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)

Eighteenth Sitting

Tuesday 26 June 2012

(Afternoon)

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Schedule 34 agreed to.
Clauses 213, 214 and 216 agreed to, one with amendments.
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New clauses considered.
Bill, as amended, to be reported.

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Saturday 30 June 2012

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

The Committee consisted of the following Members:

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

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† 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

Tuesday 26 June 2012

(Afternoon)

[Mr Peter Bone *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 212

Higher rate for certain transactions

4.30 pm

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

The Chair: With this it will be convenient to discuss that schedule 34 be the Thirty-fourth schedule to the Bill.

I call Cathy Jamieson—no, sorry, Catherine McKinnell.

Catherine McKinnell (Newcastle upon Tyne North) (Lab): I appreciate that it might be preferable if one of my colleagues contributed to this part of the debate, Mr Bone, but I am sure you are pleased to hear that it is me again. *[Interruption.]* I thank Government Members for the warm welcome. It is a pleasure to serve under your chairmanship this afternoon, Mr Bone.

Clause 212 and schedule 34 introduce a new 15% stamp duty land tax that applies to the acquisition of UK residential property by certain "non-natural persons" where the consideration exceeds £2 million. The policy objective, as stated in the explanatory notes, is

"to dis-incentivise the ownership of high value residential property in structures that would permit the indirect ownership…of the property to be transferred in a way that would not be chargeable to SDLT."

The 15% SDLT charge will apply to acquisitions by companies, collective investment schemes such as unit trusts, and partnerships that have a company as a partner. The charge will apply to both UK and non-UK entities.

I will not go into much detail on the technicalities of the clause, as I am sure that the Minister will respond to any queries relating to them. However, I want to raise a few concerns. Although stamp duty is paid by the purchaser, the seller implementing the schemes has still tended to gain, as properties free from stamp duty tend to command higher prices. The Chancellor said that he wanted the measure to be seen as a sign that he is

"throwing the book at avoidance",

but there are myriad problems with the plan.

The measure is aimed at owner-occupiers who acquire residential property that is wrapped up in a company, and who avoid or minimise SDLT on transfer. However, the measure catches far more than that. Some say that it is a sledgehammer to crack a nut, in that it catches every transaction whereby a company acquires a residential property via a company subject to narrow exemptions. It catches not only owner-occupiers but investors, including institutional investors, and commercial landlords. Will the Minister say what he intends to do to make sure that residential development will not be hit? Has he considered the alternative of introducing a transfer tax on the sale of a company that would generate the same SDLT as if there had been an asset sale? For example, we might apply a tax that would be the same as SDLT of 4% or 5% on an asset sale. I understand that Her Majesty's Revenue and Customs think that is difficult to administer, but the Germans, French and Dutch have something similar.

The definition of "non-natural persons" is wide and, broadly, catches everything apart from individuals and very simple partnerships. The exemptions are narrow. Will the Minister explain the intention behind that? We support the principle of the measure—indeed, we called for it to be introduced before the Budget—but we called for it as a way of raising money to protect families from cuts to tax credits, not to give a tax break to the super-rich.

Of course rich individuals should not be able to avoid tax by buying properties through complex structures, but neither should they be rewarded for avoiding the 50p tax rate, which has been abolished. This is one of the measures that is said to compensate for that. The measure is one tiny element of a much wider approach that we need to take to get a fair amount of tax from the richest 1% in the country. Bigger stamp duty on expensive homes and a crackdown on stamp duty avoidance is not unacceptable. What is unacceptable is the pretence that these measures will plug the huge gap in wealth taxation that abolition of the 50p tax has left. Will the Minister respond to those points to allay the concerns of Committee members?

Sheila Gilmore (Edinburgh East) (Lab): It is a pleasure to serve under your chairmanship, Mr Bone, for what is perhaps the Committee's last sitting. [Hon. Members: "Hear, hear."] Several of my colleagues seem to be much relieved at that idea, although I am sure that most of us would prefer to spend our time discussing the intricacies of Finance Bills on a permanent basis—and of course we may have to do so, as this one seems to have been unravelling at such a pace.

Again, this is a matter on which there is a risk of a knee-jerk response. How much revenue would this measure generate? On one level, if it is to close a loophole whereby people have purchased very expensive properties through the mechanism of a company to avoid the previous level of tax at 5%, it seems unlikely that people will even want to use such a mechanism at the proposed 15% level, so it will not raise any revenue. That may be legitimate in itself—we may want to stop certain practices rather than to raise revenue—but it would be interesting to hear the Minister's view on whether the measure is designed to bring in revenue or simply to stop such transactions. Is he confident that it will close the door on these transactions, or will people still be able to do it in a different way?

People often say that our tax code is too long—the longest in the world, or the universe, probably—but one of the reasons why we have such lengthy Finance Bills is

to stop people doing things that they have worked out can be done to avoid tax, so do we anticipate further legislation, or will this be conclusive?

The Exchequer Secretary to the Treasury (Mr David Gauke): It is a great pleasure to welcome you back to the Chair this afternoon, Mr Bone, for the last time in the course of our proceedings this year—unless we have a pleasant surprise, for whatever reason.

The clause introduces a new rate of stamp duty land tax for residential properties worth over £2 million purchased by certain non-natural persons. The new rate is part of a package of measures announced at the Budget to tackle stamp duty land tax avoidance. The purchase of high-value properties into, for example, a corporate envelope allows for the future avoidance of SDLT by a subsequent purchaser of the property wrapped in the envelope. The enveloping of property is common among the purchasers of high-value property.

The clause introduces a 15% SDLT rate for residential transactions over £2 million by certain non-natural persons, with an effective date on or after 21 March 2012. The new 15% rate is part of a package of measures both to ensure that individuals and companies pay a fair share of tax on high-value residential property and to tackle avoidance.

The 15% rate will apply to purchases by non-natural persons, including acquisitions by a company; acquisitions made by or on behalf of a partnership where one or more of the members is a company; and acquisitions made for the purposes of collective investment schemes. Companies acting in their capacity as trustees of settlements, and property developers with a record of development of two years or more, will be excluded.

I draw the Committee's attention to an error in the tax information and impact notes, which were published at the Budget, regarding the transitional arrangements for the 15% rate. I wish to clarify that the rate does not apply to a transaction for which a contract was entered into on or before 20 March 2012, and is subsequently unchanged for a transaction that is to complete on or after 21 March 2012. In such cases, the transitional rules will apply, and the rate chargeable will be 5% rather than 15%. Where a contract has been entered into on 21 March 2012 for a transaction that is to complete on or after that date, the transitional rules will not apply, and the rate chargeable will be 15%.

I shall now address some of the questions asked in our short debate. First: does the 15% rate unfairly hit, for example, property investment companies that do not avoid paying their taxes? The package outlined by the Chancellor was designed both to ensure that individuals and companies pay a fair share of tax on residential property transactions, and to tackle avoidance. We understand the concerns raised by bona fide property investment companies, and the Treasury is in conversations with a number of affected interested parties. The current consultation on the annual charge seeks comments specifically on the coverage, and once that has been completed we will carefully consider all representations before making a final decision on coverage for the annual charge. The conclusions reached in relation to that coverage may also inform any changes to the 15% SDLT rate, but before making any changes to current legislation, we will have to take into account the need to ensure that the core aim of the policy, which is to tackle avoidance, is not compromised.

On a related point, the hon. Member for Newcastle upon Tyne North asked whether the definition of a non-natural person was too broad. It is broad because we want to prevent avoidance; too narrow a definition could leave loopholes. A long-standing problem with SDLT has been that, in too many cases, those who have arranged their affairs in such a way that a property is held through a company or other non-natural person have essentially been able to sell the property without the purchaser incurring SDLT, which adds to the value of the property. The hon. Lady was right that that can be the economic effect of being able to sidestep the SDLT rules. That is not fair, and we have consequently taken action to address the concern because we think it is right that we do precisely that.

Charlie Elphicke (Dover) (Con): With the higher SDLT rate in the Budget, is it not important that strong anti-avoidance measures are in place to ensure that people do not sidestep the higher charges?

4.45 pm

Mr Gauke: My hon. Friend is absolutely right. Given his considerable expertise in the area, he will know, as will many members of the Committee, that there was a growing concern that wealthy individuals were able to sidestep the requirements of SDLT, whereas our constituents living in properties of much lower value would face SDLT when making a purchase or a sale. In some of the wealthiest properties, SDLT was not applying. That clearly is not fair and the Government were determined to take action to redress it. Perhaps the matter should have been addressed years ago, but I am pleased that we have been able to take steps to deal with it. The clause is part of that general desire to address the matter, and I hope that the clause will stand part of the Bill.

Question put and agreed to.

Clause 212 accordingly ordered to stand part of the Bill.

Schedule 34 agreed to.

Clause 213

DISCLOSURE OF STAMP DUTY LAND TAX AVOIDANCE SCHEME

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

Catherine McKinnell: Clause 213 seems to be a fairly straightforward anti-avoidance measure that extends the disclosure of tax avoidance schemes. Tax specialists are required to notify HMRC of any schemes that they believe exploit loopholes to reduce tax to areas of stamp duty where they did not previously apply. It links with the previous clauses and it gives the Treasury the power to make regulations to modify the way in which the DOTAS rules apply to SDLT avoidance schemes.

The measures are welcome. The DOTAS was introduced in 2004 under the Labour Government. Eight years on, it is still a fairly innovative approach to countering tax avoidance. It was limited to high-risk areas of income

[Catherine McKinnell]

tax, corporation tax and capital gains tax. A similar scheme was introduced for VAT at the same time. Over the years it has been extended to cover more areas of tax, and that is a welcome development, which we very much support. Does the Minister find the DOTAS regime to be an extremely valuable weapon in the fight against tax avoidance?

Mr Gauke: As we have heard, clause 213 provides for a power to modify by way of a statutory instrument the application of one section of the SDLT DOTAS regime. This new power will be used to aid HMRC to identify all users of SDLT avoidance schemes. The measure was announced on 6 December and the draft clause was published alongside the technical consultation.

The SDLT DOTAS regime was significantly amended with effect from April 2010. The changes included extending the regime to residential property and introducing a new requirement for the users of avoidance schemes to make disclosures rather than just the promoters. The user disclosure regime applies only to avoidance arrangements that were disclosed by promoters after 1 April 2010. Avoidance arrangements that were disclosed by promoters before April 2010 did not have to be disclosed again and so have never been brought within the regime for users to have to make disclosures.

Clause 213 provides for a power to modify the application of one section of the SDLT DOTAS legislation. This will mean that the promoters of certain SDLT avoidance arrangements first disclosed before April 2010 will have to make one further disclosure. This will bring such arrangements within the regime for disclosure by users, so HMRC will be able to identify the users of the avoidance schemes.

The avoidance arrangements affected will be those that utilise the rules for a transfer of rights, also known as a subsale, in conjunction with certain other specified features. We anticipate that the operational impact of the changes on HMRC will be negligible. It will affect only entities or individuals attempting to avoid paying the appropriate amount of SDLT.

To answer the question raised by the hon. Member for Newcastle upon Tyne North, the DOTAS regime is an asset to our tax regime. It is helpful. It enables HMRC to respond to schemes. Our view is that it is working well, but of course we cannot be complacent.

We have strengthened the DOTAS regime in this Parliament, and that is the right thing to do. The clause strengthens the way the SDLT DOTAS regime works, aiding HMRC in identifying users of SDLT avoidance schemes, supporting the Government's objectives of creating a fairer tax system and tackling SDLT avoidance, so I commend the clause to the Committee.

Question put and agreed to.

Clause 213 accordingly ordered to stand part of the Bill.

Clause 214

HEALTH SERVICE BODIES

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

Catherine McKinnell: The clause will not detain us too long. We are hop, skip and jumping over anti-avoidance measures that we all support. The clause is a simple re-enactment of the existing provisions to exempt parts of the NHS from paying stamp duty on certain fixtures and repeals obsolete provisions in that area. It is a measure that is likely to have nil Exchequer impact and is a housekeeping exercise that we have no objection to.

John Pugh (Southport) (LD): I will detain the Committee just a little bit longer. The clause exempts NHS bodies from stamp duty when they purchase land and buildings, which is a good thing, and to some extent updates the legislation to take into account the reconfiguration of the health service that is being debated elsewhere, as the hon. Member for Easington will undoubtedly recall. However, the biggest property holder in the NHS is not mentioned in the legislation at all: NHS Property Services Ltd, which is registered with Companies House and is a residuary body for PCT buildings when they are passed on, some of which are freehold, some PFI and some held under a complex arrangement known as LIFT—local improvement finance trust.

Some such properties will be leased back and rented back to NHS bodies, and some will be surplus to requirements and disposed of, because some are quite unattractive financial arrangements—particularly those held under PFI conditions or the LIFT arrangements. It is not a small portfolio: it represents anything between £4 billion and £6 billion of public assets. I do not foresee a major problem with the body buying property and therefore incurring stamp duty, as by and large it will be trying to dispose of property, although some will be incapable of being disposed of in any rational way.

Having looked at the terms that apply to that body, it does not seem to me obvious that it would be prevented from purchasing property if that was a move within a wider property management game, so I would welcome clarification from the Minister as to whether NHS Property Services, with its huge property portfolio of NHS assets, can sell anything within its portfolio. Can the Minister confirm that, if it does, it will incur stamp duty because it is a limited company and is not exempted? I would welcome some clarification on this perhaps forgotten aspect of the legislation.

Mr Gauke: The clause is a technical measure, as we have heard, which updates an existing stamp duty land tax relief for property acquisitions by certain bodies involved in the provision of NHS services. It repeals the existing relief and an obsolete equivalent relief under the old stamp duty regime.

Since SDLT was introduced in 2003, it has included a relief for property acquisitions by NHS trusts, primary care trusts and equivalent bodies in the devolved Administrations. The relief was enacted in health service legislation and not within the Finance Act 2003, and has undergone successive amendments, first to include NHS foundation trusts, and later to take account of changes to the NHS legislation underlying the various bodies. Unfortunately, the accumulation of amendments has caused defects in the legislation, which we have been advised to rectify as soon as possible.

Within the clause, we are taking the opportunity to consolidate SDLT legislation by placing the relief with the main body of SDLT legislation in the Finance Act 2003. The relief will in future apply to NHS foundation

trusts, local health boards and NHS trusts in Wales, and to health and social services trusts in Northern Ireland. It will also apply to NHS trusts and primary care trusts in England until those bodies are abolished under provisions of the new Health and Social Care Act 2012, and then to the new NHS Commissioning Board and clinical commissioning groups.

Committee members will have noted that no Scottish bodies appear on the list. Health provision in Scotland is now undertaken by health boards and special health boards, which acquire title to land in the name of the Scottish Ministers. The transactions are therefore exempt from SDLT under the Crown application provisions.

The relief continues to apply only to public sector bodies engaged in the commissioning and provision of NHS services. We do not expect the clause to have any significant Exchequer or other impact. The clause will have effect for transactions where the effective date for SDLT purposes is on or after the date of Royal Assent to the Finance Bill. The effective date is normally the date on which a sale contract is completed.

