each year of the capital assets they invest in. Encouraging businesses to invest in factories, machinery, computers and whatever they need to grow their business is key to achieving growth in our economy. We should be trying to give them simplicity and certainty that they will get relief for that investment over the economic life of that asset. I am not sure that the capital allowances regime encourages that with the fixed 18% reducing balance deduction a year—that is not a lot of use if the asset has much shorter life or needs depreciating much quicker. In fact, to respond to that, we end up with a short-life asset, a long-life asset, an environmentally friendly asset and a car asset regime, all of which allow people to use a slightly different set of rules if the main 18% does not work for them anymore.

We have ended up with a complex scheme that does not encourage business to do what we want it to do. It does not make it easy for business. Instead, it opens up a load of avoidance potential because of the underlying complexity, with the result that we have to add more complexity each year to try to close down those things. It strikes me that if we want a modern corporate tax system that makes life easy for business and for the Revenue and that contributes to achieving our entirely sensible policy aims, this is one area where some reform could achieve all those things in a much less cost-intensive manner.

That is why I urge the Government to make use of the very successful Office of Tax Simplification, which is eminently qualified to do this work. I asked it to look at this area and to consider whether there is a better way to get the investment we want and avoid the avoidance. One suggestion in the amendment is that we should simply let some businesses have their accounts depreciation charge. That is covered by all the normal accounting standards and is quite hard to manipulate, so most businesses end up with a pretty sensible depreciation profile. It is quite hard to get double deductions and to try to claim the asset in two companies, or refresh the deductions and have them again; that would impact on the accounts profit. That is one modern, reliable way for us to end up in a far better position. I commend the idea to the Minister for the second time.

Mr Gauke: In responding to my hon. Friend's amendment, I will also deal with clause 42. As we have heard, amendment 34 would require the Office of Tax Simplification to prepare a report considering whether reforming the capital allowances regime, including by switching to accounts depreciation, would be a more effective method of tackling avoidance. As the Chancellor said in his Budget speech, we regard tax evasion and aggressive tax avoidance as morally repugnant. We are fully committed to the more efficient tackling of tax avoidance, which the amendment is designed to ensure.

Before I deal with the amendment, I will explain the purpose of clause 42, which is obviously key to the amendment as well. The Capital Allowances Act 2001 contains general anti-avoidance rules to counter transactions designed to achieve capital allowances in excess of the amount intended by the legislation. However, there is evidence that those rules are not always as effective as they could be. Robust legislation to prevent avoidance at the outset is one of the core elements of HMRC's anti-avoidance strategy and it is also at the heart of the Government's approach to tackling tax avoidance.

In Budget 2011, the Government therefore announced various proposals intended to make the general capital allowances anti-avoidance rules more robust and effective. A formal consultation on those proposals took place during summer 2011. In addition, HMRC convened a small working group to discuss the proposals in detail. Revised proposals, together with the Government's response to the formal consultation, were published at the 2011 autumn statement. A draft of the proposed legislation was also published at that time for a further period of technical consultation, which closed on 10 February this year.

Broadly, the changes being made by the clause will affect transactions involving plant and machinery expenditure only where there is an avoidance purpose. Where there is such a transaction, the effect of the new rules will be to deny 100% capital allowances. Alternatively, they could restrict the amount of allowances the buyer of the plant or machinery can claim, so that the tax advantage sought is effectively cancelled out. The proposed changes will not affect capital allowances for real business costs. They will not apply to businesses investing in plant or machinery where there is no avoidance purpose. The changes are focused purely on preventing businesses from obtaining over-generous allowances through engaging in tax avoidance.

My hon. Friend the Member for Amber Valley reminded the Committee that he proposed a similar amendment to last year's Finance Bill. I reminded him that the previous Government consulted at length, between 2001 and 2004, on options for reforming the corporation tax system, including switching from capital allowances to the use of accounts depreciation. The business response to that consultation was strongly in favour of retaining capital allowances: it was argued that they provide certainty and a level playing field, with the same rates of allowances applying to all. Businesses also said that they value the flexibility of the current system, which allows the pooling of expenditure and the ability to claim less than the full allowances, depending on the circumstances of the individual business.

In last year's debate my hon. Friend reminded me that the previous review was some time ago and suggested that businesses' views might have changed, given that the rates of capital allowances have been reduced since 2004. As we have already mentioned, the previous Government reduced the rates of writing-down allowances, and we also reduced rates to help to fund the reduction in corporation tax to 23%. Of course, a further reduction to 22% was announced in the last Budget, which is to take effect from April 2014. Those reductions in the main rate of corporation tax reaffirm the competitiveness of the UK's tax system, and support enterprise and growth. However, the capital allowances rates continue to reflect average rates of economic depreciation, and the popular flexibilities of the current system are still in place.

My hon. Friend proposes that that the Office of Tax Simplification should prepare a report on capital allowances reform. He will no doubt be aware that the OTS considered the subject last year in its report on tax simplification, and returned to it in its small business report. In that report, after a discussion of the issues, the OTS expressed its considered view by saying that it does not think

"that a blanket move to tax-deductible depreciation should be taken forward."

Of course, the Government keep all tax matters under review, but in light of what I have just said, I do not think that much would be gained by instructing the OTS to look again at capital allowances now—although I dare say my hon. Friend, who always shows great persistence, will make the case in future.

The Government are committed to a fairer, simpler and more effective tax system, which has robust defences against avoidance, and the clause furthers that objective. I therefore ask my hon. Friend to withdraw his amendment, which I hope he feels has allowed effective probing of the Government's position.

Nigel Mills: I am grateful for those answers, if a little disappointed that little progress is being made.

I point out to the Minister that in its review of small business taxation, the Office of Tax Simplification is now allowing very small businesses, quite rightly, to tax just their effective cash increase each year, and not make any adjustments for tax purposes at all. That goes in the direction of a simpler regime.

There is an issue that will need to be looked at, at some point, because, as I understand it, our regime for investment in infrastructure is one of the least attractive in the EU because we do not give capital allowances for things such as industrial buildings and new factories. There is a general issue to watch, but the amendment was a probing one; therefore I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 42 ordered to stand part of the Bill.

Schedule 9 agreed to.

Clause 43

Plant and machinery allowances: fixtures

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

The Chair: With this it will be convenient to consider that schedule 10 be the Tenth schedule to the Bill.

Rachel Reeves: The clause amends capital allowances rules on fixtures attached to properties. As I understand, it is designed to ensure that capital allowances rules for fixtures achieve their original purpose of limiting allowances overall to the fixture's original cost. In other words, the cost of a fixture should be written off once, and once only.

I support the Government's efforts, in the words of the explanatory memorandum,

"to protect the Exchequer from further tax leakage and to make the rules fairer and clearer for businesses to understand and operate"

but I wish to ask what steps are in place to ensure that that does not give rise to "disproportionate administrative burdens."

The provisions will impact on all real estate transactions in the UK, with no de minimis. They are complex provisions and small businesses are likely to be less well advised than their larger counterparts. More due diligence work will be required when acquiring a property, including consideration and further work to give the purchaser an understanding of the allowance profile of the property during negotiations, and the value to be formally agreed

on and included in the contract for sale. The purchaser needs to satisfy himself or herself that the vendor has claimed, because if they have not, the value to be formally agreed is potentially invalid. There is a risk that if the formal value is not provided for in the sale and purchase agreement, post sale, the vendor might refuse to agree it. The only other option—a tribunal process—could be costly and, for smaller deals, often not worthwhile.

To reiterate, what additional costs does the Minister expect this measure to impose on businesses when carrying out due diligence at the time of sale? What steps will HMRC take to ensure that this measure has no unintended consequences, and that the administrative burden is limited, particularly for small businesses?

Mr Gauke: As we have heard, clause 43 makes changes to ensure that the capital allowances rules for fixtures in buildings work as originally intended. The changes seek to ensure that the original cost of a fixture is written off only once against businesses' taxable profits over the asset's economic life.

The existing rules seek to achieve that by providing that when a building containing fixtures is sold, the purchaser's acquisition cost for the fixtures must not exceed the seller's disposal value for the same assets. Unfortunately, the current rules do not place any time limits on when a current owner must pool his expenditure on fixtures—that is, to bring it into account for tax purposes—nor do they provide any limits on when and how a seller and buyer should agree the sale value of the second-hand fixtures. That has led to a large number of late or retrospective fixtures claims being made, often many years after the purchase of a building. By that time, it is often practically impossible for the current owner to engage with the past owner in order to ascertain the disposal value that the seller brought into account, or what assets the value related to. That creates difficult issues of proof for all concerned.

In practice, the seller will often have brought into account a low disposal value for fixtures in order to retain and maximise their capital allowances. The buyer, however, will want to adopt as high a value as possible to maximise their allowances for the future. If each party adopts a different value in that way, allowances are being duplicated. Identifying each case is not possible, so significant numbers of duplicate claims could be going undetected. Equally, if a business is required to prove its right to make a late claim, it may be unable to do so. The situation is clearly unsatisfactory. It gives rise to uncertainty and an unlevel playing field, and it could also result in significant tax loss to the Exchequer. The changes introduced by the clause are therefore necessary to rectify the situation.

The main changes in the clause will make the availability to capital allowances on fixtures dependent on two conditions. First, the previous business owner must have pooled their expenditure on fixtures before a subsequent transfer to another person. Second, the buyer and seller must use one of two existing procedures to fix their agreement about the value of fixtures transferred, within two years of the transfer. In that way, a single value for fixtures on transfer will be formally established near to the time of sale, and the duplication of allowances will be avoided.

There are also some rules to cover certain exceptional cases, and a technical amendment to enable allowances to be claimed by a new owner on any fixtures expenditure not relieved under the business premises renovation allowance scheme when a past donor has claimed under that scheme. The changes are estimated to increase Exchequer receipts by approximately £30 million a year by 2015-16.

1.45 pm

It was asked whether there could be an impact on businesses—smaller ones in particularly. It is expected that the one-off cost for businesses to become familiar with the new rules will be negligible. The extra administrative costs to businesses of formally recording and signing up to what should currently be established and agreed less formally have been estimated at between £50,000 and £250,000 per year. I appreciate the concern raised by the hon. Member for Leeds West about whether smaller, less sophisticated businesses in particular might lose allowances to which they are entitled, but no business that seeks to agree a fixtures value at the time of a property acquisition will lose out. The new rules are designed to prevent duplicate or excessive allowances on fixtures and not in any way to deprive businesses of allowances that are rightfully due.

As I have said, the new rules highlight two clear, alternative procedures that all businesses, including smaller ones, should use to agree a fixtures value: a business should either use the existing election procedure or apply to a first-tier tribunal to determine the fixtures value. One or other route should ensure an acceptable result for both sides in all cases. The current rules, which impose no time limits on when a fixtures value should be agreed after a property acquisition, can make it difficult for buyers, who delay to discover a past owner's disposal value and demonstrate their right to claim on second-hand fixtures. If a buyer cannot demonstrate any right to claim, allowances might be lost altogether, and that is not a situation that the Government wish to see continue.

The Government are grateful that commentators have positively welcomed the revised proposals in the clause as being simpler and better targeted at achieving our desired policy objective of avoiding the duplication of allowances. It is a change that protects revenues, and makes our tax rules work as they should.

Question put and agreed to.

Clause 43 accordingly ordered to stand part of the Bill.

Schedule 10 agreed to.

Clause 44

EXPENDITURE ON PLANT AND MACHINERY FOR USE IN DESIGNATED ASSISTED AREAS

Rachel Reeves: I beg to move amendment 45, in clause 44, page 27, line 8, at end insert—

'(2) The Chancellor of the Exchequer shall review the impact of his capital allowances policies on long-term investment, and will lay a report of his review in the House of Commons Library.'.

The Chair: With this it will be convenient to discuss the following:

Clause stand part.

That schedule 11 be the Eleventh schedule to the Bill.

Rachel Reeves: Clause 44 introduces 100% first-year allowances for investment in plant and machinery by companies in enterprise zones. The Government will point to enterprise zones as an example of their efforts to get growth on track, but the clause shows that their policy is inconsistent in some ways.