On the point raised by my hon. Friend the Member for Southport, NHS Property Services is not included within the relief because it was not included in the previous relief. The measure is designed to re-enact an existing relief, not to broaden its scope. Consequently, bodies that fell outside the previous relief are not brought in. As I said, it does not have an Exchequer impact.

John Pugh: It is fairly evident that it would not be included in the previous set of organisations with freedom from taxation, simply because the organisation did not exist as such. It is relatively recent. However, such is the size of its property portfolio—we are talking about billions of pounds—that it is not inconceivable that at some future date, it will be both a buyer and a seller of property. Is it fair for me to infer that it is perfectly possible for that organisation, which will inherit the NHS assets, to incur stamp duty?

Mr Gauke: I take on board my hon. Friend's point about NHS Property Services. Obviously, we will keep the matter under review. The broad principle behind the clause is that it applies to those bodies that previously fell within the provisions, or whose predecessor organisations did. I appreciate his point that NHS Property Services does not quite fall within that category, but I hope that he will take this as some reassurance. We keep such matters under review.

The clause's intention is essentially to re-enact the SDLT relief for NHS bodies in a simplified and more robust form and provide for forthcoming changes in the pattern of NHS service provision. I commend the clause to the Committee.

Question put and agreed to.

Clause 214 accordingly ordered to stand part of the Bill.

Clause 216

Agreement between UK and Switzerland

Mr Gauke: I beg to move amendment 201, in clause 216, page 124, line 8, after '2012', insert

'and by a mutual agreement signed by them on 18 April 2012 implementing article XVIII of that protocol'.

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

Clause stand part.

Government amendment 202.

That schedule 35 be the Thirty-fifth schedule to the Bill.

Mr Gauke: Clause 216 gives effect to the tax agreement between the UK and Switzerland signed on 6 October 2011 and to the protocol to that agreement signed on 20 March 2012. Swiss banking secrecy has been a thorn in the side of tax administrations for generations. Billions of pounds have been deposited in Switzerland, and until now that money has remained stubbornly beyond the reach of even our finest tax investigators. The tax agreement puts an end to that exploitation for good, and in doing so it will raise billions of pounds for the Exchequer. It will resolve existing tax liabilities and put in place arrangements to ensure the effective future taxation of Swiss investments.

5 pm

Some have objected to the agreement on the grounds that we should have pushed for full and open access to Swiss bank records, but we fear that there was, and is, no chance of that happening in the near future. Banking secrecy is enforced by law in Switzerland. Although this Government are a strong supporter of the automatic exchange of information, we also recognise that it will take some time to achieve it. Doing nothing to address the problem of tax evasion in the meantime is not a credible option. We recognise that, as do Germany and Austria—which is why they have struck similar agreements with Switzerland—and several other European countries. I would not be surprised if other such agreements are made in the future.

The agreement addresses tax evasion through Swiss bank accounts via three tough measures. First, a one-off levy on existing accounts held by UK residents will settle past tax liabilities. Liability to income tax, capital gains tax, inheritance tax and, if applicable, VAT in respect of the account will be cleared, as long as a payment worth between 18% and 34% of the assets is made. That, in the experience of Her Majesty's Revenue and Customs, is comparable with the amounts recovered in offshore investigations. If the account holder wishes to avoid the payment, they may authorise disclosure of the account to HMRC, or they must close their Swiss accounts and move their money elsewhere.

The second measure is a new withholding tax, which will ensure the effective future taxation of investment returns. All income and gains arising on investment held through Swiss banks will be subject to a tax set by reference to the UK top rates. In certain circumstances, inheritances will be subject to a tax worth 40% of the assets in the account. Again, these significant taxes can only be avoided if the account holder authorises disclosure to HMRC.

The third measure introduces a powerful new provision that allows HMRC to discover Swiss bank accounts. The power, which operates alongside and in addition to our existing powers to request information, allows HMRC to discover whether any named individual has a Swiss account, without having to provide any evidence suggesting that any such account is open. This provision and that

on inheritances will, over time, act as strong drivers towards tax transparency, because they significantly raise the consequences for those who continue to hide money in Switzerland.

What of those who try to dodge the agreement by moving their illicit funds to another secretive jurisdiction? They will gain no tax clearance and will still be liable for all unpaid taxes, but that is not all. They will also be liable for significant penalties, worth up to 200% of the tax evaded, and they could face criminal investigation and prosecution.

We are not powerless to find out about offshore investments. The information-sharing provisions in the UK-Switzerland double taxation agreement meet international standards and can be used in connection with any account that existed after 1 January 2011. The Swiss will give HMRC a list of the 10 most popular destinations for funds withdrawn from Switzerland before the agreement comes into force. That will help HMRC target its investigations into funds that are moved elsewhere.

The changes made by clause 216 will give effect to the UK-Swiss agreement by disapplying section 23 of the Constitutional Reform and Governance Act 2010, which requires international agreements to be approved by a Committee of the House.

The agreement marks an historic moment in the fight against offshore tax evasion. It will contribute significant amounts to the UK Exchequer, now and in the future. The Government consider that the agreement is best debated in the full light of the Finance Bill process, rather than by a merits committee.

The clause also introduces schedule 35, which gives effect to the changes to UK tax law required to implement the agreement. The schedule is critical for the collection of UK tax on investments held in Switzerland. It is divided into five parts. Part 1 deals with definitions, and part 5 with miscellaneous provisions. Part 2 implements part 2 of the UK-Swiss agreement, on the clearance of past tax liabilities. Significant assets that have not been correctly taxed here are held by UK taxpayers through Swiss banks. Part of the agreement offers a simple choice to UK residents with Swiss assets: "Speak up or pay up." Part 2 of the schedule makes the necessary changes to UK law to allow for tax clearance to be given, and to deny it where one of the exclusions applies. Furthermore, paragraph 10 of the schedule ensures that no person will be able to claim a refund of past, correctly paid taxes on the basis that clearance has been given.

It is not sufficient simply to regularise existing assets in Switzerland. The aim of the UK-Swiss agreement is to put an end to evasion through Swiss accounts for good. Part 3 of schedule 35 implements part 3 of the agreement: the new withholding tax on income and gains arising in Switzerland. All investment returns will be subject to a tax at close to the top UK rates, unless the account holder agrees that details of that income and gains can be passed to HMRC. In return, income tax and capital gains tax clearance is given. The tax rate is slightly below the top UK rates—for example, the rate on interest income is 48%, which will of course become 43% for the 2013-14 tax year. That is to account for the fact that the tax is collected at source and paid to HMRC sooner than it would be under self-assessment. The schedule gives effect to that clearance in UK law. It also sets out a mechanism for electing to disapply clearances and to treat the amounts paid in Switzerland as creditable amounts. In such a case, the income and gains will be brought into account for the year in the normal way.

Mr Robert Syms (Poole) (Con): Does the treaty purely include UK citizens who were resident in the UK, or does it include UK citizens who may be resident anywhere?

Mr Gauke: The provisions relate to UK residents. That is the test applied, whether British citizens or not.

On part 4, the protocol also introduced a new provision to ensure that any inheritance of property held in Swiss portfolios is subject to UK tax. From January 2013, when a UK resident account holder passes away the Swiss paying agent will freeze 40% of the value of assets in the account at date of death. A sum equal to that value will be paid to the UK one year later, unless the personal representatives of the deceased authorise disclosure of the account to HMRC. Again, the payment will confer UK inheritance tax clearance on the assets.

Amendments 201 and 202 ensure the effective implementation of the tax agreement with Switzerland. The one-off payment to settle past tax liabilities is determined by a formula specified in the agreement. The amount payable was, under the terms of the original agreement, to range between 19% and 34% of the value of the account. Germany, which concluded a similar deal with Switzerland, agreed the same rates for the one-off payment. In March of this year, the UK and Switzerland signed a protocol amending the agreement, which introduced a powerful new provision to safeguard inheritance tax and clarified the relationship between our agreement and the EU-Swiss agreement on the taxation of savings. When we signed the amending protocol, we knew that Germany was still negotiating its own changes, so we obtained legal assurances from the Swiss that, should Germany secure any increases to the rate of the one-off payment, the UK may demand equivalent changes. In concluding a further mutual agreement with Switzerland, in April, we did just that.

The minimum rate of the one-off payment has risen to 21% of the account balance, and there is a new provision to increase the top rate for accounts holding more than £1 million, up to a maximum of 41% for accounts holding more than £7 million. It should be noted, however, that the new maxima only apply where the person would previously have been liable to the maximum 34% rate. The amendments make changes to the enabling legislation for the Swiss agreement to acknowledge the new mutual agreement, which is necessary to recognise those higher rates. We do not expect the changes to have a significant impact on the revenue raised by the agreement, but they reinforce an important principle: that we will always secure the best possible outcome for the UK.

An earlier version of the clause formed part of the draft Finance Bill published in December last year. Some respondents highlighted important questions about the implementation and interpretation of the agreement. Both HMRC and the Swiss Government will be producing guidance that addresses those practical concerns.

Successive Governments have wrestled with the problem of Swiss banking secrecy. We have within our grasp a solution that will not only be hugely beneficial to the

Exchequer in the short term but will allow us to lay the problem to rest for good. I therefore urge the Committee to seize the opportunity and to approve the agreement.

Grahame M. Morris (Easington) (Lab): It really is a pleasure to serve under your chairmanship, Mr Bone. I mean that most sincerely; you have been an excellent Chairman. I have served on three Public Bill Committees and you have been a paragon of fairness and administered the whole process with great good humour. I appreciate the latitude you have been able to give.

The Minister suggested that the clause and the amendment are uncontroversial, but I think a number of questions are raised. However, I welcome the efforts made by the Minister and those concerned to close down tax havens, such as the Swiss tax havens. It was a principle and objective of the previous Prime Minister, my right hon. Friend the Member for Kirkcaldy and Cowdenbeath (Mr Brown), who is sadly much maligned by hon. Members from other parties.

Hon. Members: Where is he? Bring him out.

The Chair: Order.

Grahame M. Morris: I am afraid that rather typifies the attitude of Conservative and Liberal Democrat Members. Credit is not given where it is due for the excellent work that my right hon. Friend did in that regard, not just in beginning negotiations across Europe with regard to the Swiss tax havens, but also with the United States. If we can get down to the bare bones—no pun intended, Mr Bone—the bilateral agreement signed on 6 October 2011 by the Exchequer Secretary and the Swiss Finance Minister is not yet in force. My understanding from the Minister's remarks is that it needs to be passed and ratified by the legislatures in each country.

I would like to take the opportunity to highlight some of the potential pitfalls. The Government seem to have set an arbitrary date, no doubt as a consequence of negotiation, of May 2013 for the agreement to come into effect, regardless of how long—*[Interruption.]* Well, perhaps the Minister can correct me if I am wrong. An hon. Member is suggesting that that date is not correct.

That is an arbitrary date of May 2013 for the agreement to come into effect, regardless of how long the legislative process takes. My first concern is about timing. As a layman, it seems to me that waiting until May 2013 would give UK holders of Swiss bank accounts plenty of time to make alternative arrangements, for example, to move their money elsewhere. That has been a feature of a number of the mechanisms that the Government have employed to close tax loopholes. They have given a long lead-in time, so the army of accountants has opportunities to see the planned changes and take avoiding action to reduce their clients' liability for tax.

I am also concerned that it allows Switzerland to remain a hub of financial secrecy, despite the Minister's assurance that it was the end of an era. Effectively, by colluding in such a scheme, the Minister and the Government are giving implicit support for the continuation of tax havens. The wealthy may now consider that these tax havens are now somehow Government sanctioned.

Switzerland remains a country that embraces wealthy people willing to break the tax rules of their own states. In my view, that is quite wrong. We have heard lots of talk recently about moral judgments, not least from the Prime Minister, but as I mentioned in an earlier debate, the arguments have clearly changed in the court of public opinion. The public are not happy that individuals and corporate entities can avoid legitimate levels of tax.

5.15 pm

Ian Mearns (Gateshead) (Lab): My hon. Friend is making a powerful speech. I think his point is that every £1, £100 or £1,000 forgone to the sort of tax haven arrangements that are and will continue to be available in places such as Switzerland is £1, £100 or £1,000 that must be raised from ordinary taxpayers—the ordinary man or woman in the street working hard to look after their family. Every pound forgone has to come from them.

Grahame M. Morris: That is an important point. Government Members have said that some of the measures in the Budget would result in relatively small sums—we had a debate earlier about inheritance tax—but they are of symbolic importance. I know that mentioning individuals is frowned upon, but people mentioned in the national press, such as Philip Green and Jimmy Carr, who are fabulously wealthy compared with most ordinary people, can employ accountants and get away with paying less than 1% tax.

On corporate entities, to recall the early days of this Committee, the hon. Member for Dover went on a tirade against Vodafone and Amazon, and we were cheering from the Opposition Benches. The public are appalled by the fact that those companies can get away with it.

Julie Hilling (Bolton West) (Lab): I do not want my hon. Friend to forget Gary Barlow.

Hon. Members: Who?

Grahame M. Morris: From Take That. There is a long list. I do not intend to detain the Committee by reading it out, but the point is well made. The public want to see action. The climate has certainly changed.

The *Financial Times* published an editorial at around the time of this year's Budget in which the editor described his view of the deal, saying that

"the willingness of the UK…to sell out on the principle that taxpayers must declare their taxable earnings and assets is of far greater import than the prospect for immediate tax windfalls."

That is an important point about the principle being established. If that is right, the Minister has engaged in a rather remarkable collusion—that is the only word I can think of—in the worst type of tax evasion, or is it tax avoidance? It is possible that some of the sums stashed away in secret accounts were accumulated illegally, in which case it would be evasion. The arrangement will allow continued secrecy and a cover-up by UK citizens to UK authorities.

I have a number of questions for the Minister. Why should tax evaders be exempt from the legal obligations placed on the rest of us? Why should they declare less information about their financial dealings and tax affairs than the rest of us who keep our money at home or pay tax through PAYE or other established mechanisms?

[Grahame M. Morris]

Under the agreement, fellow UK citizens who hold secret Swiss bank accounts—that is what they are; the details are completely secret—are to remain anonymous, as the Swiss authorities will collect and pass on the taxes to the UK.

The plan is for the Swiss Government to apply a one-off tax on accounts held by UK individual taxpayers, as determined by the Swiss banks. As the hon. Member for Poole said in a question to the Minister, the tax will apply only to UK citizens resident in the UK. That one-off sum is to be deducted in May 2013 at a rate that the Minister said in his earlier remarks would be between 19% and 34%.

John Pugh: A reputable magazine called "Accountancy Age" said that Britain will from January begin taxing the funds under the terms of a withholding deal agreed with the European Commission, so I am not quite sure that the hon. Gentleman is right.

Grahame M. Morris: I accept that, and I stand corrected. I am simply going on the explanatory notes. Perhaps the Minister can correct the record if I am wrong.

Regarding the sums that are projected to be raised by the deal, perhaps the Government have been rather hasty in presuming that the measure will raise billions for the Exchequer and the economy. The estimates seem to vary between £4 billion and £7 billion. *[Interruption.]* I see that the hon. Member for Southport is checking the references, but that is the information I have.