We all know about the enterprise zones championed under the previous Conservative Government. The Centre for Cities regarded them with scepticism, estimating in a report last year that the cost per additional job created in the zones was £17,000 over a 10-year period—the equivalent of £26,000 in today's market. By contrast, an analysis by PricewaterhouseCoopers showed that regional development agencies did an excellent job in terms of value for money across the country, making a genuine difference to local economies, particularly in the north of England. Yet this Government chose to scrap the agencies, including the excellent Yorkshire Forward, which served my city of Leeds, and to replace them with a hotch-potch of enterprise zones and local enterprise partnerships, which have few, if any, powers or resources.

The clause relates specifically to capital allowances in enterprise zones. How many people does the Exchequer Secretary expect will take up the benefit presented by the clause? How many businesses will be persuaded by it to invest in the zones rather than elsewhere? Can he confirm whether the first-year allowances will be available to landlords? It is my understanding that they will not, and that no incentive, therefore, will be provided to landlords in an area that is part of an enterprise zone to invest in plant or machinery.

When we talk to people on their doorsteps and to local businesses in all our constituencies, we see the impact of the recession and the high rates of unemployment, and the difficulties that businesses, particularly small businesses, face in accessing finance, as well as the lack of demand in the economy, which is discouraging investment, employment and opportunities to grow. The Government need to strain every sinew to get growth back on track and unemployment down. They must ensure that the benefits and initiatives of schemes such as that under discussion are communicated clearly to those areas in which they are implemented, and that they have the maximum impact in those areas in which we most need those jobs and economic growth.

Our amendment refers to the Government's policies on capital allowance. What will be the longer-term impact of those policies? If, as the clause suggests, the Government are keen to introduce more capital allowances for specific areas, why did they make a £2.6 billion cut in those allowances last year? As my hon. Friend the Member for Pontypridd (Owen Smith) said before the recess, when he was a member of the Committee, last year the Government were keen to trade capital allowances for a cut in corporation tax, even though the respected Institute for Fiscal Studies clearly said that the main beneficiaries would be high-profit, low-investment firms, rather than those firms and parts of the country that most need support with regard to rebalancing the economy and the recovery.

What will happen in this year's autumn statement? What will happen in the 2013 Budget? How can businesses making high investments be sure about the consistency of these policies when we have seen such an about-turn? What effect does this uncertainty have on investment by those businesses in our constituencies and communities, and what effect does it have on the high rates of unemployment, which are evident throughout the country, but particularly so in those areas in which there are enterprise zones?

This Government are not creating an environment or an economy in which businesses and individuals can be confident or certain about what will happen next, and it is that uncertainty that is discouraging investment and employment growth. Although we welcome the extra support, the inconsistency is playing havoc with investment decisions and employment growth, so we would appreciate answers to those questions about consistency for businesses throughout the country.

Mr Gauke: Clause 44 and schedule 11 provide 100% first-year allowances for business investment within targeted designated parts of certain enterprise zones. The allowances will be made available in assisted areas where local authorities and devolved Administrations have demonstrated the potential for attracting businesses making large capital investments. The allowances are designed to attract new investment, jobs and economic growth to those parts of the country in most need and that are best placed to make the most of this additional Government support. They form part of a menu of enterprise zone options, including simplified planning and business rates discounts. These, in turn, are part of a wider package of measures aimed at stimulating growth and inward investment across the United Kingdom economy.

We announced at the Budget last year that we would establish a series of new enterprise zones in local enterprise partnership areas in England. Since then, 21 enterprise zones have been announced. Businesses investing in enterprise zones can benefit from substantial business rate discounts, radically simplified planning procedures and superfast broadband.

The Government also announced that we would consider introducing enhanced capital allowances to support enterprise zones in assisted areas. These targeted allowances will be made available in areas where local authorities and devolved Administrations have demonstrated the potential for attracting businesses making large capital investments. The autumn statement confirmed enhanced capital allowances for six sites in England, and the Budget chose two further sites in England, three in Scotland and one in Wales for full allowances.

The clause will provide 100% first-year allowances for capital investment in plant or machinery for businesses that invest in those sites for a five-year period from April 2012. The allowances will provide a significant incentive for new investment by business in the areas in which they are being offered. They will support additional investment, new jobs and economic growth in parts of the UK where they have not been forthcoming, and will further support the rebalancing of the UK economy. For example, the Greater London authority estimates that enhanced capital allowances within the Royal Docks enterprise zone could attract 7,500 additional jobs to a deprived part of the nation's capital, and the Welsh and Scottish Governments estimate that their proposals could attract a further 9,000 jobs. The hon. Member for Leeds West asked how many businesses would benefit. It is difficult to assess exactly how many businesses would benefit, but to date these announcements have attracted

a lot of attention from potential investors. As I say, the evidence from the GLA and from the Welsh and Scottish Governments is very supportive of that.

Let me turn to amendment 45. It proposes that

'The Chancellor of the Exchequer shall review the impact of his capital allowances policies on long-term investment, and will lay a report of his review in the House of Commons Library.'.

Let me set out why I do not support this amendment. The Government are committed to improving the UK's tax competitiveness, with the ambition of having the most competitive tax system in the G20. That would help to create the right conditions for growth and encourage future investment in the UK. By 2014, the corporation tax rate will have fallen by 6% from its 2010 level of 28%, giving the UK the lowest tax rate in the G7 and the fourth lowest in the G20.

The Office for Budget Responsibility forecasts have estimated that those corporation tax reductions have more than offset reductions in capital allowances, such that the cost of capital for new investment is lower for all non-financial companies and the rate of return from the existing capital stock is higher. The OBR's assessment is that the 1% reduction in the corporation tax rate that was announced in the 2012 Budget will increase the level of business investment by around 1% by the end of the forecast period. That is equivalent to an increase in the total amount of business investment of £3.4 billion between now and 2016, supporting growth in the medium term.

At the same time, the Government recognise the importance of capital allowances to businesses making investment decisions, and we have ensured that they remain broadly aligned with the rates of commercial depreciation, in accordance with their original policy intention. The Government also recognise that in certain situations carefully targeted accelerated allowances can be a useful policy lever to encourage investment and growth. Enhanced capital allowances and enterprise zones have been targeted at areas where the Government believe they will provide the strongest incentive for business investment, thereby ensuring value for money for taxpayers.

Ian Swales (Redcar) (LD): The Minister is making a powerful case and I welcome this legislation, particularly as it affects my constituency significantly. However, I seek one point of clarification. There is an exclusion to do with the management of waste of other undertakings. Can the Minister say whether that will apply to industrial processes that use waste as a raw material but may produce, for example, chemicals or other useful products from that waste? If he cannot answer that question now, can he seek clarification, because there are many areas of new technology where waste might be a feedstock and investment in those areas should get this sort of support?

Mr Gauke: As my hon. Friend has suggested, this is quite a complicated and technical area. To ensure that he gets the accurate and comprehensive response that he deserves, I will write to the Committee to provide clarification on that point.

Enhanced capital allowances are the right lever to attract investment, jobs and growth into these targeted areas, and to support the rebalancing of the UK economy. The Government routinely publish detailed information on the corporation tax system. HMRC publishes detailed statistics on corporation tax receipts. The OBR publishes information on corporation tax forecasts in its "Economic and Fiscal Outlook". At the Budget, HMRC publishes detailed information on proposed changes, particularly in the tax information and impact notes and the policy costings document. Those publications suggest that the corporate tax reforms introduced by the Government since 2010 have increased the level of investment by business. I welcome the chance to discuss the issues raised by the amendment, but I do not think there is a case for the Government to produce another report.

2 pm

The hon. Member for Leeds West raised an issue about landlords. Under the UK capital allowances regime, it is standard to exclude lessors from 100% first-year allowances. That is a general exclusion under section 46 of the Capital Allowances Act 2001, and it will be continued by the provision. The Government want to incentivise actual business investors, such as manufacturing businesses, to invest in such areas; general investors were not the specific target.

On the management of waste, I can tell my hon. Friend the Member for Redcar that such matters are decided case by case, and each case depends on its details. As he said, that is a complex area, and HMRC will provide guidance on exactly how the exclusions will work. I hope that he is satisfied by my response.

In conclusion, enterprise zones are a key part of the Government's economic strategy. Enhanced capital allowances will support enterprise zones to succeed in areas of the country where the additional support is most likely to attract new investment. It is vital to support investment across the UK. The changes made by the clause and the schedule are key to that, and I hope that they will be approved.

Rachel Reeves: I thank the Minister for his response to my questions and those of other hon. Members. Although I believe that regional development agencies offer a more appropriate way to rebalance the economy and help all parts of the UK, I support the local enterprise partnerships in my area and I hope that the enterprise zones will bring much-needed investment and jobs to some of the most deprived parts of the country and will support extra efforts to ensure that that happens. However, I hope that the Government will be more consistent in sending out a clear message that we are supporting businesses, particularly manufacturing businesses that are investing and trying to create the jobs that we all so desperately need, especially in the most deprived areas of the country.

I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 44 ordered to stand part of the Bill.

Schedule 11 agreed to.

Clause 45

ALLOWANCES FOR ENERGY-SAVING PLANT AND MACHINERY

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

Rachel Reeves: The clause relates to the feed-in tariffs scheme, another area in which consistency is at stake, as are jobs and investment. As we all know, feed-in tariffs were introduced by the Labour Government to support producers of solar panels.

I have visited Gough and Kelly, a business in my constituency of Leeds West that is involved in the installation of solar panels, and I am sure that other hon. Members have been to similar businesses in their constituencies—if they have not, I would recommend that they do so. That business employs about 30 people and has supplied solar panels to homes and businesses in my constituency and across west Yorkshire and the country. Its industry relies on the feed-in tariffs.

I first visited the business at the end of 2011 and I did so again earlier this year, with my hon. Friend the Member for Liverpool, Wavertree (Luciana Berger), one of the shadow Energy and Climate Change Ministers. It is worried about keeping its staff in their jobs because of changes to how feed-in tariffs operate. It is a good employer that cares about its staff and is making a difference to energy bills in households across the city, as are many other companies. It has been hit hard by the cuts in the feed-in tariffs for solar panels. The rules changed almost overnight in the middle of a consultation period, which took it by surprise.

Ian Mearns (Gateshead) (Lab): It is a pleasure to serve under your chairmanship, Mr Amess. I am grateful to my hon. Friend for giving way. I have had significant discussions with Carillion, which employs many people in my constituency and neighbouring constituencies. There was consternation at the pace of the change to the feed-in tariffs. The way the change was brought about was subsequently declared illegal. No one in the industry expected that amount of change. Everyone expected change, but not the amount of change, which made the business almost unsustainable for many.

Rachel Reeves: I thank my hon. Friend. His intervention shows that the changes affected businesses large and small. Like Carillion, Gough and Kelly said that it expected change. Because technology changes the cost of installing and producing solar panels changes, so it expected the feed-in tariffs to change to reflect that. They went from a generous system, to one that did not make it worth while to do business.

Like many others, the company I went to see went into the solar panel industry due to difficulties in the wider economy. It wanted to diversify into an area that it thought was growing and had prospects for the future. The changes, which were later declared illegal as my hon. Friend the Member for Gateshead said, took place almost overnight during a consultation period, so were particularly difficult for that company and other companies to absorb.

Across the country, the solar industry employs 25,000 people. Since feed-in tariffs were introduced in 2010, over 90,000 solar installations have been completed in the UK. A survey conducted by the Renewable Energy Association found that of 138 firms across the solar industry, 57% anticipate laying off at least half their staff.

Stephen Barclay (North East Cambridgeshire) (Con): Will the hon. Lady clarify something? Is the Opposition position that the feed-in tariff was value for money at the rate it was set? If it should have changed, what should it have changed to?

Rachel Reeves: I thank the hon. Gentleman for that intervention. As I said, industry expected the feed-in tariffs to change as technology changed and the cost of solar panels reduced. It expected and understood that the feed-in tariffs would have to change.

Several hon. Members *rose—*

Rachel Reeves: I will give way to other hon. Members in a moment.

The change should have happened in consultation with industry and reflected the changing costs. The system should not have changed overnight from a generous system without consultation, as I am sure all hon. Members accept. *[Interruption.]* The hon. Member for North East Cambridgeshire is speaking from a sedentary position. I do not know what he is saying. I am happy to take a further intervention.

Stephen Barclay: I thank the hon. Lady. I was simply wondering whether she was going to address the question. Was the feed-in tariff value for money at the point it was set, as the technology was then, and what price should it be adjusted to? I note her remarks about consultation with the industry. Does the industry not have a conflict of interest?

Rachel Reeves: When the tariff was set, it offered value for money. It was creating jobs at a time when far too many people are losing their jobs. It is reducing the cost of energy at a time when energy costs are going up. It was value for money, but it could have been reduced to save money, although that should have been done in the right way—through consultation with the industry and stakeholders. That did not happen in this case, which is why so many people are angry about the change and why it was deemed illegal.

Ian Lavery (Wansbeck) (Lab): Is it not fair to say that the industry was outraged by the fact that there was a reduction in the feed-in tariff before the consultation period had ended? How outraged would my hon. Friend be?

Rachel Reeves: I thank my hon. Friend for that intervention. He expresses well the industry's view. That view is shared by businesses, charities and individual householders who wanted to install solar panels because they thought it was the right thing to do and that it would save them money. They found out, however, that the economics no longer stacked up, so they cancelled those arrangements.

Ian Mearns: I am grateful to my hon. Friend for giving way again; she is very generous with her time. The previous Government invested in the feed-in tariffs at a particular level to stimulate significant initial growth in the industry, and there was broad, cross-Parliament support for their doing so. I think that the industry would have accepted a reduction in feed-in tariff to 20p after consultation and discussion, but at 16p, a large proportion of the business is, frankly, unsustainable.

Rachel Reeves: I thank my hon. Friend for that intervention. We are considering value for money, but it is not good value for money to have the highest levels of unemployment in 17 years and 1 million young people out of work when they could be in work, paying their

taxes and contributing to the economic recovery. That is an extreme waste of money, and it is why the Government are having to borrow £150 billion more than they planned to in the course of this Parliament. That is the cost of their economic failure, and the impacts on the green economy go from there.

I delve into the matter of feed-in tariffs because I believe that hon. Members will be concerned about any changes that are made to the scheme, given the chaotic approach that has defined the Government's policy on such matters since May 2010. Local manufacturers are uncertain, and their employees will be rightly concerned about their jobs, particularly as the manufacturing figures that we saw yesterday showed a worrying further decline in the industry.

The clause provides that where feed-in tariffs or renewable heat incentive tariffs are paid in respect of electricity or heat generated, 100% first-year allowances will not be available for expenditure on plant or machinery that generate or produce it. I agree with the Government that businesses must not be allowed to receive a double benefit, and I welcome the clause's anti-avoidance aspect. However, given the wider concerns about the Government's policies in this area, which have been expressed by many in Committee and have been recounted to me in my constituency, can the Minister give assurance that the provision will not unnecessarily increase the administrative burden related to the feed-in tariff scheme? On this occasion, has the policy been designed in consultation with the industry? Are the rules clear for businesses?

From talking to the business Gough and Kelly and to colleagues, I understand that the consultation on changes to the feed-in tariffs was six weeks long, which is half the recommended consultation period, and that the changes came into force almost two weeks before the consultation concluded. Many of the businesses that operate in this area are small employers. They may not find it easy to understand the rule changes without having received notice or proper consultation. Businesses need such consultation, and information about complex matters, if they are to do the job of creating business, investing and employing people.

Finally, will the clause remain effective regardless of changes made to the feed-in tariff scheme or will we have to revisit the matter in the Finance Bill next year? I note that the Government have made numerous changes to the scheme since 2010. It is important to ensure that HMRC, the Treasury and the Department of Energy and Climate Change are alert to the ramifications of other changes to the scheme that are related to the measure, given the administrative burden faced by companies already concerned about staying in business and employing people. I reiterate that we support the Government's intention to close tax loopholes, but such matters must be properly dealt with in consultation with business and industry.

2.15 pm

Graeme Morrice (Livingston) (Lab): It is a pleasure to serve under your chairmanship, Mr Amess. I will crack on, because I know we have a lot of ground to cover this afternoon and there is not much time left. I follow the excellent contribution of my hon. Friend the Member for Leeds West.

Members will be aware that the trade bodies that represent businesses in the solar power industry expressed anger about the Budget in March, declaring that the industry was singled out for "rough treatment" by the Chancellor. That strong response followed the industry's concerns about the proposed changes to capital allowances, with the Renewable Energy Association stating that

"the government has disadvantaged a certain sector of industry—the renewable industry—relative to other investment opportunities."

How has the Minister engaged with industry representatives to address concerns about the impact the changes might have on the delivery of feed-in tariffs?

If there is one issue that encapsulates the chaotic and confused way in which the coalition Government make policy, FITs are probably that issue. The Government's rushed and ill-considered changes to the scheme not only hit families that are trying to protect themselves from soaring energy bills, but put thousands of jobs in the solar energy industry in jeopardy.

At the time of the announcement last October, several businesses in my constituency contacted me to express their anger and frustration with the Government's botched handling of the changes.

Stephen Barclay: Is the hon. Gentleman saying that his constituents who are facing the most acute difficulties with paying their fuel bills, which is a very real issue, have sufficient capital to afford the up-front investment in solar energy?

Graeme Morrice: Of the many people who have suffered high energy prices due to the Government's policies, a fortunate few are able to acquire capital investment to do something about it through renewable and solar energy, and they seek effective Government support to do so.

The aforementioned businesses in my constituency recounted how the Government's policies have resulted in massive confusion for customers, lost orders and serious disruption to the business plans of those working in the industry. A survey conducted by the Renewable Energy Association and the Solar Trade Association last year found that up to 40% of jobs in the sector were feared to be at risk. More than half of the companies surveyed anticipated having to lay off staff, and a third were concerned about having to fold entirely.

We now know that more than 6,000 people employed in the solar industry have lost their jobs since last summer. Since the Minister's cuts came into force, solar panel installations have fallen by almost 90%, which has been a devastating blow to an industry that had previously seen significant expansion following the introduction of tariffs in 2010.

As well as businesses, I have also heard from constituents who had already installed solar power and have lost out because of delays in registering their home. Thousands of other people across the UK may have suffered the same fate, which seriously undermines public confidence in the initiative. At every stage, the Government have failed adequately to consult or listen to expert advice. They are driven purely by the desire to cut costs without considering the wider, long-term impact on jobs, the economy and the environment.

No one disputes that the tariff level needs to be brought down in an orderly fashion, but the Government could have done things differently and achieved the

[Graeme Morrice]

same outcomes without damaging jobs, consumers and the industry. Despite the Government's chaotic mismanagement, solar power remains a viable proposition. The Government must now work in partnership with the industry to restore confidence and to help the industry recover. I look forward to the Minister's response.

John Mann (Bassetlaw) (Lab): What a pleasure it is to serve under your chairmanship, Mr Amess. You are a fine advocate for the caravan industry, which has benefited from a VAT reverse.

This is a bit of a belter: the Government have stuck up petrol by 24p a gallon since the Chancellor came in—the highest non-wartime increase of any Chancellor, by a huge degree—so people are paying more for petrol. That is part of their green policy.

Jacob Rees-Mogg (North East Somerset) (Con): I am fascinated by the hon. Gentleman's reference to its being the highest non-wartime rise. I wonder whether petrol rose by the equivalent of 5 shillings a gallon during the war. That seems extraordinarily high.

John Mann: The hon. Gentleman, a keen historian, will know that the increase under this Chancellor is the third highest Chancellor's increase in relative petrol prices since petrol was invented. *[Interruption.]* A lot of people have suddenly woken up in this room. Petrol prices in 1942-43 and in 1915-16 went up higher for various war-related reasons. We have a war at the moment, but it is a different kind of war. I am talking about the great wars; I am not suggesting that we do not have conflict now. My point is that these increases are clearly part of a green policy and the greens love it.

Ian Mearns: I want to point out for the record that 24p is much closer to four and nine pence ha'penny.

John Mann: I thank my precise and diligent comrade for that intervention.

The petrol price increases are one part of the Government's green policy. We know the other part: cover our green and pleasant land—every hill and every backyard—with windmills. We will have windmills on our roofs, on our heads—everywhere. We will have these huge monstrosities, reaching hundreds of feet up into the air, a dozen a time. There is a bit of a fight back in rural Lincolnshire and elsewhere, and I commend those fighting back against this imposition on the English countryside—an imposition on the part of the Government that we are seeing everywhere.

One thing that the general public would like, as opposed to windmills everywhere and a vast rise in petrol prices, is solar panels and ground source heat, because that reduces their bills and allows people to make a small contribution to the environment. It can be sold on both counts. Who would lose out? We heard in previous interjections that this policy was all about rich people with pots of money, but in many parts of the country it is not, because local authority building departments are about to set up huge schemes, in social housing, for pensioners. Retired miners in my area, for example, want the free hot water and other benefits. The majority of mining stock is perfectly situated, with gardens and huge south-facing roofs. Retired miners are demanding solar panels so that they can make their contribution to cleaning up the environment and benefit financially in these difficult times. What do the Government do? They pull the rug out from underneath. One could not make it up.

No wonder this Government are becoming so despised. Polls demonstrate that, but knocking on doors and listening in communities demonstrates it more vividly. People think that the Government do not get it. They look across to the once green Liberals. The handful of people who would still consider voting Liberal—I appreciate that it is down to 2% in the north of England—think, "What's the point in voting Liberal, when the Liberals are Tories?" We have a demonstration of that here. We need common-sense politics. This country is falling behind the rest of the world, and Germany is getting a lead on us economically because of it. Even the French, the Italians and the Spanish are ahead of us. You could not make it up.

Greg Hands (Chelsea and Fulham) (Con): You have made it up.

John Mann: The Government Whip sums it up. He does not care about this. He does not care about the environment or energy bills. That demonstrates the arrogance of this Government in power; there can be no clearer representation. That is why they have lost the plot. I implore the Minister to show a bit of common sense and accept modest amendments.

Mr Gauke: It is always a pleasure to follow the hon. Gentleman, whose remarks so often enliven our proceedings.

Clause 45 makes two changes to the capital allowances treatment of expenditure that generates renewable electricity or heat, and that qualifies for special tariff payments. The first change ensures that 100% first-year allowances are not given for plant and machinery in respect of which tariff payments are received. That change ensures value for money by enabling enhanced capital allowances to complement other Government policies, rather than duplicating other investment incentives.

The second change designates the rate of allowances for solar panels at the special rate of 8% a year from April 2012. That ensures a fair and appropriate rate of allowance for assets with the expected economic life of solar panels, and provides a clear and consistent rate of allowance for all businesses.

Ian Swales: Most of the debate so far has been about the solar panels part of the clause. Is the Minister aware of the representations from the Combined Heat and Power Association, and companies such as INEOS and Sembcorp, about the mixture of policies he mentioned that apply to this area? Perhaps an unintended consequence of the Government's measures is that they might reduce the incentives for energy-saving projects on combined heat and power in industry.

Mr Gauke: Before I respond to that intervention, it would be helpful for the Committee if I set out the purpose of the clause. We have had a rather broad

debate this afternoon on policy relating to renewables, feed-in tariffs and so on. I fully understand why hon. Members wished to have that debate, and why my hon. Friend the Member for Redcar broadens it further and raises a significant issue for his constituency.

In truth, clause 45 relates to something a little narrower. Let me set out what it seeks to do and put the clause in context. The changes generally take effect from 1 April 2012 for companies or 6 April 2012 for businesses in the charge to income tax. For expenditure on combined heat and power equipment, the change to the enhanced capital allowances rules will not apply until April 2014, because the tariff rate for the technology is still under review, which is a matter of interest for my hon. Friend the Member for Redcar.

It may help if I provide the Committee with some background to the measure. At Budget 2011, it was announced that there would be a consultation on capital allowances treatment of expenditure in this area. The plant or machinery in question would be that which qualifies under either of the Department of Energy and Climate Change's two regimes for incentivising renewable energy. Those two regimes are, of course, the feed-in tariff and the renewable heat incentive.

The aim of the consultation was to ensure that the capital allowances treatment of assets qualifying for tariffs was fair, consistent and affordable. Currently, some, but not all, of the technologies that qualify for feed-in tariff or renewable heat incentive payments can also qualify for 100% enhanced capital allowances. That results in the potential for some renewable energy technologies to obtain the benefit of more than one investment incentive, but that does not apply to all items. Recently, there has also been uncertainty as to whether expenditure on certain electricity or heat generation equipment should correctly attract allowances at the main rate of 18%, or at the special rate of 8% per annum.