Certainly, there are only two possible outcomes from the deal. First, people who have gone to the trouble of setting up a Swiss bank account would, I assume, have no trouble in moving their money elsewhere before the deadline, whether it is January or May, to avoid the tax. As the deal was announced more than 12 or 17 months before it comes into effect, that must be a concern. I would be interested in the Government's views of that issue.

Secondly, people may consider the deal to be a sweetheart deal between the UK and Swiss authorities, but that it still far outweighs any legal obligations that they have to pay the rate of tax here in the UK, so the money would stay put. Let us not forget that many will want to stay put in Switzerland because of secrecy; they obtain secrecy from that tax haven, and for some, that is more important than the rate of tax. That returns to the issue I raised on whether we are dealing with avoidance or evasion, and I want to come on to whether there are any moneys from the proceeds of crime. The Minister told us in his opening remarks that the rate of tax will be set close to the top rate of UK tax. Will he clarify precisely what that will be?

I want to return to the problem of people who would move their money from the Swiss tax haven before the implementation of the measure. It is clearly a concern to the Minister, because he said:

"Under the terms of the agreement the Swiss authorities will give HMRC details of the top 10 destinations of funds which do move from there."—[*Official Report*, 19 October 2011; Vol. 533, c. 965W.]

The UK and Swiss authorities are obviously anticipating that, and the Swiss authorities have indicated that they will give details of the top 10 destinations—alternative tax havens, some of which may well be British dependent territories. Incredibly, there is no requirement on the Swiss to give any more details than that. They will not have to say precisely how the money is being moved around or what sums are involved, but simply the destinations.

Is the deal a process or an event? If individuals take the opportunity to move to a different tax haven, what will the Minister do? Will he assure the Committee that he will continue to chase those tax avoiders and their profits? Will he seek to sign sweetheart deals with the top three destinations, or perhaps all 10?

What potential does the agreement have? There are many potential tripwires in it. Why will it affect only individuals and not other entities such as trust funds and foundations? Earlier we touched on tax exemptions. Will the Minister tell us why the agreement will not apply to wages, royalties, income on property, directors' fees or loans?

On a positive note, I am delighted to hear that an amendment to the deal was secured that means that a full 40% inheritance tax may be levied on funds there; I know that it will not please the hon. Member for North East Somerset. Due to the continued secrecy involved in the deal, we have to rely on Swiss banks to identify that the individual has died. I am aware that individuals have gone to more trouble to delay such announcements to the Treasury over much smaller sums, but on the issue of secrecy, let me reiterate that account-holders will, under the terms of the agreement, remain anonymous. They will only need to provide details to HMRC should they decide to challenge the sum taken from them by the Swiss authorities and passed on to the UK.

Essentially, the Minister has, perhaps inadvertently, strengthened the sustainability of the Swiss tax haven system. We had a discussion earlier about the sort of individuals who would benefit from this, and there was a comment that it was a kind of "Swiss Tony" second-hand car dealer clause. Whether advertent or not, there is a possibility that it has provided spivs and speculators with a guaranteed sanctuary for grubby financial secrets. Most disturbingly, any criminal behaviour such as money laundering or corruption will remain undiscovered, because these accounts will remain secret. This is a dereliction of duty by the UK Government. What precedent does it set for other tax havens?

Ian Mearns: Is my hon. Friend also aware that under the terms of this agreement with the Swiss authorities, HMRC is allowed to ask for the details of only 500 account holders a year, whereas the German authorities have agreed a deal allowing them almost twice as many? I think it is 999—or in German, nein, nein, nein.

Grahame M. Morris: I am grateful for that intervention from my hon. Friend, who has always been able to inject some humour into these sometimes turgid clauses. He is absolutely right, and I was about to come to this issue. HMRC is restricted to asking the Swiss authorities for the details of just 500 account holders each year. Perhaps it was a blessing in disguise that our football team did not meet Germany in the semi-final—

Graeme Morrice (Livingston) (Lab): Scotland?

Grahame M. Morris: No, I meant England. We did not meet Germany, and it seems the Germans have outdone us again. They have negotiated a deal with the Swiss authorities, which on the face of it seems twice as good as the deal the Government secured. I would be interested in the Minister's view.

In concluding, I will refer to what the Chancellor said last August—that Britain has an even greater obligation in the current economic climate to pursue those who try to avoid paying taxes. I wholeheartedly agree, as I am sure all members of the Committee do. However, he went on to say:

"The days when it was easy to stash the profits of tax evasion in Switzerland are over".

I am not convinced of that. In stark contrast to the words of our Chancellor, the Swiss Finance Minister said the agreement would

"create legal certainty and reinforce the long term competitiveness and reputation of Switzerland as a financial centre".

They clearly cannot both be right. Can there be any doubt that the Swiss have gained the upper hand on this occasion? It looks like a victory for the gnomes of Zurich. The Minister has been outdone by his Swiss counterpart. Tax evaders and, potentially, money-launderers and corrupt criminals, do not seem to need to worry because of the secrecy element.

5.30 pm

Jacob Rees-Mogg (North East Somerset) (Con): I agree with much of what the hon. Gentleman has said. The Government are right to stop evasion, which is criminal, wicked and not to be confused with avoidance. However, the Swiss want an honest financial centre and have passed the stage where they think their economy depends on being the bolthole of criminals and tax evaders. What the Swiss authorities and the Chancellor said are the same.

Grahame M. Morris: I am grateful for that intervention because, as always, the hon. Gentleman speaks a great deal of sense, but my contention is that the two assessments of the agreement by our Chancellor and the Swiss Finance Minister are mutually exclusive. If the Swiss are serious about ending the perception of Zurich and Switzerland as being a bolthole and a centre of secrecy, surely the answer is complete openness and transparency.

Richard Harrington (Watford) (Con): I am very grateful to the hon. Gentleman for giving way, particularly because I was not asking him to do so at this juncture, but one should never lose an opportunity to make a point. Despite his criticisms of the Government, does he not find it strange that his own party's Government did absolutely nothing about the problem for 13 years?

Grahame M. Morris: Well, I do not think that is fair criticism. We are discussing financial matters and a deal to try to eradicate or minimise tax evasion in relation to the Swiss tax haven. I think that the last Government made a start and that significant progress was achieved. I do not have the figures to hand as to the sums involved, but the previous Prime Minister set the process in train. He sought to get agreement to close down tax havens in not only Europe, but further afield in the Cayman Islands and the British colonies. He also had discussions about that with President Obama. I do not accept that as legitimate criticism.

Julie Hilling: I thank my hon. Friend for giving way, and for being his normal generous self. Does he agree that one of problems in trying to close any tax loophole and stop tax leaking out of the country that should be paid here is that the rich continually find other methods of not paying their tax? No matter how much work the previous Government did and the current Government do, the rich will always circumvent it and find a new way to rip us all off.

Grahame M. Morris: I do not think anyone can argue with that point. The goalposts are constantly moving.

My concern, which I sought to emphasise at the outset of my speech, is that by giving so much advanced notice of the proposed change, there is ample opportunity for individuals to make alternative arrangements. The fact that we do not have complete openness, and rely upon the Swiss authorities to identify and pay over moneys that they say are due to the UK Treasury, is a cause for serious concern. I am not convinced by the suggestion that the problem has been solved. The Swiss tax haven system seems to be safe and well, and now may even have been regularised and legitimised. My concern is that we might well be looking at HM Swiss tax haven.

Mr Syms: In the long term, the solution is to get our tax rates down, so that people want to stay in the UK and pay UK taxes. The earlier debate about a tax rate of 50p or 45p and all the stuff that we have done in the Bill to close loopholes feeds places such as Switzerland and the Channel Islands, and if people have the ability, or the required advice, they will try to use those places. However, Switzerland has come a long way in the past 15 years. It was embarrassed by the revelations regarding various Jewish accounts, and was criticised by the World Jewish Congress for perhaps not paying money that it should have paid. It is now opening up a lot more. We have taken advantage of that with our tax treaties, as have the Germans.

The fact of the matter is that in two or three years, we will be able to measure whether the agreement lives up to what the Government are saying. If it does, good; if it does not, we will have to put more pressure on such places to be fairer in what they do. They have come a long way, and the British Government are very sensible. We live in a world where tax revenue is not what it should be and many things need to be paid for. Coming to a sensible agreement so that we get extra money is the right thing to do.

Sheila Gilmore: I wonder whether the hon. Gentleman has any view on how low tax rates have to go for there to be no avoidance. Are there not serious issues over, for example, providing social care in our community, which tax has to pay for?

Mr Syms: At some point, we will have to take a judgment—certainly when economic times are better—about what to do with the top rate of tax. I would like to see it back down to 40p, and perhaps below that. We

[Mr Syms]

must increase the threshold, as the Government have been doing, so that people on lower incomes do not get pulled into the tax net. Providing we can do that, I see no reason why we cannot build incentives back into our system in the medium term.

We live in a competitive world where money swishes around. We have to be tax-efficient; if we are, we will generate revenue and income. The Government and the Minister must be congratulated for reaching that agreement. We will see whether it lives up to its billing, but if it generates money to pay for schools, the national health service, foreign aid and all the other things that the Government want to do, that is a good thing. I commend what the Government have done.

Ian Lavery (Wansbeck) (Lab): It is a pleasure to serve under your chairmanship, Mr Bone. I am not sure whether I would go as far as my hon. Friend the Member for Easington, but for the record, I think you are an all-right bloke.

When I was asked to serve on the Bill Committee, I was not sure what it would involve, but I have been pleasantly surprised. That is probably the correct thing to say, a because a lot of issues have come up through amendments and clauses that the vast majority of the public are unaware of. I have learned many things from Members on both sides of the Committee, and although I will not say that I have enjoyed it, it has been okay.

Clause 216 refers to the UK-Swiss Confederation taxation co-operation agreement. Put more simply, the agreement is between the UK and Switzerland to tackle tax evasion and avoidance by UK nationals who, for many years, had used the Swiss banking system for secrecy and tax avoidance. The agreement is an attempt to stop UK citizens taking advantage of the system that has prevailed in Switzerland for generations, traditionally allowing people to hide money. They have no intention of paying their dues or declaring their taxes or investments, and they deliberately do not pay the correct tax.

We pay our taxes through the pay-as-you-earn system. For generations, people have been getting away with not paying their taxes by hiding money abroad and siphoning it into Swiss bank accounts. I am from a mining community and I thought such things only happened in James Bond films, in thrillers. There are not many people in and around our community who would believe that that sort of thing goes on. That is why I was determined, as I looked through all the documents, to mention it and have a go at the situation.

It is estimated that between £4 billion and £7 billion in tax revenues would enter the UK from UK taxpayers, which is money that would previously have been hidden. It is shocking. I understand why Members across the Committee have been asking what the Labour Government did, and I would probably agree with them because tax evasion, tax avoidance, refusing to pay your way in society is not good enough whatsoever, regardless of who is in government. The Treasury has claimed that it will earn up to £5 billion a year from the agreement, but it would be useful if the Minister gave, as I am sure he will, details of how it came up with that figure.

Although I fully support all measures against tax avoidance and tax evasion, clause 216 raises a raft of issues. The first issue that intrigues me is that it covers only individuals; it does not cover discretionary funds, foundation trusts, family trusts or other similar types of structures. I would have thought that not many Opposition Members have discretionary trusts, foundation trusts or other similar structures—not many at all—but I would have thought that, in Parliament, there will be quite a few MPs who have their finances in those types of financial arrangements. I have to ask why it is only for individuals. How many trusts, how many foundations, how many—

Mark Garnier (Wyre Forest) (Con): Does the hon. Gentleman actually mean "foundation trusts"? A foundation trust is a type of structure for a school or a hospital, not for a tax avoidance scheme.

Ian Lavery: Shall I answer that the way it should be answered? You are just actually trying to be quite clever and rude. I never mentioned foundation trusts; I mentioned trusts and foundations. If I wanted to mention NHS foundation trusts or school trusts, that is what I would have said. Does the hon. Gentleman want to come back in?

Mark Garnier: It is only a point of pedantry but, for the purpose of the record, a foundation trust is a different thing. The hon. Gentleman mentioned it three times. It was not meant to be a smart comment; it was meant to be a helpful comment, to ensure that the *Hansard* record is right, and that he has not said something that he did not mean to say.

Ian Lavery: I will take it as a smart comment, if that is okay with the hon. Gentleman. Reference to foundation trusts is made in the notes that we have. I am not in any way suggesting that those are foundation trusts in relation to the NHS or such organisations; they are trusts that individuals can be part of, with their families and others, and which are hidden abroad—that is the real point—and obviously, as I have mentioned, there are other similar structures.

Any individuals who want to move their money into one of those structures will, indeed, be protected. How and why can that be the case? How and why do the arrangements allow people, if they are caught out, to put their money within the given period into one of these—I will miss out "foundation", for the sake of clarity—family or discretionary trusts or structures and that is then okay? The arrangements will not come into force until May 2013.

Jacob Rees-Mogg: Although it may not be covered by the treaty, what the hon. Gentleman is suggesting would be straightforward tax evasion. If someone, to get out of a tax liability, tried to put their money into a discretionary trust without disclosing it to the Revenue, I have absolutely no doubt that that would be illegal. Whoever did it would be taking the risk that the Revenue found out, because the penalties would be quite severe.

Ian Lavery: I accept what the hon. Gentleman says, but the whole point about such funds in Switzerland is that they are totally secret and anonymous. The big problem with that amenity is that people can do what they want and there is no paper trail with names or details, because that is not how the Swiss do business.

Jacob Rees-Mogg: Ought not the Government to get some credit for doing the best they possibly can, given that they cannot possibly change the law in Switzerland? Switzerland has a tradition of secrecy, which the Government are getting around to a considerable degree for individuals. The solution may not be perfect—there may be illegal ways around it—but the Government have done something admirable and remarkable to cut down on tax evasion and, therefore, they deserve the Committee's support.

Ian Lavery: I would not say that the measure was admirable and remarkable but, as I have said, it is a step in the right direction.

5.45 pm

Ian Mearns: My hon. Friend makes a powerful contribution. Given the topicality of the discussions in the public domain about avoidance, the average man or woman in the street would be surprised to learn that the measures will not apply to annual salaries, royalties, income on property, directors' fees or loans. I suggest to the hon. Member for North East Somerset that given the amount of money involved in avoidance and evasion, I am sure that a number of individuals will gamble on the fact that in any given year they will be the 501st individual, rather than the 500th or the 499th about whom the HMRC would inquire with the Swiss authorities.

Ian Lavery: I am not sure whether that was a question or a speech, but I agree with my hon. Friend. I understand that the notice period has been challenged; I believe that the hon. Member for Southport said that has been changed to January. If that is the case, I stand to be corrected; he obviously used the same notes as my hon. Friend the Member for Easington.

The arrangements for the agreement were made 17 months ago, which gives account holders advance warning and allows them to move their money anonymously from individual funds to some form of financial structure, without any paper trail. The Government have basically said, "We are coming after you. What are you going to do about it?" If the Government give people 17 months' notice, it is obvious what they will do. If someone tells me that they will do something to me in 17 months' time, I will do something about it. If I can avoid tax by moving my money from an individual account to a foundation or a discretionary trust, that is what I will do. It is obvious that that will happen.