The clause ensures that, from April 2012 onwards, enhanced capital allowances are not available for plant and machinery where feed-in tariff or renewable heat incentive payments have been received. It also designates the special rate of allowance as the appropriate rate for business expenditure on solar panels incurred from April 2012 onwards.

2.30 pm

We have had a somewhat broad debate, and I can understand why hon. Members wanted that. Of course, the values of feed-in tariffs have recently been revised by the Department of Energy and Climate Change. However, given that the incentives provided by tariffs are separately calculated by DECC without any reference to capital allowances, it is perfectly reasonable to review either incentive independently. Also, most technologies that qualify under the feed-in tariff scheme do not in fact qualify for enhanced capital allowances, so the revision is unlikely to have much impact on a business's capital allowance position.

I hope that the Committee understands—I am sure that, in your position, you will understand, Mr Amess—that I am keen to remain focused on what clause 45 is about. It is about ensuring value for money by preventing the duplication of incentives, by providing greater certainty, consistency and fairness for business, and by designating an appropriate rate of capital allowances for expenditure on solar panels. It is a common-sense approach and an attempt to protect the interests of the taxpayer and to ensure that the incentives are right, fair, and appropriate, and not greater than Government intended. I hope that the clause will stand part of the Bill.

Rachel Reeves: I thank the Minister for his response and hon. Members for their useful and insightful contributions. My hon. Friend the Member for Livingston mentioned the rushed and ill-considered nature of the changes to the FITs, and particularly the impact that they will have on families and businesses, and he is right. In response to interventions from Government Members, my hon. Friend the Member for Bassetlaw rightly pointed out that those taking advantage of solar panels and other measures in order to cut their energy bills and make a contribution to our environment are not just people with piles of cash, but people on a whole range of incomes, particularly because of the innovative schemes that many councils and local authorities have put in place.

I urge the Minister to ensure that policy, whether in the Treasury or other Government Departments, is put in place in the right way and is not, as my hon. Friend the Member for Livingston said, rushed and ill-considered. It should offer continuity and certainty for businesses, particularly small businesses, which we need to grow, to create employment and to invest, so that we can get the economy back on track and growing once again.

Question put and agreed to.

Clause 45 accordingly ordered to stand part of the Bill.

Clause 46

Plant and machinery: long funding leases

Mr Gauke: I beg to move amendment 25, in clause 46, page 28, line 28, leave out 'or'.

The Chair: With this it will be convenient to discuss the following:

Government amendments 26 and 27.

Clause stand part.

Mr Gauke: Clause 46 makes changes to counter avoidance involving the leasing of plant or machinery under a long funding lease. It will ensure that the legislation works as intended, taking into account all relevant payments and receipts in order to arrive at the correct amount of capital allowance for such a lease. The changes will protect the Exchequer from significant loss of tax revenue.

I am sure that it will be helpful for hon. Members if I give some of the context of the changes. A lessee under a long funding lease is entitled to claim capital allowances in respect of leased plant or machinery. The total capital allowances available should equal their actual expenditure on the plant or machinery for use in their business. Some taxpayers have entered into arrangements designed to try to obtain more capital allowances than actual net expenditure on the plant or machinery. The arrangements in question involve payments being received connected to long funding leases, which it is claimed are not taken

[Mr Gauke]

into account for capital allowances purposes. If that claim is correct and the disposal value at the end of the lease is too low, then consequently the capital allowances are too high.

These types of arrangements came to HMRC's attention as a result of disclosures under the disclosure of tax avoidance schemes regulations. It is understood that each scheme has been used at least once and the evidence indicates that wider use of the arrangements would put hundreds of millions of pounds of tax at risk. That is why it was necessary to take action to close down these schemes with immediate effect at Budget 2012.

The changes made by clause 46 will ensure that all relevant payments connected with a long funding lease are correctly taken into account to give relief up to the amount of the net expenditure. The changes achieve this by amending the disposal formula that applies to a lessee when a long funding lease ends. That formula will now ensure that the relief to the lessee by way of capital allowances will take into account all relevant payments and receipts.

Following the publication of the Bill on 29 March 2012, HMRC received representations that clause 46 may have unintentional consequences. Discussions with accounting firms representing long funding lessees resulted in identification of two particular sets of circumstances involving commercial transactions where this may be the case. The amendments address those concerns by providing for exclusions for payments in those circumstances. That will ensure that the legislation does not result in unfair taxation.

Clause 46 will ensure that the capital allowances a long funding lessee receives will reflect all the lessee's relevant expenditure and receipt. That will prevent a significant loss to the Exchequer of several hundreds of millions of pounds.

Amendment 25 agreed to.

Amendments made: 26, in clause 46, page 28, line 31, at end insert—

(iii) an initial payment or any other payment made under a relevant superior lease to the person who is the lessor under that lease by the person who is the lessee under that lease, or

(iv) a payment to the seller of the proceeds of a sale of the plant or machinery to which subsection (2FC) applies,'.

Amendment 27, in clause 46, page 28, leave out lines 36 to 38 and insert—

'(2FB) For the purposes of subsection (2FA)—

"payment" includes the provision of any benefit, the assumption of any liability and any other transfer of money's worth (and "payable" is to be construed accordingly);

"relevant superior lease" means any lease of the plant or machinery to which the long funding lease mentioned in subsection (1)(a) is inferior.

(2FC) This subsection applies to a sale of the plant or machinery if—

(a) a person has entered into a relevant transaction with another person in respect of the plant or machinery for the purposes of Chapter 17 of this Part (see section 213) and the sale is within section 213(1)(a),

(b) the plant or machinery is within section 216(1)(b) (sale and lease back), and

(c) the conditions in section 227(2) are met.'".—*(Mr Gauke.)*

Clause 46, as amended, ordered to stand part of the Bill.

Clause 47

Foreign income and gains

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

The Chair: With this it will be convenient to discuss the following:

Amendment 177, in schedule 12, page 294, line 27, leave out '45' and insert '30'.

Amendment 178, in schedule 12, page 294, line 31, leave out '45' and insert '30'.

Amendment 179, in schedule 12, page 295, line 1, leave out '45' and insert '30'.

Amendment 180, in schedule 12, page 295, line 4, leave out '45' and insert '30'.

Amendment 181, in schedule 12, page 295, line 8, leave out '45' and insert '30'.

Amendment 182, in schedule 12, page 295, line 10, leave out '45' and insert '30'.

Amendment 183, in schedule 12, page 295, line 14, leave out '45' and insert '30'.

Amendment 184, in schedule 12, page 295, line 21, leave out '45' and insert '30'.

Amendment 185, in schedule 12, page 310, line 38, at end add—

'(2) HMRC will monitor the extent to which income and chargeable gains used to make qualifying investments under this Part of the Schedule have been taxed in other jurisdictions and will assess the implications of this for UK domiciled investors.'.

That schedule 12 be the Twelfth schedule to the Bill.

Mr Gauke: Clause 47 introduces schedule 12, which contains provisions about the taxation of foreign income and gains. It makes three main changes to the tax regime for resident non-domiciled individuals. First, it ensures that the non-domiciles who have been resident in the UK the longest make a fairer tax contribution. Secondly, it introduces a new incentive to encourage non-domiciles to bring money to the UK to invest in businesses here. Finally, it simplifies aspects of the existing rules to remove unnecessary complexity and reduce administrative burdens.

Non-domiciles who are resident in the United Kingdom are entitled to use a tax regime that provides for beneficial treatment of their foreign income and gains. This regime is known as the remittance basis. The remittance basis also applies to the foreign income of individuals who are resident but not ordinarily resident in the UK for tax purposes. The remittance basis was last reformed in 2008 and an annual charge of £30,000 was introduced for non-domiciles who have been resident in the UK for at last seven years and wish to make use of the beneficial tax regime. The Government recognise that non-domiciles can make a valuable contribution to the UK economy. Indeed, according to preliminary data, they paid at least £6.3 billion in income tax and capital gains tax in 2009-10, and a further £1.8 billion in national insurance contributions.

The changes made by part 1 of the schedule will increase the annual charge to £50,000 for non-domiciles who have been UK resident in 12 or more of the preceding 14 tax years. The £30,000 charge will remain for those who have been resident in at least seven of the preceding nine tax years, but fewer than 12 years. The Government estimate that 3,500 individuals will choose to pay the higher £50,000 charge in 2012-13. The charge is not mandatory, and those who do not wish to pay can instead choose to be taxed on all their worldwide income and gains. We estimate that, as a result of introducing the higher charge, a further 3,500 individuals will choose to be taxed on their worldwide income and gains, and hence pay more tax than they do currently.

Taken together, the introduction of the higher charge is expected to raise approximately £80 million a year. The Government believe that the level of the increase is right, and that it would be counter-productive to introduce more stringent measures that could drive non-domiciles away, or deter them from coming in the first place.

The changes will also remove the tax charge on foreign income and gains when they are brought to the UK for the purpose of commercial investment in business. The business investment incentive is widely drawn to maximise the amount of investment. That will help attract investment in businesses of all sizes across a diverse range of sectors. Foreign income and gains will continue to be liable to UK tax when they are brought to the UK for other purposes, such as personal expenditure. It is vital that the incentive is not open to abuse or used for the direct personal benefit of the investor. Therefore, the changes include clear anti-avoidance provisions to prevent such abuse, and make certain that the incentive is used only for its purpose of generating genuine business activity.

In response to consultation, the Government have made changes to improve the legislation as regards creating incentives for investment. In particular, a broader range of company structures will now qualify for investment. The schedule also includes new provision to allow individuals who take advantage of the investment incentive to retain some of the proceeds from the disposal to meet the capital gains tax liability on that disposal. Again, that follows representations made during consultation. The provision will apply only in situations where the individual might otherwise have to bring additional money to the UK to meet the CGT liability.

Finally, the changes made by part 3 of the schedule will simplify the remittance basis in two ways. The changes will simplify certain aspects of the nominated income rules that can apply to individuals who pay the £30,000 or £50,000 charge. That has been strongly welcomed during consultation. The simplifications have no cost to the Exchequer. The Government have considered and rejected other suggestions for simplification on the grounds that they would open up avoidance opportunities, create a direct cost to Exchequer or deliver insignificant benefits. However, the Government will give further consideration to a limited number of other simplifications with a view to possibly legislating in next year's Finance Bill.

All the amendments relate to the business investment incentive that I have already gone through. I look forward to hearing the remarks of Opposition Members, and will respond to them accordingly. I will also respond to amendment 185 when I have heard the remarks of the hon. Member for Newcastle upon Tyne North.

Taken together, the measures deliver a balanced package of reforms that will increase the tax contribution from non-domiciles while providing a significant incentive to invest in the UK; that will contribute to our priority, economic growth. They are sensible changes that will benefit taxpayers and the UK as a whole.

Catherine McKinnell (Newcastle upon Tyne North) (Lab): It is a pleasure to serve under your chairmanship, Mr Amess.

Clause 47 makes various changes, which the Minister helpfully set out. A key change is a new method for non-domiciled individuals to bring their non-UK income into the UK without it being classified as remittance, and therefore chargeable to UK tax. The stated aim, as the Minister set out, is to bring more investment into the UK. Currently, overseas income or capital gains remitted in the UK by individuals claiming the remittance basis are liable to UK tax, regardless of the purpose for which they are used. The current system has been regarded as a disincentive for non-domiciles to bring funds into the UK to invest in trading and commercial property companies.

2.45 pm

It is right that the aim of incentivising non-domiciles to bring money into the UK to invest in companies should be limited to qualifying businesses. However, it has been questioned whether that method of bringing investment into the UK has been properly thought through by the Government. Certain investment vehicles, such as limited liability partnerships, have been omitted, and the legislation does not appear to have got fully to grips with the complexities of companies in practice. The complexity of the legislation laid before Parliament has also raised numerous concerns.

Some of the benefits of the measure will be limited by the fact that the investment can be made only in corporate bodies and not in other investment vehicles, some of which are likely to be more attractive to non-domiciles. The Institute of Chartered Accountants in England and Wales, a very respected organisation, has stated that in its view, such an extension would result in a significant increase in the number of investments made. Is it likely that any amendments will be made to the rules to stretch them to allow investment in other investment vehicles apart from UK corporates such as limited liability partnerships?