Charlie Elphicke: I hesitate to remind the hon. Gentleman that the previous Labour Government had 13 years to do something about the matter, and they did nothing. I further hesitate to remind him that the leader of the Labour party is advised by Andrew Rosenfeld, who seems to have availed himself at various times of the facilities that Switzerland offers. If we are going to start throwing rocks, we should say that this Government have taken the right action—

The Chair: Order. Interventions are getting longer. Keep the interventions short. Every Member can speak, and they can speak again if they want to later on. Keep the interventions short, and the speeches whatever length you like.

Ian Lavery: I thank the hon. Gentleman for his intervention, and I have already made my position clear.

The problem of tax avoidance and tax evasion—dodging taxes—is not new. It will not change in the future, as has been mentioned by a number of my hon. Friends. This is simply about a number of people—I am not sure how many, but perhaps a Minister could tell us—who are well-advised, wealthy tax dodgers. It is very polite to call them evaders, or avoiders. They are tax dodgers. When it is people on benefits, they get called scroungers, and when it is rich people, they should be called dodgers.

Hon. Members: Tax scroungers.

Ian Lavery: Or Jammie Dodgers.

Richard Harrington: There is too much in this terminology. It seems to me that the kind of people we are talking about who have these arrangements in Switzerland are clearly taking part in criminal acts, whatever you call it.

On the other hand we have people like the advisor to the Leader of the Labour party, Rosenfeld, and Mr McKenna, who is the chairman or chief executive of Ingenious Media, one of the biggest tax avoidance companies in the whole country, and who is a confidante and advisor of the Labour leader. They are involved in avoidance, which, whether we like it or not, and I agree with you about dodging and scrounging—sorry, I do not agree with you, Mr Bone, although I am sure you will agree with me—

The Chair: Order. First, that intervention was far too long. Perhaps if I asked for long interventions, hon. Members would keep them short. Secondly, I have absolutely no views, on anything.

Ian Lavery: I have to disagree with the hon. Gentleman, because I have never once said, and I am not suggesting for one minute—I am not sure, he might have a lot more detailed information on this situation than I have—that these people investing money in Switzerland are all criminals and crooks. I would have thought it is across the board. It is people who have got money and wealth, and who see an opportunity of not paying taxes, and doing so legally, in the Swiss banks.

Richard Harrington: For clarification, if UK residents put money in Switzerland because doing so is anonymous, but they are due to pay that tax in the United Kingdom, surely that is a criminal offence. They should be dealt with accordingly, and I hope that HMRC do so.

Ian Lavery: There is an argument to be had with that, but I will not get into it at the moment. We are talking about avoidance and evasion, and that is a huge argument that we really should have. However, the regulations make it very easy for people to move money around in Switzerland anonymously.

Charlie Elphicke: Is the hon. Gentleman saying that anyone who uses a trust in somewhere like Switzerland or Jersey—who uses one, sets one up or benefits from one—is, basically, dodgy?

Ian Lavery: I think it is down to terminology. I am not saying that everyone is dodgy; it would be incorrect to do so. But what I feel, as a man of morality, is that some of the people who seek, whether through evasion or avoidance, to put their finances elsewhere and take revenue from this country, are dodgy and immoral. I am sorry, but that is the way I feel: it is wholly immoral. It might not be illegal, but if it is immoral, that is very important. We should all have morals. Again, that opens up a whole new argument.

Grahame M. Morris: My hon. Friend is prosecuting some powerful arguments, but is not the nub of the problem that, because of the cloak of secrecy that surrounds the Swiss banking system, we frankly do not know whether the money is a consequence of avoidance or evasion? Until there is some transparency, we will not know.

Ian Lavery: Again, that is one of the reasons why Opposition Members are highlighting a number of potential problems with clause 216.

As a number of Members have mentioned, the Swiss authorities will give HMRC details of the top 10 destinations to which funds are moved—no names, no pack drill. People can move money from an individual bank account into a trust, and the Swiss authorities will give no details of who those individuals are or, indeed, where the money is being sent. They will only say, "These are the top 10 destinations." Frankly, that is bizarre. The situation is hardly transparent and is less than helpful. There is no requirement on the Swiss to give any additional details on such moves.

In simple terms, people have been deliberately dodging taxes for many years and many generations. They have been saving and saving, putting the money into Swiss bank accounts. Then, they hear that they have 17 months' notice of liability to pay tax. So to avoid paying the tax, they move their money without trace—completely anonymously, with no paper trail—into a new bank account, and a new bank is a new challenge. The losers are the UK Revenue, and the winners are the tax dodgers. In fact, some Swiss banks do not hold a single account in an individual's name, which is bizarre in 2012.

If an individual account holder falls foul of the arrangement, they will remain anonymous. After 2013, if an individual account holder is found out or comes forward to challenge the required payment to HMRC, they will still remain anonymous. Under the clause, we are agreeing that someone who has deliberately evaded, avoided or dodged taxes in Switzerland will remain anonymous if they receive a bill after being found out. I disagree with that provision.

Will the Minister tell the Committee why HMRC is allowed to ask for the details of only 500 account holders a year? As my hon. Friend the Member for Gateshead has pointed out, a deal struck with the German Government a year or so ago was for 999 tax dodgers. It might just be me, but I am confused: why can we not say to the Swiss Government, "Give us the details of every one, not just 500"? How many are there? Five hundred? One thousand? Ten thousand? One hundred thousand? We can ask these people in Switzerland—because of their dodgy deals and the dodgy deals of the dodgy people putting money into funds that avoid or evade paying taxes—for only 500 sets of details.

6 pm

If the general public understood all this, they would shake their heads in disbelief. Why have we not simply asked—the Minister might be prepared to answer this question—for the details of every single person or the details of all individual account holders, whether they are just numbers or whatever? The entire agreement can be avoided if the account holder shifts their home branch. I will doubtless be corrected if I am wrong, but I think I am right in saying that if someone's home branch is in Switzerland—it is strange to say that that is the "home branch"—and they move their finances within the period of the 17 month get-out clause to a different branch in Singapore, Hong Kong or another such area, they do not have to pay under the regulations.

The stark reality is that the agreement is totally unbelievable. I could not get my head around it when I was reading the briefing notes. Individuals who wish to carry on evading tax will quite easily carry on doing so, as I have explained, and they can end up paying less than they should have in the first place. HMRC will never know whether they should have paid more, because it has not got a clue who they are.

If the Government are confident that the agreement will work, why does the clause facilitate chasing people who are expected to move their money? Perhaps the Minister will answer that question. Why are wages or inheritance tax not subject to tax under the agreement? As I have asked before, how many individual accounts are there and how many have been disclosed to HMRC? How much revenue has been raised through the agreement and how much is likely to be raised in the foreseeable future?

As I have said on numerous occasions, the agreement is a step in the right direction. It is an attack on the dodgers using legal loopholes to deny the UK its much-needed taxes in times of austerity, but there are options available to the wealthy to avoid, evade or dodge tax payments. The arrangements must be more of a deterrent. Avoidance should be outlawed and such people should be brought to task. I pay my taxes; they should pay theirs.

John Pugh: I shall be brief. The best is always the enemy of the good, and the clause is good progress, in so far as it is progress. In fact, it is progress beyond the original announcement, because it is now compatible, I think, with the EU withholding agreement. That was one of the objections when the provision was first mooted, and I think the date has been advanced; I hope the Minister will confirm that. It will certainly lead to some migration of funds to places such as Liechtenstein and Jersey, so the obvious question occurs: is it good enough?

There is a sense of injustice when we get any kind of tax amnesty on the horizon. Clearly, people do not go to Swiss banks because of better customer service or because of the coffee served while sorting out the account. They go there, essentially, for the secrecy, so there is a strong prima facie presumption that that may have something to do with tax evasion. I think the hon.

Member for Poole was probably wrong in suggesting that the solution was lower tax rates, because people who go in for evasion want to pay no tax. They are not making a comparison between low tax and high tax; they simply resent paying any tax whatever.

There are weaknesses in the agreement—I think the Minister would probably accept that—but we cannot force the Swiss to write out a script that we want, because they are free agents and do not have to agree to anything. We should be looking at how good our agreement is compared with others, such as those the Swiss have with the USA and Germany. Most of them have the same characteristic weakness: that the Swiss preserve the right to secrecy of bank accounts, and so insist on doing the assessment themselves. Generally, the Swiss offer to do something about individual bank accounts, rather than those held in the name of trusts and the like.

The one area where we can make helpful progress is in looking at specific examples of the individuals that HMRC will refer to the Swiss, and how they are treated. There is a limit of 500, but that may be a trickier business than people think. We simply do not know—perhaps the Minister does—how many accounts are held in the name of UK, American or German citizens. Until we have that clarity, we cannot know whether 500 is a reasonable figure or not.

It might be helpful for the Committee to look at what the Americans have done. Between 2006 and 2010, they had the opportunity under some 80 tax treaties to make requests of the Swiss. During that four-year period they made 894 requests. Recent statistics show that 19,000 US citizens have accounts with only one Swiss bank. I read from that, not that the Americans are idle in chasing tax—they are not—but that the issue is a lot more complex than we think.

None the less, it will help convince people that we are on the right track if, as the hon. Member for Poole suggested, we have a proper report on the outcome—of the number of individuals reported, of the amount of tax regained and of the success achieved with the Swiss authorities. We are taking a step forward and we genuinely should not begrudge that.

John Mann (Bassetlaw) (Lab): I shall make a few non-contentious remarks in order to be constructive and assist the Government. I have heard all the back-slapping on the Government Benches about how well they have done. I am concerned about the back-scratching that has gone on in reaching the agreement. There is a backdrop.

Colleagues might wonder why the Tory Government are suddenly pursuing tax dodgers in Switzerland when those are the people who fund them. There has to be a reason. Is it that they have suddenly seen the light? Or is it that there is an EU savings tax directive, which the Government are blocking, that would do the same thing? In other words, they are negotiating to get off the hook. What are they offering in exchange? No transparency of any kind. Where does that lack of transparency benefit their backers? There is already no transparency in Switzerland, the country with whom the agreement is made. However, if the EU directive comes in, it will apply to Crown dependencies, to Jersey, the Isle of Man, Guernsey, the Cayman Islands. Those are the very places that their backers do not wish anyone to find out, be it personal or corporate, where the money is hidden.

The question was once posed, "Who owns Leeds United football club?" Another question arose in that context: "Where has the money gone?" I have been over to Geneva making investigations. I found a chap there called Peter Boatman, who owns 7% of the company that allegedly owns Leeds United. He owns 7%; it is the owning Leeds United that is "allegedly". We are told publicly that it is worth nothing. As I am a big fan and a former business man, I would take the 7% off him and help develop the club and I offered to take it off his hands. I then find inquiries being made in the Leeds United boardroom about me, asking, "Who is this chap, trying to get hold of the 7% share that is allegedly worthless?" Then we look at the money that has disappeared—vast amounts have disappeared, doubtless legally—and I reckon that some of that has found its way to Switzerland.

We then look at the structure, which is the point in the context of what the agreement does not do. The other party is a chap called Patrick Murrin, who is based in the Cayman Islands. The deals have complex interrelationships between them, so the Swiss do not know what is in the Cayman Islands, the Cayman Islands do not know what is in Switzerland, and we do not have a clue what is in anywhere; all we know is that the money is gone. That is how people siphon money off personal or corporate accounts into tax havens. They do not do it in just one place—they even ensure that the places do not know. It passes on and on.

Taking the example of Vodafone, which had that outrageous deal with HMRC, it employs a single bookkeeper in Switzerland who spends 5% of his time bookkeeping for Vodafone. We can see the kind of arrangements there. The reason they have done it is to avoid the possibility of the European Union imposing something that would require transparency on the Crown dependencies. It is not just from Switzerland, but the rest of them, that we want to know where the money is hidden away. It is money that should be used to fund the police, the national health service and the Army, and to stop all the unnecessary cuts. That is what we are talking about in the clause.

There is another problem with the clause, even with what has been negotiated. Listening to the Tory Front Bench, backed by the Liberals as usual, what we hear is that we have the best deal—this wonderful deal. Unfortunately, this Thursday we are not going to play against Germany, but Germany has already beaten us when it comes to deals with Switzerland. The German deal is better than ours. German taxpayers are getting more back from Switzerland. We have been outmanoeuvred by Germany, and I would like to know whether Ministers have the guile to negotiate up, so that we get at least as high a take as Germany—it ought to be more—out of Switzerland. We are getting less at the moment. We have been outmanoeuvred by the Germans on taxation and on getting more back, because of this Government's incompetence and the back-covering for the likes of Lord Ashcroft and their funders, who can hide away their money in Crown dependencies with no transparency. That is why the agreement is weak.

Jacob Rees-Mogg: On a point of order, Mr Bone. I think it is unusual for this House to criticise directly Members of another place.

The Chair: The hon. Gentleman is correct. I did not hear a direct criticism, but it was getting awfully like a direct criticism. I am sure that the hon. Member for Bassetlaw did not want to make a direct criticism.

John Mann: I would not want to criticise the leading Tory funder, who spent £250,000 trying to remove me, because all he did was increase my majority by sending 29 direct mailings to my constituents with a picture of David Cameron on a glossy leaflet. I was able to go to my voters and say, "There you are. That is how they spend their money. Here is all I can afford, but who would you trust?" I praise that kind of investment. Please throw more money my way in the future.

The principle of those who refuse to pay British tax has been outlined. We now call them Jimmy Carr and "morally repugnant" individuals. Those people have let down their country and do not pay their full tax. Jimmy Carr is prepared to change his arrangements. What about the friends, family, staff and backers of the Prime Minister, the Chancellor and their party? A whole wodge of them are not paying their taxes. We have no idea where their money is hidden away, because it is totally opaque to the lot of us. What we do know is that there are these kinds of arrangement.

6.15 pm

I say to the Minister: less back-slapping on this agreement and more humility to say that this is tiny, but that we will catch up with the Germans. I would like a commitment that what is good enough for the Christian Democrats in Germany, in terms of what they are getting back from Switzerland, can at least be matched by this European-loving coalition Government. We could then congratulate them for beating the Germans in the next few months.

Catherine McKinnell: We have had a passionate debate on this subject and well-considered contributions from both sides of the Committee. This is an important matter, which is key to ensuring that people pay their fair share of tax. This is part of the solution to reducing the current deficit. I will summarise the points raised and reiterate to the Minister some of the particular concerns that we have. We support the agreement signed by the UK and Swiss Governments to secure billions in unpaid tax, according to the Treasury, on money held by British nationals in secretive Swiss banks. The measures were supposed to eliminate the tax advantages of hiding money in Switzerland and encourage account holders to emerge from secrecy and declare all their details and tax affairs to HMRC.