As I said, the Bill is long and complex, and it is assumed that the measures are intended to address some of the complexities that will inevitably arise from the Government's proposals. What reassurances can the Minister give that the regime can be properly monitored and enforced? Will HMRC have the necessary resources to ensure that the measures are not simply used as another tax-avoiding loophole? Can he provide reassurance that they will genuinely bring investment and benefit to the UK, not just tax advantages for the non-domiciles who use them? The ICAEW has also registered its concerns that the meaning of the legislation should be as clear as possible to ensure that potential investors have the certainty that they require to make those investment decisions.

The measures prescribe that when income or gains are brought to the UK to be invested, those investments must be made within 45 days to receive tax relief.

Amendments 177 to 184 seek clarity on that matter. Given that the period originally set out in the consultation was 30 days, and having looked at the responses received in the consultation, will the Minister explain why it was decided that 45 days would be more appropriate? That has not been made clear.

Our amendments suggest a return to the original time limit of 30 days. It is therefore incumbent on the Minister to explain to the Committee why the Government believe that a 45-day period is more appropriate. Surely the longer the period given for investments to be made, the greater the avoidance concerns. Will he confirm that income or gains could be brought into the UK and used for up to 44 days without triggering the clause? If so, what safeguards have been put in place against that?

When an investment decision is made, administrative processes must be gone through in order to draw down the investment into the UK, but does that require 45 days? I would be grateful if he commented on why 45 days is deemed necessary. Will he also explain why the Treasury appears not to be concerned about the possibility that non-domiciles might make use of a longer period for tax avoidance purposes?

Concerns have been expressed that the change might put British investors at a disadvantage. Non-domiciles will, obviously, be able to make qualifying investments in the UK without paying the same taxes that a British investor will be obliged to pay. Has the Minister explored whether that could put British investors at a competitive disadvantage? What assessment have the Government made of that potential, and what reassurances can he give to British investors today?

The clause sets out a remittance charge of £50,000 for non-domiciles who have been resident in the UK for 12 of the last 14 years. The £50,000 charge is not as high as initially feared. Concerns were expressed that it would be £100,000, and the general view, voiced by the Minister today, is that the majority of non-domiciles will choose to pay the £50,000 charge. Those who do not wish to pay the annual charge can either choose to leave the UK, or move to paying UK tax on their worldwide income. As the Minister set out, estimates suggest that 3,500 non-domiciles will choose to pay the £50,000 charge, while 3,500 will not pay at all, instead opting to pay UK tax on their worldwide income. Will the Minister explain how those figures have been estimated? The impact note states that a small number of the 3,500 may opt to leave the UK instead, but how has the Minister arrived at that estimate?

Given that only a small amount will be raised through the measure, what are the Government seeking to achieve by requiring non-domiciles to pay the annual charge? It is important that members of the public understand why the charge is being levied, to avoid any perception, for example, that it could be politically motivated. The statutory residence test that was initially due to be included in this Finance Bill has also been omitted, and concern has been expressed that that was done without explanation. We were told that the Government have decided to allow more time to finalise the test's detail, yet it is a key area, and one of the most contentious in UK tax rules. The general consensus is that the issue needs to be addressed; it is one of the most important connecting factors between individuals and the UK tax system, and at the moment, we rely on a plethora of case law guides that give clarity on the residency rules; it is complex and very subjective.

A key part of what the Bill aims to achieve is clarity and simplification of the tax system in this area, so the Government's failure to deal with the statutory residence test at this stage has caused concern. Will the Minister explain what has delayed the clarity that was due to be provided by this Finance Bill, and why the move has been postponed until 2013?

Mr Gauke: Amendments 177 and 178, if adopted, would reduce the time limit for making a qualifying investment. An individual is currently required to make their investment within 45 days of bringing their foreign income and gains to the UK if they are to qualify for the incentive. That reflects the economic and commercial realities of making an investment, particularly when significant sums are involved.

The obvious effect of reducing the time limit to 30 days, as the Opposition propose, would be that the incentive was less attractive to potential investors, and therefore, it would be less effective as a means of encouraging inward investment. I am sure that the Opposition would not support that outcome.

For larger investments, complex and detailed arrangements will often need to be agreed and negotiated before an investment is made. That is the commercial reality, and it is therefore only right to allow a reasonable period of 45 days in which an investor is required to make a final decision.

Amendments 179 to 184 would reduce another time limit from 45 days to 30 days; in that case, the time limit would apply when an individual brought their foreign income and gains to the UK with the intention of making a qualifying investment, but the investment proved to be abortive. In such cases, the individual is required to take their foreign income and gains back offshore within 45 days. As part of the Government's new tax policy-making process, draft legislation was published for consultation on 6 December 2011. That legislation did not cater for situations in which an individual brings their foreign income to the UK with the intention of investing, but that investment fails to take place.

A point made forcibly during consultation was that it was not uncommon for investments to fall through at the last minute for genuine commercial reasons. Therefore, the absence of rules dealing with abortive investments would be a serious defect in the new incentive. It would mean that an individual could become subject to UK tax on the remittance of their foreign income and gains, where they fully intended to invest in the UK business, but that investment was not made, including where things fell through for reasons outside their control.

The revised legislation set out in the Bill therefore contains new provisions to deal with abortive investments. They require foreign income and gains to be sent back offshore within 45 days of being brought to the UK. I will repeat this: it is only right to allow a reasonable period for an investor to make a proper commercial assessment of a potential investment before making a final commitment. It follows that it is also right to allow for cases in which a potential investor decides in the end that a business is not sufficiently commercially attractive to warrant an investment.

Catherine McKinnell: The Minister used the term "reasonable" to describe the period of 45 days in respect of amendments 181 to 184 and amendments 177 to 180 previously. Will he elaborate on why 45 days is reasonable whereas 30 days is not?

Mr Gauke: That is always a question of judgment. My main point, as I said a moment ago, is that often, investments, particularly larger ones, have complex and detailed arrangements to be agreed and negotiated on before they are finalised. A deal could collapse quite late in the process, and there should be an opportunity to ensure that a potential investor is not inadvertently hit. There is always a question of judgment as to what the right length of time is. Given the complexity of some deals, the flexibility provided by 45 days is one that we think strikes the right balance. Having listened to representations that we received, following the consultation and the publication of draft legislation last December, that is our assessment, striking the best balance in protecting the Exchequer from avoidance activity while ensuring that there is a sufficiently attractive regime for the investment that we all want to see.

Amendment 185 would impose a new obligation on HMRC to monitor tax paid in overseas jurisdictions on the income and gains used to make a qualifying investment. Unfortunately, HMRC simply could not do that. It is responsible only for the UK tax system and does not have authority for tax systems elsewhere. There is absolutely no point in introducing obligations for HMRC that they would be unable to meet. Even if it were possible for HMRC to monitor the amount of tax paid overseas, I am doubtful of the value of such information. The whole point of the business investment incentive is to have no UK tax charge when the funds are brought to the UK to make an investment. I fail to see what value would be served by knowing how much tax had been paid on foreign income and gains in another jurisdiction.

The hon. Member for Newcastle upon Tyne North asked about the yield from the £50,000 charge and our estimate that 3,500 people would pay the charge and a further 3,500 people would choose to be taxed on their worldwide income rather than pay the charge. We based those assessments on the self-assessment data provided to HMRC, and the numbers have been agreed by the Office for Budget Responsibility.

The hon. Lady asked whether the regime would result in preferential treatment for non-dom investors over UK-domiciled investors, who have to invest their taxed income. One effect of the remittance base is that it encourages non-doms to leave their money outside the UK. By introducing the business investment incentive, the Government will remove the barriers that prevent non-doms from wanting to invest here. That is the purpose of the policy. Of course, non-doms will only be able to bring in moneys that they invest in UK business. They will continue to pay UK tax on their foreign income and gains that they bring to the UK for any other reason.

3 pm

The hon. Lady asked whether the business investment incentive was too complex. We believe that the incentive strikes an acceptable balance between encouraging maximum inward investment and preventing abuse. It has been widely drawn with few restrictions to ensure that it is accessible to all non-doms and to a wide range of businesses and sectors. It is also necessary to include specific provisions to ensure that the relief is not abused as a means of sidestepping the remittance basis and allowing individuals to enjoy their foreign income and gains in the UK tax free. Although that inevitably adds complexity to the legislation, it should have no impact on people who want to make a genuine commercial investment.

The hon. Lady asked specifically about partnerships. The Government are not yet convinced of the case for including partnerships within the relief. We remain concerned that extending the relief in that way might lead to large-scale avoidance unless complex anti-avoidance legislation was introduced. However, we are willing to consider the issue further to evaluate whether there is scope for widening the relief to include investments in partnerships in Finance Bill 2013. That brings me on to the broader question of whether there will be any further changes in this area.

In the Budget 2011 the Chancellor confirmed that there would be no substantive changes to the remittance basis rules, beyond the current reforms, for the remainder of the Parliament. The annual charge falls within that commitment, and I hope that that provides the certainty that non-doms seek. The Government have committed to considering changing the detail of the new business investment incentives and additional technical simplifications. They will consider legislation on those points only if they are convinced that it will better deliver the policy objectives outlined in the Budget 2011 and during the consultation.

The hon. Lady asked about the operational impact on HMRC. Any individual who pays the £50,000 charge will already be paying the £30,000 charge, so the measure is not expected to add significantly to increased operational costs for HMRC. The simplifications to the existing remittance basis rules will result in an overall reduction in compliance burdens and decreased operational costs for HMRC associated with remittance basis taxpayers.

Finally, the hon. Lady asked why the statutory residence test had been deferred to next year. The Government are committed to introducing a statutory residence test in next year's Finance Bill, and I am grateful for the opportunity to clarify that. It is right to defer the measure until 2013 to ensure that we get the detail of such a complex and important area right. That decision has been broadly welcomed by external commentators and interested parties, because there is a recognition that the details need to be correct.

The hon. Lady asked, perfectly reasonably, why the introduction of the residence test had been deferred; there was a certain sense of "Why is this taking so long?" I must point out that for 13 years, when many people were calling for a statutory residence test, very little progress was made under the previous Government. My sense is that the progress we have made over the past two years, and will continue to make through to next year when we will bring this into legislation, has been warmly welcomed by interested parties and will provide a useful clarification of our tax system. With those comments, I hope that the clause can stand part of the Bill.

Question put and agreed to.

Clause 47 accordingly ordered to stand part of the Bill.

Schedule 12 agreed to.

Clause 48

Employer asset-backed contributions 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 118 to 129, 35 to 41 and 130 to 134.

That schedule 13 be the Thirteenth schedule to the Bill.

The Financial Secretary to the Treasury (Mr Mark Hoban): It is a pleasure to serve under your chairmanship, Mr Amess. Clause 48, which introduces schedule 13, makes changes to the tax rule that will apply to asset-backed pension contributions to preserve their flexibility while preventing excessive tax relief. I will give the Committee some background. Employer asset-backed pension contributions allow an employer to put in place arrangements to reduce the funding deficit of the registered pension schemes. They also provide employers with flexibility around making pension contributions against sometimes volatile deficit levels without affecting their cash flows. At the same time, the arrangements give pension schemes the security required to meet their obligations to members.

The Government recognise the commercial benefits of the arrangements and want to ensure that they can be used as a way of funding pension schemes. However, some of the arrangements can give rise to unintended excess tax relief, as a result of the ways in which they are structured.

In the Budget 2011, we announced a consultation on changing the tax rules that apply to asset-backed pension contributions. The arrangements involve an employer committing to make a series of payments to the pension scheme by transferring an income-producing asset to the scheme. The arrangement will provide security to the pension scheme, because the asset will be passed to the scheme if the employer cannot make the payments during the arrangement period. On completion of the arrangement, the asset will be returned to the employer.

Following the consultation, we announced changes on 29 November 2011, with effect from that date, to prevent forestalling risks. Further changes were announced in February of this year to preserve the original policy objective following comments received on the draft legislation. Further minor changes, effective from 23 March 2011, were announced at Budget 2012.

The changes made by the clause and schedule will ensure that up-front tax relief would be given to asset-backed pension contribution arrangements only where they meet certain conditions. The conditions will ensure that at the start of the arrangement, the pension contribution promised by the employer is guaranteed to be paid by the end of the arrangement. Where that is not the case, the provisions will ensure that up-front relief is not given. The changes will save the Exchequer nearly £2.5 billion between now and 2016-17 by preventing excessive tax relief arising to those employers who made use of particular types of asset-backed pension contributions. The majority of employers are not affected by the measure.