The Treasury claims it will secure £5 billion a year from the deal and of course, we strongly support any measures to recover tax from those who are trying to avoid paying it—the dodgers that my hon. Friend the Member for Wansbeck so passionately described. So the principles behind this deal are welcome, but the concern is that the plan is riddled with loopholes and exemptions that will severely undermine its potential to make anything like the sums the Treasury claims. My hon. Friend the Member for Bassetlaw put that case strongly and with his usual vigour. Crucially, it allows people hiding their money to maintain total anonymity. This has been touched upon, but is a key concern. Instead of striking a deal to bring people out into the open, the Government seem to have bowed to the Swiss refusal to compromise on secrecy. The one concession, which has been discussed, was to give the UK permission to request and be granted the details of 500 individual accounts per year. That is welcome, but we know that it is only half the amount that Germany secured in an agreement, where they can request 999.

John Pugh: I wondered whether the hon. Lady knew of any deal with any country anywhere in the world involving the Swiss that has sacrificed the principle of banking secrecy?

Catherine McKinnell: The point we are making is—no, I cannot. The intervention was sprung on me. Obviously, I am talking about the number of requests that have been granted and the concern that it is half the amount that Germany has agreed with Switzerland. That is an interesting point, and one which I hope the Minister will respond to. I hope that the Minister will explain why the Government settled for half the transparency that Switzerland was prepared to give to Germany, and outline the discussions that resulted in that agreement. Apart from those 500, it would be the Swiss banks themselves that identify accounts that they believe should be subject to UK tax. As far as I understand it, no one from HMRC will be involved in the process even in an advisory capacity. That prompts the question: how will HMRC even know if there are others who have been inadvertently or, worse still, deliberately missed?

It will be the banks themselves that apply the levy and subsequent withholding tax, so HMRC will have no details about whether the right amount has been paid. That also makes it impossible to chase the funds that may have been moved. As my hon. Friend the Member for Wansbeck passionately explained, because nothing will happen until January 2013, account holders have been given significant notice of when the deal will come into effect. Who knows how much revenue may be lost in the interim? In theory, the value of the account in December 2010 will be subject to the one-off charge, but given that the banks will collect the levy, there is no way to enforce that charge if the money is moved before January 2013. Obviously, there is ample time for individual account holders to move their money to avoid the charge completely, so I would be interested to know whether that has been factored into the Government's calculations of the amount of money that they believe they will be able to get from the measure.

The Government have tacitly accepted that a mass exodus is on the cards by writing into the agreement that, under its terms, the Swiss authorities will give HMRC details of the top 10 destinations of funds that move. No further details are required—no names, no facts, no figures. HMRC will be left trailing in the wake of account holders who saw it coming and chose not to stick around. It is clear that it is obvious to HMRC that this is a natural response to the forthcoming measure, so some reassurance that that effect has been factored into the accounting would be useful.

Can the Minister tell us what steps the Government took to press for more details of departing clients? We look forward to the Minister's response about the total surrender of secrecy, but if more information could be obtained, that would provide a more useful source for HMRC which may need to track particular individuals concerning not only their Swiss bank accounts but other offshore accounts.

As my hon. Friend the Member for Wansbeck highlighted, it is incredible that the measure will only apply to accounts held in individuals' names and does not cover foundations, discretionary trusts or any other non-individual structure, and any money already in such a structure will be exempt as funds will be moved out before January 2013. Not all types of income will count—wages, royalties, income on property, directors' fees and loans will not be taxed. When the measure was drawn up, inheritance was not included, but a welcome amendment has now been made, and inheritance tax at 40% will be charged on the death of an account holder who should be liable. We hope that works in practice, as it is a welcome measure. Again, we do not know who these account holders are, and we have to rely entirely on the Swiss banks to determine who should be liable for inheritance tax, and to collect it.

The deeper we go into the agreement, the more concerns emerge. Lots of income is exempt; many types of account are exempt; account holders have been given time to move their money, and are expected to do so; and ultimately, HMRC's role in enforcing tax justice has been outsourced to the Swiss banks. If the deal were really to raise £5 billion, that would be welcome, but there are massive problems with the agreement, which undermine the Government's claim. Will the Minister publish full costing reports to explain the figure further, and will he clarify whether he has considered the probability of most the money being removed before the agreement comes into force?

Mr Gauke: We have had a thorough debate on the clause, and I thank hon. Members for their contributions. I welcome the support offered by the hon. Member for Newcastle upon Tyne North for the agreement's objectives. I will try to address some of the points raised by hon. Members and to provide some clarification where that is necessary.

Members have asked when the agreement enters into force. There has been some confusion about January, May and so on, so let me try to clarify that. The agreement enters into force next January, and we will get 500 million Swiss francs up front in February, which is the equivalent of some £350 million. That will be set against future payments once 1.3 billion Swiss francs are collected on our behalf.

Why does the agreement not come into force before January 2013? The agreement needs to be ratified by both the UK and Swiss Parliaments. Processes also need to be put in place in Switzerland to identify those covered by the agreement and to collect payments due. The May date, to which the hon. Member for Easington referred, is the point by which clients of Swiss banks who are UK-resident will have to inform the banks of whether they are to pay the sum or to disclose all details.

A concern has been raised about what happens to those who take their money out of Switzerland before January 2013. Anyone who does that escapes the agreement, but that includes all aspects of the agreement, including, most importantly, the clearance they would otherwise receive. They will remain subject to tax, interest and penalties of up to 200% of the tax due. They will also face the risk of criminal investigation. Indeed, the risk of being caught will increase due to a number of HMRC initiatives, including the creation of the offshore co-ordination unit, dedicating an additional 100 inspectors to tackling offshore evasion.

Ian Lavery: How big a risk will that be if the deals are totally anonymous?

Mr Gauke: Of course, there are ways in which HMRC can acquire information. HMRC acquires information from time to time, and at the moment those individuals are anonymous and have Swiss bank accounts. Were they to leave Switzerland, the agreement would have essentially chased them out of the Swiss jurisdiction.

The number of options available to those who are hiding the proceeds of tax evasion, or who are hiding sums, is diminishing all the time. The UK remains determined to close the net on those individuals. We are certainly in no worse position as a consequence of their fleeing Switzerland. Indeed, there are risks for those who are evading tax. As they move their accounts around, the opportunities increase for HMRC to acquire more information. Without the agreement, those individuals could continue to have their Swiss bank accounts, and nothing would particularly threaten their anonymity.

Grahame M. Morris: Will the Minister give an estimate of the number of individuals involved? I know the Swiss authorities are going to give us the names of only 500. If we divide the lower estimate of how much revenue the measure will raise by 500, the figure is some £8 million per individual according to my maths. Is that correct?

6.30 pm

Mr Gauke: I will come to the 500 issue, on which I can provide some helpful clarity.

On the numbers involved, as all members of the Committee will be aware there is banking secrecy in Switzerland, which means it is difficult for us to have an accurate number of how many UK residents have Swiss bank accounts. It is not possible to give a robust estimate at this point. None the less, the steps that we are taking with this agreement, and the other steps that we are taking to address offshore tax evasion, substantially strengthen our position. As hon. Members have pointed out, HMRC will receive information at a global level on the top 10 destinations used to hide money, which will help us to focus future compliance efforts and to put pressure on jurisdictions that will be the recipients of such funds. I will talk briefly about the estimates for yield in a moment, but we have taken into account an estimate of the capital flight that will occur. We have no doubt that some people will leave Switzerland and go elsewhere, and we have taken that into account in our estimates.

Ian Mearns: Given the anonymity in the Swiss banking system, which the Minister has highlighted, how will the Swiss authorities know that the money deposited in a Swiss bank account comes from a British-domiciled account holder if the money goes into the bank account from a third-party country?

Mr Gauke: Swiss banks will have a responsibility to comply with the agreement. To correct the hon. Gentleman, the test is residence rather than where someone is domiciled, by and large. We expect Swiss banks to enforce the agreement properly and to ensure that any UK resident is faced with the choice of declaration or paying up. If a UK resident is not faced with that choice, they do not get the benefit of the clearance regime and they will still remain liable for the tax and the penalties that would otherwise normally apply.

The question was asked whether we are essentially subcontracting our tax law and administration to the Swiss, and specifically the Swiss banks. We retain complete control of tax law, tax rates and tax administration; we are ceding no such control to the Swiss. We are working with their banks and authorities to assist in recovering tax that HMRC would have little prospect of recovering without such co-operation. We still require income and gains to be declared to us, but tax will be collected at source. It is not about cutting deals with tax evaders; it is about bringing in money that should have been paid to the UK. That money has, until now, generally been beyond the reach of tax investigators, but the innovative approach taken in this agreement means that historical liabilities can be settled, effective future taxation can be secured and a long-running problem can be resolved. Those who are under investigation, those who have had an opportunity to come clean but failed to do so and serious criminals will not be able to benefit from the tax finality that the agreement offers.

A question was asked about the number of requests that we can make each year, and a comparison was made with Germany. It is worth pointing out to the Committee that the new information exchange provision is in addition to, rather than instead of, existing information exchange provisions. It has been agreed that 500 requests for information may be made each year under the new provision. If those requests are generally successful, more requests may be made in the following year. Regarding the comparison with Germany, it is generally accepted that far more accounts in Switzerland belong to German residents than to UK residents, so this is a much bigger issue for the Germans. I do not accept that the Germans have a better deal. In proportionate terms, I suspect that the UK has done much better .

John Mann: The Germans say that, proportionally, they have done a lot better. I believe that they are suggesting a 41% taxation rate. They specifically identify themselves as having done better than we have. How can the Minister be so certain of his facts?

Mr Gauke: The hon. Gentleman has moved on to the issue of tax rates. I do not know whether he missed this part of my speech earlier, but as a consequence of negotiations that we have had, our arrangements now match the German arrangements, and indeed can go up to 41%. The agreement there is the same as the German position.

An issue was raised about the yield figures. Again, I think there might have been a little confusion there. The figures are based on the best information that we have, but there is a degree of uncertainty. The one-off levy is the element that relates to the past, and we expect it will raise between £4 billion and £7 billion. There will then be a smaller annual amount that relates to the future. I think a couple of hon. Members have said that there would be £5 billion a year. That is not what we are saying. We anticipate £4 billion to £7 billion initially, and then a small amount subsequently. The actual numbers will depend on behaviour.

The question was also asked, why does the future tax not apply to employment, loans, and so on? That is because we are talking about a withholding tax on financial investments, administered by banks. It can apply only to returns on investments held in banks and similar institutions. It is not designed to apply to employment and so on.

A point was raised about how banks will determine beneficial ownership. That also relates to the issue of whether complex ownership structures such as trusts will apply. They will; banks will be required to look through complex structures to identify whether the beneficial owner is a UK-resident taxpayer. Assets owned by so-called domiciliary companies—that is, legal entities, including trusts, that are not commercial operations—will be in scope if they are controlled by a UK taxpayer. Banks are required to use all information at their disposal to determine whether assets are beneficially owned by a UK-resident taxpayer. It is not sufficient merely to establish the account in the name of a company or trust if, as is often the case, the ultimate beneficial ownership is known to the bank.

My hon. Friend the Member for Southport asked whether any other jurisdictions had obtained an automatic exchange of information. The answer is no. There is a question as to what exactly we could do. If the argument is that we must insist on an automatic exchange of information, it is necessary to reach an agreement with the Swiss. That is what we have done, and we believe we have done so on very good terms.

Finally, the hon. Member for Bassetlaw enlivened proceedings, as usual, with the conspiracy theory that the reason for the agreement was to allow the Government to block the EU savings directive, and that it was all some great cunning plan. I am afraid that conspiracy theory collapses when I point out that this Government support the amended EU savings directive. It is in fact Luxembourg and Austria that are blocking it, not the UK Government. We are keen for it to proceed.

I hope that those points are helpful to the Committee. I hope I have provided some clarification on the points that have been raised, and I hope that the Committee will seize the opportunity to proceed with clause 216, schedule 35, and the agreement with Switzerland.

Amendment 201 agreed to.

Clause 216, as amended, ordered to stand part of the Bill.

Schedule 35

AGREEMENT BETWEEN UK AND SWITZERLAND

Amendment made: 202, in schedule 35, page 624, line 16, after '2012', insert

'and by a mutual agreement signed by them on 18 April 2012 implementing article XVIII of that protocol'.—*(Mr Gauke.)*

Schedule 35, as amended, agreed to.

Clauses 217 and 218 ordered to stand part of the Bill.

Schedule 36 agreed to.

Clause 219 ordered to stand part of the Bill.

Clause 220

REMOVAL OF SPECIAL PROVISION FOR INCAPACITATED PERSONS AND MINORS

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

Cathy Jamieson (Kilmarnock and Loudoun) (Lab/Co-op): It has been a fairly long day so far, Mr Bone, and we still have a fair bit of business to get through. We want proper scrutiny, but not to take up unnecessary time. It is worth putting on the record what the clause does, because it changes terminology that is outdated, particularly the definition of "incapacitated person" in the Taxes Management Act 1970. It was brought to my attention by the Chartered Institute of Taxation, which noted

"some exemplary co-operation between Government and Opposition committee members during the debates"

on the Finance Bill in 2010. The then shadow Financial Secretary to the Treasury, my hon. Friend the Member for Nottingham East (Chris Leslie), tabled a new clause; the Government decided to consult on it, and indeed to replace what have been described as anachronistic definitions that include expressions such as "lunatic", "idiot" and "insane person" with something more in keeping with the modern understanding of mental incapacity. That is to be welcomed. I note on the record the work that was done on this, and obviously we will not oppose the clause.

Julie Hilling: I shall not speak for long. *[Interruption.]* I might speak for a little longer now. I want to join my hon. Friend the Member for Kilmarnock and Loudoun in highlighting the issue. Interestingly, the measures result from a piece of good co-operation between the parties. As she said, the matter was raised by our shadow Minister at the time, my hon. Friend the Member for Nottingham East, in 2010. We are pleased that the legislation has changed. It clearly shows that ordinary people do not look very often or very closely at tax law. I cannot believe that we have gone this long, with all the progress that we have made on equality, with a definition that states that an incapacitated person is

"any infant, person of unsound mind, lunatic, idiot or insane person".

Government Members like to blame the previous Government and we like to blame the Thatcher Government for everything, but the definition goes back to 1970. In fact, the word "idiot" in legislation goes back to 1324, and "lunatic" goes back to at least 1541.

Jacob Rees-Mogg: I thank the hon. Lady for making that point. I am enormously grateful to learn where those two terms came from.

Julie Hilling: It does demonstrate how little attention we pay to details of legislation. I welcome the proposal, as someone who has spent my adult life fighting for equality. It is right to use the correct terminology in our legislation, and not words that are deeply offensive and have been for a long time. When we use the word "infant" in tax description, we mean people under 18, not the young children we would expect. Like my hon. Friend the Member for Kilmarnock and Loudoun, I welcome the changes to the language to reflect current usage.

6.45 pm

Sheila Gilmore: In Scotland, I think the definition is somewhat different, and the age is 16.

Julie Hilling: Indeed. As my hon. Friend points out, in Scotland, "infants" are people under the age of 16. Clearly people there were a bit more advanced than in the rest of the UK. This is a welcome change, and it demonstrates that occasionally we can work co-operatively across parties.