Schedule 13 also includes minor changes to the legislation on structured finance arrangements. This will make it easier for an asset-backed contribution arrangement to qualify for up-front relief, while reducing avoidance risks in the context of the structured finance arrangement legislation.

I will turn briefly to the amendments. It has come to HMRC's attention that some pre-existing arrangements, where the contribution was paid before 22 February 2012, may be affected in unintended ways by the transitional provisions in parts 2 and 4 of the schedule. The relieving amendments remove the unintended consequences to ensure that the relief given to the employer under such an arrangement accurately reflects, but does not exceed, payments made to the registered pension scheme. The amendments also clarify the fact that payments or determinations made in the first working day following the end of the 12-month period will not prevent any arrangement from gaining up-front relief where contributions are paid on or after 22 February 2012, provided that the arrangement meets all the other qualifying conditions.

The reforms will help to protect the Exchequer against significant tax risks while at the same time providing employers with the flexibility to continue to use asset-backed pension contributions.

Rachel Reeves: Clause 48 brings into effect, as the Minister said, schedule 10, limiting the amounts on which tax relief will be given to an employer in respect of contributions paid under an asset-backed pension contribution, or an ABC. The intention of the measure is to ensure that the tax relief accurately reflects, but does not exceed, the total amount of payments made to the registered pension scheme. The codification of this area is to be welcomed.

The asset-backed pension contribution is a structure in which a company transfers non-cash assets to a separate entity to provide an income stream to the pension scheme. At the end of an agreed period, the asset may pass to the company if the scheme is in surplus, or to the pension scheme if the scheme is in deficit. This can help to increase the security against the scheme and makes commercial sense at different times. There has been some uncertainty about this area in the tax regime, given the variety of deals that are done and the range of commercial purposes and benefits that they represent. It is right that the amount of tax relief given to employers using ABC arrangements reflects accurately the total amount of payments that the employer makes to the pension scheme, directly or through the ABC measure.

I understand that schedule 10 makes amendments to the structured finance arrangement rules to include ABC schemes within their scope. Has the Minister given consideration to what the effect would be of applying a tax code to ABCs, rather than amending existing arrangements? How many ABCs are set up each year? Have the new tax arrangements had an effect on that since the draft legislation was released? Does the Minister expect the clause to affect the number set up in future years?

John Mann: I have a brief question for the Minister, because last year the Government managed to mess things up totally on draw-down pensions. The change in

gilt values currently costs 300,000 pensioners 60% of their pension. The Government have not yet admitted that, nor have they addressed the technical details to do something about it. That is 300,000 pensioners, quite a few of whom do not know about it because the Government changed the frequency of the actuarial valuation to every three years. So pensioners discover the problem only in the three-year review. I do not know whether the Minister intends to introduce the technical changes needed to address that problem, but are there any theoretical nasties that might occur with this proposal as a result of changes in the economic environment?

Mr Hoban: I will first address the shadow Chief Secretary's question. The measure should not affect the number of schemes that are set up. Clause 48 and schedule 13 seek to protect revenue, and the only schemes that will be affected are those that seek to claim more tax relief than is warranted. I do not think any of us would want schemes to be designed to claim more tax relief than is due to a company, and I do not believe that the measure has that effect.

The arrangements are important, and we want pension schemes to remain open where possible. Employers may contribute, for example, by identifying an income stream from an asset or by transferring an asset to the scheme for a limited period, which helps the schemes stay open. It is in the interest of employers and employees that we do what we can to help while ensuring that the Exchequer does not lose out through excessive tax relief.

The hon. Member for Bassetlaw asked whether there were any nasties that might affect pensioners, and the answer is no. The rules are clearly defined and their terms are carefully restricted. We do not expect there to be any spill-over effect on pensioners. I will write to him separately on draw-down. He should recognise that there is flexibility for pensioners and improved flexibility for those aged over 75. The amount that pensions can draw down depends on not only gilt yields but how much has been drawn down in the past and, above all, on the investment performance of the funds in which the pensions are invested.

Question put and agreed to.

Clause 48 accordingly ordered to stand part of the Bill.

Schedule 13

EMPLOYER ASSET-BACKED PENSION CONTRIBUTIONS ETC

Amendments made: 118, page 322, line 39, in schedule 13, leave out from 'is' to end of line 43 and insert '"completed"—

(a) when the share in the partnership's profits of the person involved in the relevant change is no longer to be determined under the asset-backed arrangement (conditionally or unconditionally) by reference (wholly or partly) to payments in respect of the security, or

(b) if earlier, when no responsible authority is any longer entitled (conditionally or unconditionally) to any payments in connection with the asset-backed arrangement.

'(6) In sub-paragraph (5)(b) the reference to payments are to payments of any type including drawings or distributions from a partnership, payments in respect of the security and other payments in respect of an asset (as read in accordance with section 776(4)(b) of CTA 2010).

(7) "Responsible authority" means—

(a) the persons who from time to time are the trustees of the relevant scheme, or

(b) the persons who from time to time are the persons controlling the management of the relevant scheme,

in their capacity as such.

(8) A responsible authority is entitled to a payment "in connection with" the asset-backed arrangement if it is entitled to the payment directly or indirectly in consequence of the arrangement or otherwise in connection with the arrangement.'.

Amendment 119, page 323, line 7, in schedule 13, leave out '(2)' and insert '(3)'.

Amendment 120, page 323, line 11, in schedule 13, leave out sub-paragraph (2).

Amendment 121, page 323, line 17, in schedule 13, leave out from 'which' to 'the' in line 18 and insert 'a responsible authority is entitled in connection with'.

Amendment 122, page 323, line 38, in schedule 13, leave out sub-paragraphs (5) to (7).

Amendment 123, page 324, line 25, in schedule 13, leave out 'and (6) and (7)'.

Amendment 124, page 324, line 26, in schedule 13, leave out from 'including' to end of line 27 and insert 'drawings or distributions from a partnership, payments in respect of the security and other payments in respect of an asset (as read in accordance with section 776(4)(b) of CTA 2010).'.

Amendment 125, page 324, line 28, in schedule 13, leave out sub-paragraph (9).

Amendment 126, page 324, line 31, in schedule 13, leave out 'sub-paragraphs (4)(b) to (d) and (7)(b) to (d)' and insert 'sub-paragraph (4)(b) to (d)'.

Amendment 127, page 324, line 33, in schedule 13, after 'arrangement' insert 'or any other arrangement'.

Amendment 128, page 328, line 2, in schedule 13, leave out from second 'E,' to end of line 4 and insert 'makes—

(a) to the lender, or a person connected with the lender, in order to reverse the relevant change in relation to the partnership, or

(b) otherwise to a responsible authority in order to buy out the authority's interest in any partnership involved in the asset-backed arrangement.'.

Amendment 129, page 328, line 25, in schedule 13, leave out from 'not' to end of line 30 and insert 'include a responsible authority.'.

Amendment 35, page 330, line 33, in schedule 13, leave out from 'year' to end of line 35 and insert '(but allowing for payments otherwise due to arise on a non-working day to arise on the next working day),'.

Amendment 36, page 330, line 49, in schedule 13, at end insert—

"(4A) For the purposes of subsection (4)(b) the first payment is to arise no later than one year after the day on which the advance is paid.'.

Amendment 37, page 333, line 22, in schedule 13, leave out from 'year' to end of line 24 and insert '(but allowing for determinations otherwise due to be made on a non-working day to be made on the next working day),'.

Amendment 38, page 333, line 40, in schedule 13, at end insert—

"(4A) For the purposes of subsection (4)(c) the first determination is to be made no later than one year after the day on which the advance is paid.'.

Amendment 39, page 336, line 11, in schedule 13, leave out from 'year' to end of line 13 and insert '(but allowing for determinations otherwise due to be made on a non-working day to be made on the next working day),'.

Amendment 40, page 336, line 29, in schedule 13, at end insert—

"(4A) For the purposes of subsection (4)(c) the first determination is to be made no later than one year after the day on which the advance is paid.'.

Amendment 41, page 342, line 17, in schedule 13, at end insert—

'(3) For the purposes of sub-paragraph (1)(d), in sections 196C(4A), 196E(4A) and 196G(4A) the reference to one year is to be read as a reference to 18 months.'.

Amendment 130, page 343, line 12, in schedule 13, leave out 'under' and insert 'in connection with'.

Amendment 131, page 343, line 45, in schedule 13, leave out 'under' and insert 'in connection with'.

Amendment 132, page 344, line 21, in schedule 13, leave out from 'including' to end of line 22 and insert 'drawings or distributions from a partnership, payments in respect of the security and other payments in respect of an asset (as read in accordance with section 776(4)(b) of CTA 2010).'.

Amendment 133, page 344, line 25, in schedule 13, at end insert—

'(9A) For the purposes of sub-paragraphs (3)(a) and (6)(b) a person is entitled to a payment "in connection with" the asset-backed arrangement if the person is entitled to the payment directly or indirectly in consequence of the arrangement or otherwise in connection with the arrangement.'.

Amendment 134, page 344, line 28, in schedule 13, after 'arrangement' insert 'or any other arrangement'.—*(Mr Hoban.)*

Schedule 13, as amended, agreed to.

Clause 49

GIFTS TO THE NATION

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

The Chair: With this it will be convenient to consider that schedule 14 be the Fourteenth schedule to the Bill.

3.15 pm

Catherine McKinnell *rose—*

The Chair: I sometimes think the Government might want to set out their position.

The Economic Secretary to the Treasury (Miss Chloe Smith): I apologise for not having read your mind, Mr Amess, or indeed the procedure more skilfully. I shall be delighted to set out what clause 49 and schedule 14 do, although I do not know whether you will allow me time to come back if there are questions at the end of the debate.

Clause 49 and schedule 14 set out how a tax reduction will be applied to an individual's or a company's tax liability when a pre-eminent object has been successfully donated for the benefit of the nation. This new scheme, the cultural gift scheme, is a step forward towards greater philanthropy and charitable giving by encouraging taxpayers to donate works of art or historical objects during their lifetime rather than following their deaths. This encourages lifetime giving of objects of national importance for the future enjoyment of everybody.

Let me briefly set out some background for hon. Members. At Budget 2011, the Government announced a series of substantial reforms to encourage philanthropy and charitable giving by donors at all life stages. One of these measures was to provide a tax incentive to encourage people to give pre-eminent objects to the nation which will be held, as I said, for the future enjoyment of everyone. The new cultural gift scheme therefore allows individual donors to set off a fixed percentage of the value of an object against some or all of their income tax or capital gains tax liability when they give the object to the nation under the scheme. Similarly, companies will be able to set up a fixed percentage of the value of an object against their corporation tax liability.

Let me explain how the scheme works. When an object is offered as a gift to the nation under the new scheme, a panel of experts assembled by the Department for Culture, Media and Sport will consider whether the object is pre-eminent and, if so, whether the offer should be accepted. The panel will also agree the value of the object with the donor. If the donor decides to proceed with their donation, based on the agreed valuation, they will be entitled to a tax reduction at a fixed rate of the value of the object. For individuals, the rate will be 30% of the value of the object and for companies it will be 20%.

John Mann: As this relates to taxation, do the experts assembled by the DCMS have to be taxpayers of the United Kingdom? Can they be people who live abroad and do not pay British taxes?

Miss Smith: Does the hon. Gentleman mean those who sit on the panel or the donor?

John Mann: On the panel.

Miss Smith: I do not anticipate there being a problem in that area, but I will be happy to confirm to him within the rules of the scheme what could give satisfaction in that sense. Obviously, we would expect anybody working under the auspices of a British Government Department to follow the highest principles of public service.

Consultation has been undertaken in relation to the scheme. That ran from 29 June to 21 September 2011. There were 54 responses from a number of groups, ranging from museums and galleries to legal and accountancy firms. Responses were also received from the devolved Administrations. Respondents welcomed

the new scheme and recognised the need to keep it simple and also that funding was difficult in the current economic climate.