Mr Gauke: As previous speakers have said, this is an example of cross-party co-operation. The matter was raised in debate during the passage of the Finance Act 2010, and a few years earlier by some of my hon. Friends. The clause removes archaic and offensive language from the statute book. I am delighted to fulfil my commitment to bringing forward the clause. During consultation on how best to amend the definition, wide support for change was received. The Low Income Tax Reform Group welcomed the changes, having previously noted that

"specific provision in tax law may not in fact be needed at all, given the general laws of incapacity and representation already in place".

The proposals developed through consultation mean that the clause will go further than simply amending an archaic piece of law; it will remove it. That allows everybody to be treated the same way under tax law, while those needing extra help will still be able to rely on representatives when it comes to the administration of their tax affairs. I very much hope that the clause will stand part of the Bill.

Question put and agreed.

Clause 220 accordingly ordered to stand part of the Bill.

Clause 221

TAX AGENTS: DISHONEST CONDUCT

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

The Chair: With this it will be convenient to discuss that schedule 37 be the Thirty-seventh schedule to the Bill.

Cathy Jamieson: Clause 221 and schedule 37 are about powers to obtain working papers from tax agents who engage in dishonest conduct, about the imposition of penalties, and about the authority of commissioners of HMRC to publish such tax agents' details.

I have a couple of points to raise with the Minister. It is has been highlighted that these are very serious matters. If someone is accused of dishonest conduct and is essentially named and shamed, as the powers in schedule 37 allow, there must be adequate safeguards in place to ensure that the procedures have been properly followed.

[Cathy Jamieson]

The clause and schedule introduce new and updated rules to address dishonest conduct. They arise from work done by HMRC and have been subject to fairly extensive consultation, which I understand began in 2009. That also included consideration of draft clauses that were published for comment on 6 December 2011.

The new provisions would make a number of changes. Where a tax agent has been determined as being dishonest, HMRC can issue a file access notice, requesting access to all the files of that agent. The agent can be fined up to £50,000, and their name can be published—they can be named and shamed, as I have said—and the new process includes clear rights of appeal.

The Institute of Chartered Accountants in England and Wales has commented on the proposals, making it clear that it would like to place on record its appreciation of the open, constructive way that HMRC carried out the consultation. However, the ICAEW still believes that the Minister should speak on record about a number of provisions.

For example, clarification is sought on how the Bill's provisions would interact with the Proceeds of Crime Act 2002 and the Money Laundering Regulations 2003. The question arises because the provisions are potentially very serious, as I have outlined, and confirmation is sought that they would be used only in cases of absolutely clear dishonesty, where authorisation has been given by a senior member in HMRC. Will the Minister provide some information on that?

I understand that the Minister will want to keep the process and measures under review, and that an implementation oversight forum will look at the issue. Confirmation is also sought that HMRC will continue to consult tax agents on how the provisions apply in practice, and that it will publish guidance as a result. The ICAEW still has concerns about the proposal in paragraph 28 of schedule 37 on naming and shaming. It would like further reassurances that the publication rules will bed down before any decision is taken to extend those to tax agents.

A number of detailed comments on schedule 37 were provided and submitted to Ministers when the draft legislation was published. I will not go through those in detail, but will the Minister comment on the concerns that were raised, particularly on the effects of notifying individuals, the content of notices, and the power to publish details?

Mr Gauke: I thank the hon. Lady for her questions. Clause 221 introduces schedule 37, which provides for a new civil approach to tackling dishonest tax agents.

Let me remind Members of the background to the provisions. Tax agents play a vital role in the delivery of the tax system, which could not function effectively without them. HMRC's experience, thankfully, is that dishonest tax agents are rare. The clause and schedule will ensure that HRMC has an effective civil power to take action against those few agents, helping to preserve a level playing field and ensuring fairness for all taxpayers.

We have had a productive and constructive process with agents and their representative bodies in putting together the legislation. A number have asked, however, why we are legislating. Tax agents hold a unique position of trust. Even though very few are dishonest, HMRC must have adequate powers to deal with them. It is essential that HRMC can act to protect tax revenues; even a single dishonest agent with a large client base can represent a significant risk. We have been clear that the previous regime did not work, but I know that agents and the professional bodies share my view that the tax system has no place for dishonest tax agents. If unchallenged, such agents could undercut legitimate businesses. Their clients, who might be wholly unaware of any dishonesty, would be at risk of being tainted by their actions.

I shall briefly outline how the provisions will work. The schedule has four main stages: the determination that an agent has been dishonest; access being granted to their working papers; a penalty being imposed; and if appropriate, the details of the person penalised being published. Each stage is important, raising issues both for the agent involved and any employer.

There will be concerns about reputational damage, a point that the hon. Member for Kilmarnock and Loudoun was right to raise. I know that the professional bodies have been robust in putting such points to HMRC, and that HRMC has added new safeguards as a result. In particular, the tax agent now has a right of appeal to the tribunal against HMRC's determination of dishonest conduct. The change is important. I know that agents have welcomed it, and I am glad that HMRC has been able to accommodate it.

Nigel Mills (Amber Valley) (Con): May I ask the Minister a quick question about how the provisions will apply if the agent is also a qualified legal professional? Will the papers that can be obtained under schedule 37 be covered by legal privilege, because that would effectively mean that some of the powers would not apply to tax agents who are also lawyers, but would apply to those who are accountants and are not legally qualified?

Mr Gauke: As we have heard, my hon. Friend brings to the Committee his expertise as a tax adviser and tax agent.

Nigel Mills: A thoroughly honest one.

Mr Gauke: That, of course, goes without saying. My hon. Friend's background is as an accountant. In respect of disclosure, an agent can only disclose when it would be legal to do so, and HMRC will not use the penalty to lever an agent into breaking legal professional privilege. I hope that clarification is helpful.

Cathy Jamieson: While the Minister is setting out how things will work in practice, will he also cover third-party notice provisions, where material may not be in the actual physical possession of an agent, but in the possession of a firm for which they are currently working?

Mr Gauke: Third parties now have a clear right to make representations to HMRC. HMRC will not routinely name third parties. Its aim is not to punish the third party by making the dishonest agent's identity absolutely clear and beyond risk of confusion with another agent of the same name. In most cases, that can be done

without mentioning any past or present third party; it will be necessary only in rare cases and, in such cases, HMRC will be happy to discuss with the third party how the information is published. It will always to open to the third party to issue a public statement. HMRC will work with professional bodies on that matter. The similar Financial Services Authority powers of publication may provide useful pointers.

Another key issue about third parties is the position of innocent third parties that have employed a dishonest agent and now hold their working papers. HMRC needs to have access to those papers to see how far the rot has spread, to determine the tax loss and to put that right at the taxpayer level, which will be made possible under this clause and schedule 37. There will be wide access, subject to the normal restrictions on privileged and other material. That must be right in principle because, by that stage, the agent will either have been found to be dishonest by the independent tribunal or will have chosen not to appeal. HMRC will need to make a case for such access to an independent tribunal, at which the person holding the working papers will be able to make their views known. A third party also will also have the right to appeal on the grounds of onerousness.

Ian Mearns: I am grateful to the Minister for his generosity in giving way. Does he have access to the number of dishonest tax agents who have fallen foul of the system? He has said that there are relatively few. I am afraid to say that from my experience—we have talked about the interaction between clients and tax agents—some individuals prefer to employ a dishonest tax agent.

Mr Gauke: Perhaps the hon. Gentleman and I should have a conversation outside the Committee, and I look forward to having information to pass on to HMRC. On the number of dishonest agents, there are no firm data, but HMRC expects very few cases of dishonest tax agents. Its working assumption is that the number of agents involved in dishonest behaviour at any time is about 40. *[Interruption.]*

The Chair: Order. The sitting is suspended until 7.45 pm.

7 pm

Sitting suspended for Divisions in the House.

7.45 pm

On resuming—

Mr Gauke: I return to some of the questions raised by the hon. Member for Kilmarnock and Loudoun, in respect of this clause about tackling dishonest tax agents. One question was about guidance on these provisions. HMRC will publish guidance in draft for comment before implementation. The professional bodies have already offered to help to iron out any remaining areas of uncertainty and HMRC welcomes this. It is working towards publication later this year. Will the powers implementation forum continue to monitor these powers? The powers implementation forum is an independent body, set up to look at how HMRC implements its new powers and I pay tribute to its work. The forum was originally designed as a short-term measure and will come to an end sometime, but for now it will act as a medium to monitor these powers. Other HMRC forums will still be available for the tax world to discuss the use of these powers with HMRC.

As for the interaction with the Proceeds of Crime Act, this measure is clearly aimed at dishonesty. Similar provisions in the Proceeds of Crime Act allow the authorities to obtain information, but it is a separate regime and I do not want to overstate the interaction between the two. As for publication of details, no names have yet been published. The public need to know about dishonest tax agents and HMRC needs to deter agents from becoming dishonest, but we want the regime to bed down. In practice it may be some time before any agent cases progress as far as publication, but that is part of the regime. The legislation is due to come into effect on 1 April 2013 and will apply only to dishonest conduct on or after that date. It will be brought into effect by an appointed day order.

In conclusion, this clause and the schedule are designed to deal with the dishonest tax agent and protect the vast majority who are honest. Important changes have been made as a result of consultation. HMRC will continue to work closely with professionals in producing guidance to resolve the remaining issues and the legislation is a balanced and proportionate response to a problem that must be addressed.

Question put and agreed to.

Clause 221 accordingly ordered to stand part of the Bill.

Schedule 37 agreed to.

Clause 222

Information powers

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

Catherine McKinnell: Clause 222 extends the information powers in schedule 26 of the Finance Act 2008. The current rules were introduced by the Labour Government in 2008 as part of an alignment exercise following the merger of HM Customs and Excise and the Inland Revenue. They allow HMRC to obtain details of a taxpayer whose identity is not known, but only when HMRC can persuade a tribunal to issue a notice on the basis that there has been a serious likelihood of tax loss by the taxpayer. Under this clause, these rules have been extended to obtain these details without the need of a tribunal notice nor any expectation of a serious likelihood of tax loss. May I ask the Minister why he has removed that requirement?

The request for information must be relevant to the collection of tax covered by the agreement rather than just a fishing expedition. How will a fishing expedition be defined and identified? Overall, there is very poor definition of when HMRC should be allowed to request the identity information from third parties. The clause states simply that HMRC should already hold "sufficient data", but what is "sufficient"? How will that be clarified? Without proper detail on how much data HMRC must already hold, there is a risk that it could be subject to appeals and litigation when it makes an application that it feels is "sufficient" but has not been legally defined as such. Given that recent reports state that the backlog of

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tribunal cases at HMRC would take 38 years to clear at the current rate, clearly such a situation must be avoided. Will the Minister publish guidance on that matter? Will the Government design a better way for third parties to notify HMRC that records have been destroyed, so that they do not have to go through an incredibly bureaucratic procedure that involves a long wait for a penalty notice? We strongly urge the Minister to address the weakness of the appeal system.

Another potential safeguarding problem is the lack of clarity over how the clause will interact with confidentiality laws. Data protection laws would not allow banks, for example, to disclose their clients' details without express authorisation. Will the measure override that? Will notices be allowed that will force banks to disclose data to HMRC? Clarification on that point would be welcome.

Other aspects of the drafting of the clause may have unintended consequences. New paragraph 5A(7), which was introduced after the initial consultation, may enable HMRC to check the tax position of a class of persons as well as an individual taxpayer. We understand that the provision was intended to cover situations where information is required about joint accounts, but it is written far more widely than that and it could in theory extend to all bank customers with UK addresses but overseas bank accounts.

Although we welcome attempts to strengthen HMRC's hand in uncovering the details of people who are trying to avoid it, the legislation must be properly drafted. I hope the Minister will be able to respond to my queries about the potential problems in clause 222, and I would be grateful for his comments on whether it might be appropriate to require HMRC to report on the functioning of the new requirement so that a proper assessment can be made of how much difficulty the issues raised in Committee have caused.

Mr Gauke: Clause 222 concerns the information powers of HMRC, and it applies if HMRC possesses some information about a person but not enough to make their identity clear. A third party who knows basic details about that person, such as their name and address, would be required to provide them to HMRC.

The Government are committed to tackling tax evasion in the UK and overseas. Effective exchange of information between tax authorities is crucial to achieving that, so the UK plays a leading role in the OECD, which has been at the forefront of setting common standards for tax compliance across the world. It is equally important that we meet requests from overseas tax authorities in line with those international standards.

In 2010, the global forum on transparency and exchange of information for tax purposes conducted a peer review of the United Kingdom. They identified a deficiency in schedule 36 to the Finance Act 2008, which is the legislation mainly used by HMRC to obtain information. Schedule 36 allows HMRC to issue information notices to taxpayers whose identity is known and to third parties where the identity of a person is unknown. That "identity unknown" power can be used only if the tribunal first agrees that there is serious prejudice to the assessment or collection of tax.

The peer review found that schedule 36 does not meet the international standards, because it does not allow HMRC to require information from a third party if HMRC is unaware of the full identity of the taxpayer but has some partial information, using which the full identity could be ascertained from a third party. For example, HMRC might know a branch code and account number or a credit card number, but not know to whom it belongs. Clause 222 allows HMRC to issue a notice to a third party who can be reasonably expected to know the name and address of the person in question. In the example I have just given, that would be the bank or credit card issuer. The information that may be required is very limited, consisting of only the name, address and, where appropriate, the date of birth of the person. Those basic details may be enough to satisfy an overseas request for assistance. Further information will be sought, if necessary, from the taxpayer or from third parties under HMRC's existing information powers. We consulted on a number of options in July last year, and it was agreed that that was the best way to achieve the policy aim. The legislation has been published in draft twice for comment.

I would also like to mention the relevant safeguards. The test of serious prejudice for the current "identity unknown" cases and the need for advance tribunal approval are linked; the first is the reason for the second. However, the international standards require that countries, including the UK, be able to respond to requests fully and promptly. We cannot do so if we replicate the serious prejudice condition, nor should we delay requesting the information from third parties. Unlike HMRC's current "identity unknown" requests, the issue of a notice under clause 222 will not require advance tribunal approval.

It is worth pointing out that the same approach was taken in a similar provision in the Finance Act 2009, which allows HMRC to trace a debtor. That is because that legislation was also limited to obtaining basic contact details from third parties. That does not mean that there are no safeguards. All requests must satisfy the tests set out in the clause. The officer must first hold some information and can only issue a notice to a person who can be expected to have obtained the missing identity details in the course of their business. Secondly, a notice can only be issued by an authorised officer of HMRC, with the protections that brings. Finally, any information requested by overseas tax authorities must be foreseeably relevant to the assessment of a tax covered by a particular tax treaty or other arrangement. Together, those measures ensure that the power cannot be used for fishing expeditions.

In addition, this change will attract other safeguards, including the right of a third party to appeal on the ground of onerousness. Although this change has been prompted by international issues, we should not distinguish between UK and non-UK residents, which was recognised by those responding to the initial consultation.