There were a couple of concerns, naturally, focused on a few key issues. The first was ownership of the objects. Some respondents thought that potential donors could be put off and might not use the scheme if the nation retained ownership of the objects donated. It was also felt that it could prove difficult for the institutions receiving the objects to build up relationships with donors to encourage them to use the scheme or to make other types of charitable donations.

Ian Swales: Is it clear that the object itself has to pass physically from the owner? Are we sure that there will be no loopholes where people can say that they are giving objects to the nation but they may not physically pass from them until their death?

Miss Smith: My hon. Friend raises a sensible point. It is worth noting that the objects themselves could be of a variety of different types, so their physical movement will vary depending in some cases on the type of object in question. But he is right that we need to put in safeguards.

Cathy Jamieson (Kilmarnock and Loudoun) (Lab/Co-op): Perhaps the hon. Gentleman referred to past concerns that some donations have been made without necessarily being accessible to the public. Will the Minister reassure us that when the objects are passed over, they will be fully accessible to the public?

Miss Smith: Yes, the intention of the scheme is to make those available for the nation.

Ian Swales: The hon. Lady's point was a helpful addition. There is the well documented case of Andrew Lloyd Webber who had charitable relief on paintings that were then leased back to his own premises at very low cost. They may ultimately end up with the nation but they are currently used by him, even though he has received large tax relief. That is the kind of scheme we would like to see avoided.

Miss Smith: I recognise the concerns around that historical example. To reassure hon. Members, the title of ownership of the object will be initially transferred to the relevant Minister, who will make arrangements for it to be transferred to the receiving institution. I hope that makes it clear that the buck stops with the institution. It is fully expected that the objects will be available to the nation—as it says on the tin, as it were.

Let me continue to cover a few matters raised in the consultation. Points were raised about the introduction of a shared annual funding limit with the inheritance tax acceptance in lieu scheme, which I am sure hon. Members know inside out. Concerns were raised that funding would be stretched and, as a result, important items could be lost to the nation. The consultation had for illustrative purposes set proposed tax reduction at 25%. Most thought that rate too low. However, it was also pointed out that not all owners of pre-eminent objects may have had a high enough income to use the tax reduction in one year. Hon. Members will appreciate the difference between income and assets. Many suggested there should be an option of rolling unused amounts of tax reduction forwards or backwards. Finally, as has been raised in questions, most respondents felt that the donors should be able to place a binding condition on where the item should be held and displayed.

As a result of that consultation, a number of changes were announced in last year's autumn statement. We have increased the combined annual funding for the new scheme and the acceptance in lieu scheme from £20 million to £30 million. We have decided that, although the objects will still be gifted to the nation, in most cases ownership will be transferred permanently to the receiving institution, subject to a number of conditions. Donors may state a preference as to where the item should be allocated, although that will not be binding.

We have decided that both individual and corporate donors will be able to participate in the scheme, and that the tax reduction will be set at 30% of the value of the objects for individuals and at 20% for companies. Those rates ensure that the donor's gift is a real one, and not simply a payment of tax in kind. However, we have decided for the time being against allowing other types of donor—for example, personal representatives and trustees—to participate in the scheme.

Respondents to the consultation were also keen that the scheme should be open to as many types of donor as possible. However, many recognised that that would mean the legislation would be longer, more complicated and potentially very little used. Imagine, Mr Amess, although it is a pleasure to serve under your chairmanship, if I had to take even longer to make an opening statement. As funding is limited and we are uncertain of the demand on the scheme, particularly from those groups, this is an area we can look at again after the scheme has been up and running for a while.

We have also decided that individuals donating under the scheme will be able to spread the tax reduction across up to five years from the year when the offer is registered. In addition, we have made a number of other smaller changes to the scheme to ensure that potential donors are not caught out by unexpected tax charges—for example, an inheritance tax charge on a conditionally exempt object.

In conclusion, we want to stimulate lifetime giving by encouraging taxpayers to donate to the nation. The scheme does just that; it benefits the nation as a whole, because it ensures that pre-eminent objects are saved and made available and, crucially, preserves the UK's heritage for everyone to enjoy. I will be happy to respond to questions shortly.

Catherine McKinnell: Thank you, Mr Amess, for giving the Economic Secretary the opportunity to set out this case. It is absolutely right that the Government set out the case for the legislation and that members of the Opposition are then given the opportunity to put our questions on it. I thank the Economic Secretary for her thorough explanation of the clause. It is right that we encourage the donation of pre-eminent objects to the country and it is right that, in addition, conditions are placed on that, to ensure, among other things, that they are there for the general public to enjoy. There are benefits to the general public and also benefits to our economy through attracting visitors to the country.

[Catherine McKinnell]

I want, however, to refer to one element contained in paragraph 33 of schedule 14, which introduces the new relief when pre-eminent objects and works of art are gifted to the nation. In the summary of responses to the consultation, it is considered to be a fundamental change to the measure that was initially announced. The change is considered to undermine somewhat the attractiveness of the scheme.

I will again refer to the comments made by the ICAEW—an esteemed commentator on these issues—which expressed its concern that the change announced initially was very different from the change that was eventually put forward in the Bill. The ICAEW said that it was wrong in principle to make changes to previously announced measures, under the cover of

"those measures where draft legislation has been published for consultation and no changes were made as a result or small, technical amendments have been made to the final legislation to be introduced in Finance Bill 2012."

Its view is that to introduce such a fundamental change under the auspices of a minor technical amendment undermines confidence in the integrity of Her Majesty's Revenue and Customs and Her Majesty's Treasury. That is a serious assertion and I would be grateful if the Economic Secretary addressed those concerns in her concluding remarks.

Miss Smith: Mr Amess, thank you for calling me to speak. I certainly will address the points that have just been made. The hon. Member for Newcastle upon Tyne North has cited concerns raised by the ICAEW and I would reject any allegation that these changes are fundamental or dangerous. They are minor and do not affect the fundamental principles behind the scheme, which is to promote philanthropy and encourage lifetime giving.

I make the point that—some may think it controversial—the consultation process has been invaluable in this case for getting the legislation right. At each stage we have endeavoured to respond to suggestions while retaining the core principle behind the scheme of a significant element of philanthropy. As hon. Members may know, the original consultation in June set out that objects with an estate duty charge would not be eligible under the scheme. On further analysis and in the light of the consultation responses, HMRC set out in the notes accompanying the draft Finance Bill that it would look to mirror loosely the inheritance tax conditional exemption charge, but that it was considering waiving the entire estate duty charge and that the donor would not receive a tax reduction.

Rachel Reeves: The Minister talks about the importance of consultation, but do you think that it is the lack of consultation on tax relief for charitable donations that meant that the Government got it so wrong on that in the Budget?

Miss Smith: I do not know what you think, Mr Amess, as the hon. Lady asked you, but I think that it is right to consult and to respond, as HMRC has done in this case, to the responses received during consultation. Respondents stated that the approach was a significant deterrent to donors, as they would feel frustrated at not receiving a reduction where other donors did. I suspect that the hon. Lady feels the same way.

Rachel Reeves: I wonder whether the Minister will answer my earlier question about whether she thinks it was the lack of consultation on tax relief for charitable donations that led to the Government getting that so wrong in the Budget, as well as the mistakes on caravans and pasties. The Minister is discussing the virtues of consultation and perhaps the Treasury could use consultation more often in future to avoid the U-turns and mistakes that have been made.

3.30 pm

Miss Smith: The Treasury, in the care of this Front-Bench team and that of the Chancellor and the Chief Secretary to the Treasury, is delighted to use consultation where it matters and to listen when it is told things. I do not know whether the hon. Lady thinks that pasties are pre-eminent objects, but I shall return to what is in front of us today in order to conclude the Finance Bill with enough time to spare.

I have answered the points on estate duty in broad-brush terms, but let me put some numbers to it and draw out the comparison with inheritance tax to which I have just referred. The first 40% of the estate duty charge will be waived, which is exactly like the inheritance conditional exemption charge that has a flat rate of 40%. Any remaining estate duty, if any, would need to be paid. The donor would, however, receive a 30% tax reduction, which could be used to offset against income tax and capital gains tax liabilities. I hope that that answers the hon. Lady's question and is sufficient to ensure the clause and schedule will be passed.

Question put and agreed to.

Clause 49 accordingly ordered to stand part of the Bill.

Schedule 14 agreed to.

Clause 50

GIFT AID: GIVING THROUGH SELF-ASSESSMENT RETURN

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

Cathy Jamieson: I hope to ask a few questions of the Minister so that we can make good progress, but the earlier point about being able to set out on the record broadly what the clauses do is important. I do not intend to spend too much time on that, but, in summary, clause 50 repeals the self-assessment donate scheme for self-assessment taxpayers to direct HMRC to pay any self-assessment tax refund to a charity of the taxpayer's choice. If appropriate, gift aid can also be claimed on the donation. The scheme will be withdrawn for repayments of tax due in tax returns for 2011-12 and subsequent years and for any repayments made in respect of earlier tax years on or after 6 April 2012.

The Government have stated that the measure supports their objectives to simplify the tax system and to direct resources to encourage charitable giving to more cost-effective methods. The arguments for that included that the scheme was little used— given the number of people who fill in self-assessment returns, I would question whether people were made aware of it. Back in March 2011, when the proposal was first announced, an article in relation to Budget 2011 in *The Guardian* stated:

"Hidden away in the text is the abolition of Self-Assessment Donate (SA Donate), a little known scheme allowing donors to give to charity through their self-assessment tax return."

The article continued with what is perhaps the general view:

"Not a huge loss to the sector, but something which will need to be looked at in terms of offering new ways for high rate taxpayers to give all of the tax paid on a donated amount to the charity."

I hope that the Government will want to discuss that.

Will the Minister give us an update on the progress of the online claims system for gift aid and when it is expected that that system will be put in place? One argument that was made in favour of doing away with the self-assessment donate scheme was that a new scheme would be put in place. If that scheme is not ready to go—I am happy to take an intervention if she wants to deal with that—will she explain why this particular self-assessment donate scheme was withdrawn without that firm provision being in place? What impact assessment was made? Her comments about the importance of consultation and working with the various sectors were welcome, so will she explain exactly what assessment was made of the impact on charities that may lose out on donations when the scheme is withdrawn? Does she recognise that although most of the charities that have benefited from the scheme were the so-called top earners—the 15 big charities at the top of the league, I think—some were not? For such smaller charities, the loss of income may have a negative effect.

One of the Government's other reasons for withdrawing the scheme was that it needed an extensive upgrade to safeguard it from fraud. What assessment have they made of how much was lost in fraud as a result of the scheme? How much do they think it would cost to safeguard against fraud? Will the Minister respond to those questions and give us that information? Again, we do not oppose the clause, but it is important to have the Government's thinking clearly set out on record before we move on.

Miss Smith: I shall be happy to try to tackle some of the questions. I shall take on the right and proper role of explaining what the clause does for a few minutes, if I may, before referring to the questions that have been posed.

The clause repeals the self-assessment donate scheme, SA donate, which has been little used, is expensive to administer and, as the hon. Lady has perhaps drawn out, is vulnerable to fraud. We have always said that the resources saved from administering the scheme will be used on a new online system for charities to file their gift aid claims, which, the hon. Lady will be pleased to hear, will be introduced in April 2013. Charities have been very keen for us to introduce such a system.

The SA donate scheme was introduced in 2005. It allows self-assessment taxpayers who are due a tax repayment from HMRC to redirect their payment to a charity of their choice. They may also claim gift aid on their donation if appropriate, and when they do so, HMRC pays the basic rate of tax on the donation to the charity. Budget 2011 announced the Government's intention to withdraw the scheme for tax repayments made after 6 April 2012. I know that the hon. Lady will have been delighted that draft legislation on the clause was published on 6 December 2011 for consultation, but she may like to know that no responses were received. The resources saved from the scheme's withdrawal will be redirected to support the introduction of the online claims system for gift aid, which charities have wanted for many years.

There are other reasons for withdrawing the scheme in addition to introducing the online claims system. The scheme has not been well used, is not cost-effective and has fraud implications. To put figures to usage, fewer than 3,000 taxpayers use SA donate each year; fewer than 2,500 charities have benefited from it in seven years; and the total amount donated through it is usually less than £400,000 per annum. By contrast, HMRC pays some £1 billion in gift aid to charities each year. As I have said, the SA donate scheme is vulnerable to fraud. Of course, one could argue that an alternative option would be to make the scheme more secure from fraud, but that would require extensive upgrading at a cost of at least £750,000, which, I am sure hon. Members would agree, may not be sensible.