On domestic use, the clause would allow HMRC to obtain the details of someone who has only a UK tax position, and to initiate these requests itself, rather than reacting to requests from overseas. However, in most domestic cases, HMRC will want far more than just the narrow details allowed for in the clause, so by default, most of these cases will require an "identity unknown" notice and will therefore need to meet the serious prejudice

test. For those few cases where HMRC might only be interested in the name and address, the process for domestic use will be tightly controlled. HMRC envisages that the authorised officers for these purposes will be the same as those authorised for "identity unknown" requests. They will consider the proportionality of domestic requests and whether it is the kind of case we would take up in this way if asked by an overseas tax authority. In every case they will also have to consider whether it would be more appropriate to use HMRC's existing powers. This will be reflected in HMRC guidance, which will be exposed for comment.

In response to the question raised by the hon. Member for Newcastle upon Tyne North about confidentiality, as with other areas of the law, banks can lawfully disclose confidential information if there is a statutory request. As to the concern that the class of persons is too wide, and specifically relating to paragraph 5A(7), any information provided to HMRC, either initially or in response to a notice, might relate to more than one person, but HMRC cannot begin to know the numbers of persons or what type of person they are. The tests in paragraphs 5A(2) to (5) must be able to apply meaningfully to the group generically. Although there is some common characteristic derived from the identifying information, given where paragraph 5A sits within schedule 36, "class of persons" is the correct way to frame the legislation.

To some extent I have addressed the serious prejudice test, but it is worth pointing out that paragraph 5 to schedule 36 of the old legislation does have a serious prejudice test before HMRC can issue a notice. Although the identity of the taxpayer is unknown, it is this test that prevents existing UK legislation from meeting international standards. Therefore reproducing it would defeat the point of the change that we have introduced. I hope that I have addressed the concerns that the hon. Lady raised about fishing expeditions. Any request for information by an overseas authority will be rigorously examined by a small specialist team within HMRC to ensure that it is foreseeably relevant to the assessment, collection or enforcement of a tax covered by the agreement. All requests must be authorised by a senior HMRC officer.

In conclusion, the clause is proportionate, supports the UK stance on global tax compliance and fulfils our international obligations. I hope that it will stand part of the Bill.

Question put and agreed to.

Clause 222 accordingly ordered to stand part of the Bill.

Clause 223

PAYE regulations: information

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

8 pm

Catherine McKinnell: I will seek to keep my comments as brief as possible. Some serious and genuine concerns have been raised about the clause, which deals with the transfer to a real-time information system for PAYE. It will authorise additional regulations that will require employers to provide HMRC with full details of all tax, national insurance and other deductions from income at the time of payment.

Real-time information will be the biggest change to PAYE since it started in 1944. It will replace the obligation on employers to submit a single year-end return with a requirement to report to HMRC, normally on or before the making of a relevant payment to an employee, details of pay, tax, national insurance contributions, student loan deductions and other data in respect of each payment. The report will be known as a full payment summary.

For many employers, the increase in reporting burdens could be considerable. For example, employers with weekly paid employees will now have to submit returns to HMRC up to 53 times a year, rather than once. For employees paid daily, up to 366 returns a year will be required. The new regime will clearly be a huge responsibility for businesses, and there is some concern that HMRC may have underestimated how much it will cost them. Will the Minister tell us how he calculated the cost to businesses of the RTI system? Has he considered their case when drawing up the regulations?

The time frame within which businesses will be required to comply is tight. It will be impractical to meet for those who do not use computers in their businesses, who do not have broadband access or who pay workers before the payroll is computerised, as is common in the hospitality and harvesting sectors, where workers are paid at the end of their shift on the basis of hours worked or amount picked. It will create additional expense for those who do not currently use payroll software or have broadband access, or who need to use third parties to compute payroll and submit the necessary FPS.

While we welcome the extension of the deadline for notional payments to potentially 14 days after the end of the tax month, it is only a partial solution to the problems that employers might face. It is insufficient to cover all notional payments, because the deadline of the 19th of the month will create an unnecessary and potentially expensive burden for employers, owing to the need to run payrolls to collect tax on the notional payments outside the normal running schedule in cases where there is no actual payment to the employees from which to deduct the tax.

There will, in many cases, still not be sufficient time to obtain the information and input it into payroll or make an actual payment to an employee in time to meet the deadline. That is why HMRC has long operated easement, allowing NIC on marginal items paid late to be accounted for in the subsequent pay period. Even longer is needed for cross-border employment and for share-related payments, as they require the employer to obtain evaluations and work out how many shares to retain to cover the tax and NIC.

Frequently, the employer will not realise that a PAYE liability has arisen where the notional payment arises from exercising an option by an employee, especially if the employee is overseas and employed by a different company or branch. Does the Minister recognise that the requirement could be difficult for some businesses to meet? Has he considered alternatives or the possibility of a longer period? If businesses cannot or do not comply with the requirements, will they be issued with automatic penalties? There is no indication at this point

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of whether there will be a reasonable excuse provision with which to appeal against those penalties. Such an excuse exists for late personal tax returns, and it would be sensible if such provisions were to exist here as well. Why has there not been a clarification on whether such appeals would be possible? What is the Government's intention?

I am sure that businesses will be grateful for information on that point. While RTI may have many benefits, we need to ensure that the system is workable. I hope the Minister will respond to the points that I have raised about the difficulties that the clause as currently drafted could pose.

Mr Gauke: Clause 223 makes changes to provide HMRC with additional powers to make regulations as part of the implementation of the PAYE real-time information programme—RTI. The powers allow HMRC to require banks and other businesses involved in processing payments through the bankers automated clearing service to provide HMRC with data to corroborate information from employers on payments made to employees and the tax deducted. The data will allow us to cross-reference tax information with the net value of the payments that employers actually make to their employees. This is a significant new PAYE compliance tool for HMRC.

Let me provide hon. Members with some background on the clause. PAYE has been operating in its current form for some 60 years—the hon. Lady is right to say 1944. RTI is being introduced from April 2012, when the pilot began, to bring PAYE into the 21st century by making it easier for employers, pension providers and HMRC to administer and, over time, more accurate for some individuals by improving the processes on joiners and leavers.

Under RTI, employers and pension providers will tell HMRC about the PAYE payments and deductions that they make, such as national insurance contributions, student loan repayments and so on, at the time they pay their employees, rather than at the end of the year, as happens now.

Instead of PAYE being a separate process for employers and pension providers, RTI will be integrated within the payroll process. Payroll software will collect the information and send it to HMRC electronically, with the smallest employers able to download HMRC's free basic PAYE tools. Additionally, RTI will support the operation of universal credit, which is due to commence in October 2013.

The original idea, which was consulted on in spring last year, was to enable any employer that pays wages through the BACS payment system to make their PAYE tax returns through the same channel. HMRC announced on 13 May 2011, however, that, in response to concerns expressed by the payroll industry, banks and others about the timetable for RTI, the strategic implementation of RTI using the BACS channel would be deferred and a revised technical solution adopted for an interim period.

The interim solution enables HMRC to validate the information provided by employers via RTI. RTI submissions will be cross-referenced with electronic payments made by employers via BACS to check that the tax data reported to HMRC is corroborated by the value of the net payment actually made.

For employers, the processes to discharge the new obligation will be embedded in the payroll process and the process of instructing their bank to make payments to their employees. That change will mainly affect the largest employers that split their BACS payroll payments under their own BACS service user numbers. There will be a new requirement on the banks to provide HMRC with the data needed to generate a reference that corresponds to that provided by the employer.

The regulations and directions that HMRC intends to make using the new powers provided by clause 223, which have been provided to the Committee, detail who and which payment services will be affected by the new obligations, the information that must be provided to HMRC and how that information is to be generated. Since the announcement in May 2011, HMRC has been in discussion with BACS member banks, which are the principal stakeholders affected by the changes. HMRC has continued to engage with BACS member banks in developing the draft regulations and directions and in publishing a wider package of draft regulations for RTI, the rest of which came into force on 6 April. In addition to giving HMRC the power to make the regulations and directions before the Committee, clause 223 gives HMRC further powers to make regulations relevant to the strategic solution for RTI.

I shall attempt to address some of the questions that the hon. Lady has raised. It would be wrong to say that RTI will impose additional burdens on employers, including small employers. The net effect is that RTI will reduce the burdens on business—HMRC estimates by about £300 million a year from 2014-15. It will be achieved by removing separate reporting processes, embedding reporting to HMRC as an integral part of normal payroll activity and enabling issues to be resolved in-year rather than after the end of the year.

The calculation of tax and national insurance deductions is not changing. RTI changes the frequency that PAYE information is reported to HMRC, which has worked closely with software developers on payroll products, so that employers and pension providers will be able to send us RTI information online as part of their payroll processes. HMRC has consulted its customers extensively on the operation of RTI. It is also working in partnership with employers, pension providers, software providers and the banking industry in the early stages of the pilot to get the best learning and ensure that the process is as user-friendly as possible. Reports show that the pilot is working well; more than 200 employers and pension providers are already in the pilot scheme, covering more than 1.5 million employees or recipients of pensions.

HMRC is not introducing new penalties in the 2012-13 tax year, or during the pilot period, but it may return to the matter.

Catherine McKinnell: I apologise for interrupting the Minister's flow. He says that RTI will not be an additional burden on businesses, and that in fact there will be a reduction in their administrative burden. Could he respond to my query about businesses that do not have computers and do not operate online systems? I have been led to understand that the additional reporting requirements will in fact mean a fairly substantial increase in the dreaded red tape to which Members on the Government Benches constantly refer.

Mr Gauke: In my earlier remarks I made reference to the basic PAYE tools that are provided free by HMRC. They are available through dial-up and broadband connections; indeed, most commercial software packages also operate dial-up connection. As for businesses that do not use a computer at all, it is possible to purchase a computer for £149 through a Government initiative. There are details on getonlineathome.org. The net effect is a substantial reduction in the burden for businesses. As I have outlined, the PAYE system will be embedded into the payroll process.

In conclusion, real-time information will modernise PAYE and support the introduction of universal credit, which is dependent on it. The new powers will ensure the accuracy of the information supplied to HMRC and used by DWP. I hope the clause will stand part of the Bill.

Question put and agreed to.

Clause 223 accordingly ordered to stand part of the Bill.

Clause 224 ordered to stand part of the Bill.

Clause 225

MISCELLANEOUS RELIEFS ETC

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

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

That schedule 38 be the Thirty-eighth schedule to the Bill.

8.15 pm

Cathy Jamieson: I hope not to take too much of the Committee's time, notwithstanding the fact that the clause and the schedule deal with a number of repeals of miscellaneous reliefs following the Office of Tax Simplification review of reliefs.

On reading the background notes, I immediately spotted the word "nationalisation" and wondered whether something was being slipped in that I ought to take a closer look at. However, it turned out to be something fairly innocuous in relation to exemption of stamp duty for instruments connected with nationalisation schemes.

The clause goes through in some detail a number of what ought, as I understand it, to be tidying up arrangements. I was surprised by some of the things that I found. I had no idea, for example, that a previous Labour Government had introduced a scheme whereby, on certain designated days, people who cycled to work were able to have their breakfast provided courtesy of their employer without incurring any liability for tax. That is now to be repealed.

I understand from the background notes and the information provided that very few people took up the option of a cyclist's breakfast and in the consultation process no one suggested that that particular section ought not to be repealed. Perhaps the Minister will think differently, and perhaps hon. Members will say whether they have ever taken up that opportunity to have a cyclist's breakfast, six of which they were entitled to during the course of the year.

Another tucked-away item is a reduction for meal vouchers. Perhaps the Minister will spell out exactly what that particular repeal will mean for people who currently receive such vouchers from their employer. On black beer, which I know has been raised in the Chamber on occasions, there has been concern about the way in which that is dealt with in the Alcoholic Liquor Duties Act 1979. Paragraph 51(2)(a) amends the definition of beer by removing the exclusion for black beer, making black beer liable to excise duty.

Mr Bone, I do not always simply talk about alcohol. I hope people will not think that as I move on to Angostura bitters. Paragraph 52(1) repeals section 1(7) and section 6 of the aforesaid Act, which deems Angostura bitters not to be spirits for certain duty purposes. Will the Minister clarify the situation that will arise as a result of that?

There is one other issue that I want to raise. *[Interruption.]* I am hearing lots of comments.

The Chair: Order. I am sorry to interrupt, but some private conversations are going on.

Cathy Jamieson: I am hearing private conversations. On that note, perhaps it would be a good point for me to interject and say to people that I understand from my research and as an avid follower of the Committee that some private conversations were broadcast across the internet before the Committee started this evening, because the broadcasting was in place. Perhaps people may want to think about what they said and whether it is going to be out there for ever. Perhaps they will cease their private conversations.

Charlie Elphicke: I assure the hon. Lady that I was entirely complimentary about her at all times. For the benefit of the Committee, our debate here was about what exactly Angostura bitters are and whether it is really the case that millionaires use them.

Cathy Jamieson: I will resist the temptation to read out the entire background note that gives the definition. I am sure that if anyone wishes to find that out, they will indeed go and sample the aforesaid beverage.

Ian Mearns: I had some experience working in the bar trade some years ago. Angostura bitters were often used as a means of coating a glass and making gin pink, among other things. They were also used as a hangover cure when mixed with tonic, but it has to be taken in very small quantities.

Cathy Jamieson: Like other Members, I am absolutely indebted to my hon. Friend for that information; I hope that none of us will have cause to seek out that particular cure tomorrow morning.

Let me move on to another area about which concern has been expressed—mineral leases and agreements. The Institute of Chartered Accountants expressed concerns about the clause and the withdrawal of relief in its response to the Treasury's May 2011 consultation. It welcomed the fact that the Government had decided to retain existing treatments for some current agreements. However, it felt that some of the underlying policy reasons for supporting the continued treatment of mineral

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royalties under the existing rules, which the Office of Tax Simplification supported, remained valid. It is therefore concerned that the proposals might discourage owners from allowing mineral extraction on their land, restricting supply, pushing up prices and potentially cutting across the Government's growth agenda. In the light of that latter phrase, perhaps the Government will want to respond in some detail, given that they will be concerned about getting their growth agenda, which has not been successful, back on track. *[Interruption.]* As was just suggested from a sedentary position, it is actually a question of getting that agenda started.

When the response to the May 2011 consultation was submitted, the ICA suggested that if the relief was to be abolished, royalty relief for existing quarries should be phased out over an extended period of, for example, five years. It suggested that, as the measures are due to take effect in 2013, consideration be given to deferring the proposal's start date by a further year, and that in the meantime a detailed study be undertaken to see whether withdrawal of the relief would impact on the future availability of land for mineral extraction. I have lost count of the number of times we have asked for studies or reports, and I hope the Minister will listen to this suggestion, because it is not simply me who is making it. If he could answer those points, that would be helpful. I have resisted the temptation, as I said, to go through every one of these repeals individually.

Nigel Mills: I want briefly to disagree with the hon. Lady about the changes to mineral leases and agreements. Having read the ICA's submission saying that this change might discourage landowners from bringing forward their land for mineral extraction, I have to say I was quite keen on that idea. Speaking as an MP with a constituency that, rather reluctantly, has one open-cast mine in operation and a planning application for a second one, I wholeheartedly welcome any measure that discourages these awful blights on the countryside, especially where they are far too close to houses, such as the one proposed at George Farm, in my constituency. I therefore urge the Government not to delay or make a U-turn, but to go full steam ahead. The measure is very much to be welcomed.