I realise that some charities will be sorry about the withdrawal of SA donate, and that might be what was behind some of the hon. Lady's questions. However, in the spirit of listening, I am pleased to tell the Committee that charities have told HMRC that they would prefer money that would otherwise have to be spent on upgrading the system to be used instead on an online system for them to make repayment claims. Updating the online gift aid system will benefit all 90,000 or so charities that currently claim gift aid, which I think most hon. Members will agree is a significant improvement on the 2,500 that might have benefited previously from the scheme.

To answer another of the hon. Lady's questions, the impact assessment was published in the Budget papers, with which I am sure she is well familiar. On the question of the amount lost through fraud under the scheme, I do not have the figure at my fingertips, but I am happy to write to her to provide it.

The self-assessment donate scheme was, on the whole, poor value for money. It would have needed significant and disproportionate investment to make it more secure from fraud, and in these stringent times, the additional resources could not be justified. However, I assure the hon. Lady that combating fraud is a key priority of HMRC and the Treasury. By withdrawing SA donate and using the funds for an online filing system, the money will be better spent by benefiting more charities, which have asked for that change to be made. It will also work as part of the Government's commitment to reducing administrative burdens on charities, and I therefore move that the clause stand part of the Bill.

Question put and agreed to.

Clause 50 ordered to stand part of the Bill.

Clause 51

RELIEF FOR GIFT AID AND OTHER INCOME OF CHARITIES ETC

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

The Chair: With this it will be convenient to discuss the following:

That schedule 15 be the Fifteenth schedule to the Bill.

Catherine McKinnell: To avoid the risk of pre-empting what the Minister will say, I will not go into any detail as to what the clause and schedule will do. I will make my comments in advance of our receiving that explanation

[Catherine McKinnell]

from the Minister. However, part of the clause's purpose is to rectify an error in the Finance Act 2010 that occurred in a rewriting of the Corporation Tax Act 2010, which led to community amateur sports clubs not being treated in the same way as charitable companies for the purposes of gift aid legislation. The purpose of the clause and the schedule is to rectify that mistake. In this year of the Olympics, it is right and proper that community amateur sports clubs are given the same rights to tax relief and support as other charities.

Following on from comments made by my hon. Friend the Member for Leeds West, the issue raises general concerns about the Government's treatment of charities and their lack of consultation regarding some of the provisions that would have had a devastating impact on charitable donations. Given that the Government have proclaimed their great belief in the somewhat vague concept of the big society, there is grave concern about any obstacles put in the way of charitable giving and its tax treatment. Therefore, we welcome the changes in the clause to rectify those anomalies. We trust that the Government will consult properly in the future on any taxation changes that would impact charitable giving in this country.

Miss Smith: Without straying too much over the boundaries, I suspect that in order to respond to some of the hon. Lady's points, I shall have to refer to both clauses 51 and 52, if that is in line with your permission, Mr Amess. Would you prefer that I dealt with clause 51 on its own?

The Chair: Yes.

3.45 pm

Miss Smith: Indeed. Together, clause 51 and schedule 15 will make a number of technical changes to ensure that charities and community amateur sports clubs can make claims for a repayment of income tax, including gift aid, outside of tax return. Crucially, these changes will not affect the way in which charities and CASCs claim repayments but will put the current practice regarding claims outside a tax return on a statutory footing.

To give the Committee a little background, HMRC makes repayments of income tax, including gift aid and tax deducted from bank interest, to charities and CASCs. Claims are nearly always made outside a tax return, but in most cases HMRC repays the tax on a concessionary basis. The legislation that allows that to happen relies on a number of provisions across the tax Acts—documents, Mr Amess, which I am sure you know all too well and indeed read every weekend. A number of changes to the legislation have been made over the past few years, including the tax law rewrite of company tax and allowing charities claim repayments of tax outside a tax return, but they have either overlooked or failed to preserve the links between certain provisions in the tax Acts.

The effect of those changes is that, strictly speaking, CASCs may not claim gift aid repayments, and that charities should claim tax repayments, including gift aid, only in a tax return. That is clearly contrary to the intention that such organisations be able to make claims outside their tax return. HMRC has continued to make tax repayments to CASCs and charities outside tax returns since those problems came to light, but it does not have the power to operate those concessions indefinitely. The changes being made by clause 51 and schedule 15 will put on a statutory basis HMRC's current practice regarding the making of claims for repayment of income tax outside a tax return. The changes allow CASCs to claim gift aid repayments, and they allow charities and CASCs to claim repayments of gift aid and other income tax outside a tax return. It is important to note that charities and CASCs will not be affected by the changes that we are debating, because the law is being amended simply to reflect current practices in this area. It is a common-sense measure.

I will briefly respond to the points raised by the hon. Member for Newcastle upon Tyne North. A consultation process was, of course, undertaken for the measure. Draft clauses were published for consultation in December last year, as is often the case with parts of a Finance Bill, and no responses were received. Although the Government listen and learn at every available opportunity, in that case nothing was forthcoming. There has been no consultation on the rest of the provisions in the schedule, because the problems came to light only recently.

I am keen to make the changes now to put on a statutory basis HMRC's operational practice regarding the making of claims outside a tax return. As I have said, I do not think that charities and CASCs will notice a difference as a result of the measure, because they may well have been unaware of the problems with the legislation. I ask the Committee to join me in giving HMRC a statutory footing for the approach that it has adopted as a matter of common sense. Not do so would have an unfair and unexpected effect on CASCs and charities.

Question put and agreed to.

Clause 51 accordingly ordered to stand part of the Bill.

Schedule 15 agreed to.

Clause 52

Meaning of "community amateur sports club"

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

Cathy Jamieson: The Minister referred to some of the changes in the previous clause, which put existing practice on a statutory footing. In essence, my understanding is that in defining a "community amateur sports club", clause 52 also puts current practice on a statutory footing. The five qualifying conditions listed in proposed new section 658 of the Corporation Tax Act 2010 will be divided into two groups. A CASC will be required to include the first three conditions in its constitution and to meet them in practice, and to meet the other two conditions in practice. I understand that that is because it would be difficult to write some of the conditions into a constitution.

I have one question for the Minister and again, in order to be brief, I will not go through various points on the guidance—suffice it to say that fairly extensive guidance is attached, including various terms of reference, and guidance on what constitutes locations, management conditions, eligible sports, and so on. Will the Minister say whether the guidance needs to be revised in light of the changes that are being made, or will it continue to apply after those changes have been made?

John Mann: The clause's explanatory notes are scanty in detail, but there are important issues in defining community amateur sports clubs, in terms of potential or ongoing clashes with HMRC. As we are legislating for that now, I want to check the exact situation.

The first point relates to miners' welfare clubs under the auspices of the Coal Industry Social Welfare Organisation, which is defined as a charity in its own way, and therefore has to abide by the various rules of the Charity Commission. The essence of miners' welfare clubs is that they are predominantly sports clubs, but they are also social entertainment clubs with a bar. There is often a conflict in relation to HMRC in that context, but if that remains the case, it is absurd. In essence, for a period of time, such clubs were perhaps defined as drinking clubs, but in the past five years in particular, they have returned to their historical tradition of primarily being sports clubs, involving many people in the community.

The problem, and I suspect that it may affect other sports clubs too, is that membership is by nomination and election. In theory, one can be turned down for membership, or one can be expelled from membership of a miners' welfare club. To use an example, someone who commits unacceptable acts—let us call them acts of drunken rage and violence—could well be excluded from the club. If they are, it would be absurd for the club to be defined, in terms of sport, as not open to all the public. The issue of membership that is open, but controlled in this case by charity law, and the potential contradiction with the CASC model, is one that it is vital to correct.

My second point may overlap with the first, but it certainly has different variations, and relates to the fact that the club has a bar. Where a sports club determines that it will have a clubhouse—an aspiration of most sports clubs in my area—and manages to get a bar, some conflict about the definition of membership re-emerges. Membership for the bar will be for people aged 18 and over, but membership of the sports club will be open to everybody, certainly including all under-18s. Again, that seems to have caused some problems for HMRC.

I want confirmation from the Minister either that such issues have been sorted out, or, if they are still emerging, that it is the Government's intent that such bureaucratic obstacles should not prevent those clubs from becoming community amateur sports clubs. In areas such as mine, the incredible growth in sport over the past five or six years is due to the fact that the old miners' welfares have become modern miners' welfares, and they are, in traditional style, getting vast numbers of young people playing a full range of sports. Without question, the fastest growth of sport across the north of England is through those clubs. They should be able to benefit, if they wish, from the CASC model, but I fear that complications remain.

Miss Smith: I will try to keep these points fairly brief because we are dealing with a fairly limited point in the legislation. Let me begin by dealing with what I can of the points raised by the two Opposition Members. I shall answer them in broad terms and then move on.

First, HMRC and the Government are strongly committed to the CASC model. We think it has many benefits and of course in this Olympic year we all particularly recognise that. I am aware of issues with the Charity Commission ruling, and HMRC is going through and looking at the points that have emerged from that. It is holding discussions with stakeholders. Let me perhaps give the hon. Member for Bassetlaw one of the friendlier responses he has received in Committee and say that I would be delighted to hear from the organisations to which he refers with their views on what helps them best.

CASCs should do what they say on the tin. They need to be community. They need to be amateur. They need to be for sports. They also need to be a club. Let me deal with the point raised by the hon. Member for Kilmarnock and Loudoun about the rules for membership subscriptions. Again, these clubs are community clubs. When it comes to things like gift aid, there are restrictions on what it can be applied to. It cannot apply to something that then provides a benefit in return, and in some cases membership can be interpreted in that way, where it is most often paid for personal use of facilities. It is not necessarily appropriate to extend gift aid there. Again, on the general point that she and the hon. Member for Bassetlaw raised, various issues are being looked into around the broader points of CASCs.

Moving swiftly on, let me turn to the changes that clause 52 makes. It makes changes in two particular areas. The clause ensures that CASCs do not need to amend their constitutions to include extra conditions covering location and management in order to retain their access to the favourable tax regime that is provided under the CASC scheme. Let me now provide some background. This is what I began referring to when I told the hon. Member for Newcastle upon Tyne North that I would have to answer across clauses 51 and 52. These rules relate to a change in the Finance Act 2010 when the special tax rules for charities and CASCs were extended to qualifying organisations in Europe.

An amateur sports club is entitled to be registered as a CASC if it satisfies certain conditions. The 2010 legislation introduced two extra conditions. Firstly, the location condition requires a club to be based in the European Union, Iceland or Norway. Secondly, the management condition requires the club to be run by people who are fit and proper persons. The two new conditions were drafted in a way that requires CASCs to include those conditions in their constitutions. But this was never the intention. While we expect all registered CASCs to satisfy these conditions in practice, it does not need to be a requirement under their club constitution. There is a fairly common-sense case to be made here. If the new CASC scheme rules were operated strictly in accordance with the law, then all existing CASCs would need to amend their constitutions to include extra conditions to maintain their CASC status. Clearly that would be an unnecessary and very significant administrative burden for more than 6,000 clubs.

Since the problem came to light late last year, HMRC has continued to register CASCs on a concessionary basis. This change will put HMRC's operational practice on to a statutory basis. It will ensure that all registered CASCs continue to qualify under the scheme, without needing to amend their constitutions. As I said on clause 51, CASCs themselves will not notice a great deal

[Miss Chloe Smith]

of difference as a result of this clause as they may well have been unaware of the requirement to include the new conditions in their constitutions. I am keen to make these changes now to put HMRC's operational practice on to a statutory basis.

It is important to reiterate the Government's support for the CASC scheme in this Olympic and Paralympic year. The CASC scheme allows generous tax reliefs to more than 6,000 qualifying sports clubs. The clause ensures that those clubs can continue to benefit from the CASC rules without incurring an unnecessary administrative burden. It makes changes in line with what was introduced in the Finance Act 2010.

Question put and agreed to.

Clause 52 accordingly ordered to stand part of the Bill.

Clauses 53 and 54 ordered to stand part of the Bill.

Ordered, That further consideration be now adjourned. —*(Greg Hands.)*

4.1 pm

Adjourned till Tuesday 19 June at half-past Ten o'clock.