Mr Gauke: Clause 225 and schedule 38 will help to simplify the tax system by removing obsolete and little-used tax reliefs from the tax system. The Government's objective is to create a tax system that is easy to understand and simple to comply with. That is why we set up the independent Office of Tax Simplification in July 2010—to lead a determined effort to simplify the tax system.

Ian Swales (Redcar) (LD): I suppose it is a sign of the times that this clause is about simplification of reliefs, rather than of taxes. I do not detect the work of the OTS in any of the first 224 clauses. Can the Minister hold out any hope that in future Finance Bills the OTS will get deeper into our very complex system?

Mr Gauke: Yes, I can. The OTS has made a good start. It has identified a number of areas where there is further work to be done. At the time of the Budget, for example, HMRC published a paper on the taxation of small businesses that leant very heavily on some of the ideas put forward by the OTS. In a number of areas, including employee share schemes, the OTS is making a valuable contribution to our tax system. We are all aware, in the course of serving on the Finance Bill Committee, how complex tax can be. It is always a struggle to move towards tax simplification, but the OTS has done some very good work. It has made recommendations on taking steps to improve the administration of IR35. As I mentioned, it has taken steps to improve tax administration for small businesses and, as announced at Budget, steps to simplify the tax system for small and unincorporated businesses.

In March 2011 the OTS carried out a review of tax reliefs. That surveyed all of the reliefs that exist in the tax system and assessed them to identify those that no longer served their rationale or that created unnecessary complications. The OTS discovered that there were more than 1,000 tax reliefs within taxes administered by HMRC alone. It analysed around 155 of those in detail and advised that 43 should be abolished. The Government already abolished in the Finance Bill 2011 seven of those that were found to have expired. The Government launched a consultation last summer on abolition of another 36. We received 78 responses to that consultation, and on 6 December 2011 the Government published their response.

As a result, the Government confirmed full repeal of 28 reliefs, 24 of those in this Finance Bill as part of this schedule. This will remove around 90 pages of tax legislation from the books. The remainder will be abolished either through secondary legislation or in the next available national insurance Bill.

Let me explain why we are abolishing some of the reliefs. A number of the reliefs being abolished are now obsolete. For example, a number relate to stamp duty, a tax replaced by stamp duty land tax in 2003. There is no evidence of recent or planned use of the reliefs associated with harbour authorities. The value of the relief for luncheon vouchers is now worth so little that the relief serves little purpose any more. As hon. Members will see, there is little justification to maintain those reliefs.

I will say a little about why we are not abolishing all the reliefs identified. The Government listened to the views of consultation respondents. Where a strong case was made to retain particular reliefs, that was done, although that was restricted to instances in which evidence submitted represented new information that significantly reduced the rationale for abolition. That means that four reliefs will now not be abolished and a further three will be only partially repealed, on the basis that certain rights need to be preserved for legal reasons.

I will touch on some of the difficult decisions, for example, abolishing excise duty relief for Angostura bitters. That historical relief was introduced when Trinidad and Tobago was classed as a developing country. Abolition of that relief will also maintain fairness amongst all producers of bitters, as the current relief benefits one company. I am grateful to the hon. Member for Gateshead for informing the Committee about Angostura bitters. Never let it be said by any hon. Member that they do not learn something while serving on a Finance Bill Committee.

I will briefly touch on the subject of black beer. It is generally of a high alcoholic strength, around 8.5% proof, so in our view it can no longer be considered a health product, which was the justification for a lower rate, despite the arguments that might be made on that.

As far as mineral royalties are concerned, the relief is redundant, and abolition would not discourage landowners from making land available for mineral extraction. I hope that does not disappoint my hon. Friend the Member for Amber Valley. However, we have agreed to preserve capital loss reliefs in respect of mineral leases or agreements entered into before the repeal.

The rates of income and corporation tax are considerably lower than they were in the 1970s. Consequently, the main rationale for introduction of that relief no longer exists.

With those remarks, I hope I can conclude on this point. The Government are committed to simplifying the tax system and the OTS has a major role in helping us meet that commitment. The repeal of these reliefs represents a further step in the work of the OTS and the Government to reduce the complexity of the British tax code. I hope that the clause and schedule will stand part of the Bill.

Question put and agreed to.

Clause 225 accordingly ordered to stand part of the Bill.

Schedule 38 agreed to.

Clauses 226 and 227 ordered to stand part of the Bill.

New Clause 3

Fuel duty differential for biodiesel

'(1) The Biodiesel Duty (Biodiesel produced from waste cooking oil) (Relief) Regulations 2010 (S.I. 2010/984) shall be deemed not to have ceased to have effect on 31 March 2012 and shall continue in force.

(2) No further Regulations may be made under the Hydrocarbon Oil Duties Act 1979 which would have the effect of removing or reducing the relief provided for by the Regulations mentioned in subsection (1) until a full impact assessment of the impact of the removal of a fuel duty differential for biodiesel has been laid before Parliament.'.—*(Stephen Williams.)*

Brought up, and read the First time.

8.30 pm

Stephen Williams (Bristol West) (LD): I beg to move, That the clause be read a Second time.

It is a great pleasure to move one of the last items of business in this year's Finance Bill Committee. I am sure that members of the Committee will be pleased that I actually have my notes this time, unlike for my performance on clause 180, which will be remembered as the highlight of our deliberations in recent weeks. I will not be flying entirely by the seat of my pants for the next few minutes.

The new clause gives me and the Minister an opportunity to put on the record our views about the biofuels industry. It relates to the biodiesel produced from waste cooking oil, which is probably better known as chip fat. It is not Friday, so none of us is looking forward a traditional meal of fish and chips this evening. I know that my hon. Friend the Member for North East Somerset is an admirer of British culinary traditions, and—as a man of the people—is frequently to be found outside the chip shop in Midsomer Norton high street with his bag of chips. The new clause is all about making sure that the by-product of that culinary delight is used to meet some of our climate change obligations.

In the 2009 pre-Budget report—the last one given by the right hon. Member for Edinburgh South West (Mr Darling)—the Labour Government announced the introduction of regulations on biodiesel produced from waste cooking oil. Having been brought in by statutory instrument No. 984 of 2010, the regulations were to cease on 31 March 2012. Just for once, a statutory instrument had a sunset clause, and that sunset clause has caused problems for the industry. The statutory instrument introduced a 20p per litre duty differential for biodiesel that has an element of waste cooking oil, but the problem is that the differential ceased on 31 March and the statutory instrument is no longer in force.

The industry is very new, having been brought into being by those regulations. Thirty small businesses up and down the country are now making better use of waste cooking oil and employing more than 1,000 people. One of them is Uptown Oil, which is just across the river in the constituency of my right hon. Friend the Member for Bermondsey and Old Southwark (Simon Hughes). I know that he has met the Economic Secretary and written to the Chancellor about this issue.

In the two years that the statutory instrument was in force up to April 2011, 99 million litres of waste cooking oil was put to productive use. The previous Government's intention was that, once the 20p per litre differential was abolished in April 2012, the industry would instead be sustained by renewable transport fuels obligation certificates. In practice, however, the industry has found that RTFO certificates have simply not been tradable at sufficient value in the market. They were expected to fetch a price of up to 24p per certificate, but some businesses have not been able to sell them and the industry has predicted that, even after five years, the certificates may be worth only 12p. That means that many of the businesses are now struggling and are making losses, and many of them are predicted to fail unless action is taken.

Fabian Hamilton (Leeds North East) (Lab): I assume that the hon. Gentleman is talking about waste cooking oil that is used for automotive fuel, not for generating electricity, which is what REG Bio-Power in my constituency uses it for. Does the duty also apply to the generation of electricity from that waste product or does it apply only to automotive fuel?

Stephen Williams: I believe that it can be used for the generation of electricity. It could also be used more widely. I have met the trade association, and we have had subsequent conversations. I mentioned that perhaps it could be used for trains in the future. I recently had a cab ride with First Great Western from Paddington to Bristol Temple Meads and saw for myself how the company is now saving diesel by coasting at 110 mph from Swindon down to Somerset—it is downhill all the way to Bath and Bristol. It is saving diesel by doing that, and if it were able to use biodiesel from waste cooking oil, that would make a further contribution to the environment.

Simon Kirby (Brighton, Kemptown) (Con): I hope that my hon. Friend will excuse me mentioning the most excellent Big Lemon bus company in Brighton and Hove, which uses that recycled product to great effect.

Stephen Williams: How could I not forgive my hon. Friend? I seem to remember that he gave us all a stick of rock at one point last year, so perhaps one will be forthcoming for that intervention.

In discussing the amendment that I tabled to clause 180, I said that it was all about joined-up government, and this new clause is another opportunity to encourage that—this time between the Treasury and the Department for Environment, Food and Rural Affairs. The latter estimates that waste cooking oil—whether used for chips or something else—causes 150,000 blockages a year, because most of it is poured down the drain, and costs the water companies £15 million a year. Eventually, all of the waste is likely to end up in landfill, which produces 40% of the UK's methane and 3% of its greenhouse gas emissions.

Instead, we could put that waste cooking oil to better use. Last year, when all those millions of litres of cooking oil were diverted to better use, it enabled the UK to exceed our road transport emission targets by 8%, saving 1 million tonnes of carbon dioxide. In a few short years, the UK became the leading country in the world for using waste cooking oil for road fuel.

The UK Sustainable Biodiesel Alliance has made a proposal to me on the way forward that I would like to put to the Minister. It has suggested that for a cost of just £5 million—which, to put it in context is 1% of the £500 million that the Chancellor spent in Treasury questions this afternoon by deferring the fuel duty rise for six months—heavy goods vehicles and taxi fleets could use high-blend biodiesel, with a 20% mix of waste cooking oil, and that would keep this nascent industry alive for another few years. If the Government do not listen to the representations that I know have been made, the danger is that the industry will simply collapse; more than 1,000 people will lose their jobs; our emissions targets in this area will not be met; and, perhaps just as important, an awful lot of chip fat will be poured down the drain.

The Economic Secretary to the Treasury (Miss Chloe Smith): It is yet again a pleasure to serve under your chairmanship this afternoon and this evening, Mr Bone. It is almost fitting in a way that one of our last debates on this Bill should have ended with the mental image of unpleasant substances going slowly down the plughole—*[Laughter.]* On a more serious note, I shall try to answer the points raised by my hon. Friend the Member for Bristol West.

As hon. Members may know, the fuel duty differential for biofuels derived from waste or used cooking oil was set at 20p a litre. That differential ended on 31 March. The proposed new clause seeks to retrospectively reinstate the differential, and I understand that the industry has expressed a similar wish. Indeed, I have been in correspondence about the issue with, among others, my right hon. Friend the Member for Bermondsey and Old Southwark. Unfortunately, however, we cannot support the proposed new clause tabled by my hon. Friend the Member for Bristol West.

The Government recognise that biodiesel derived from waste cooking oil can be a highly sustainable source of biofuel. However, if I explain some of the history of this differential, that will give the Committee the context for the Government's decision to allow it to expire. Until April 2010, all biofuels benefited from a 20p per litre differential. As my hon. Friend has said, in the 2009 PBR the previous Government announced that all differentials were to be scrapped, except for that for biodiesel derived from waste cooking oil, which was extended for two years and expired in March 2012. That was legislated for by the previous Government.

That extension gave additional temporary support to the industry while the Department for Transport amended the RTFO to implement the renewable energy directive in full. The directive requires all European Union member states to achieve 10% renewable energy in transport by 2020. The duty incentive was always intended to be a temporary support mechanism. The planned expiry date was well known by industry for some time, and we believe that the best way to support the biofuels industry in the future is through the RTFO. I shall briefly explain why.

The RTFO requires fossil fuel suppliers to produce evidence that a proportion of their fuel comes from renewable resources. It also rewards biofuels on the basis of their sustainability criteria. Each litre of biofuel produced is awarded a certificate, which suppliers can use as evidence that they have met the obligated proportion. The certificates are tradable. The RTFO has a sharper focus on sustainability than the previous duty differential system, which offered no mechanism for addressing concerns about the sustainability and sourcing of the biofuels supplied, and which treated all biofuels the same.

Ian Swales: I was happy to add my name to the amendment. Yesterday, I hosted a reception in Parliament for biofuels producers, and one of their great pleas is for consistency and an understanding of their industry. It is difficult to predict what the profitability or accounting may look like in two, three or more years. I make a plea for this Government not to fall into the same trap as the previous Government, who killed off all the investors in biodiesel.

We have also had a problem with bioethanol. This country's earliest investor in bioethanol is in my constituency, but it has been shut down for a year because the numbers have gone adrift. I make a plea for the Government to continue to understand what is happening in the new industries, and not necessarily to stick to the figure that they may have predicted two or three years ago.

Miss Smith: I thank my hon. Friend for his passionate and well-informed plea. I am well aware of his work with the industry and pay tribute to it. He makes a sensible point. I was just about to talk about how the RTFO certificates work and are tradable. I acknowledge that the demand for and the prices of those certificates will fluctuate for a range of reasons and it is important to understand that that will happen. That might be partly behind one of my hon. Friend's comments.

Ian Mearns: Has the Minister—has the Department—assessed the payback period on the capital investment required to produce biodiesel from waste fat products?

Miss Smith: Let me return to that point in due course to be sure that I can answer satisfactorily.

The key point about certificates is that they are given a double value for that particular biofuel. Giving twice the financial support to biofuels derived from waste compared with conventional biofuels provides a clear incentive for sustainability in the system, in particular for biodiesel derived from waste cooking oil.

8.45 pm

A further important point is the fluctuation of behaviour in the system. The Department for Transport's view is that a few months' data on certificate prices cannot give a clear forecast of prices to come. This year is somewhat unique because of the transposition of the renewable energy directive and it is too soon to tell whether the recent crisis reflects a longer-term trend. However, we have committed to reviewing the double certificate system to ensure that it is having a positive effect on the biofuels industry, and I strongly believe that it is the right time for the RTFO to support and incentivise that industry.

Let me briefly consider the costs associated with the new clause and reinstating the duty differential. The previous Government estimated the costs of the duty differential to be £10 million a year, but here is the rub: the cost was much greater—£80 million in 2010-11, increasing to £160 million in 2011-12. Although domestic production of that sort of biofuel increased from April 2010, the majority of the supply was imported as international producers took advantage of the UK's tax relief. Our analysis suggests that, if the rebate were continued, it could cost around £200 million in 2012-13 and continue to increase in future.

Fabian Hamilton: I assume that the clue is in the title, "Transport". Earlier, I asked the hon. Member for Bristol West whether the duty applied exclusively to transport fuels. I opened a project on 14 October, the North Leeds power station, which exclusively uses recycled cooking oil. Does the duty apply to that fuel? It drives diesel turbines—they do not go anywhere, but they are engines. Is the fuel classed in the same way as transport fuel?

The Chair: Order. Before the Minister replies, it was remiss of me not to say at the beginning of the sitting that the programme motion calls for our proceedings to end at 9 o'clock.

Miss Smith: If I may, Mr Bone, I shall read into your words the suggestion that the question should be tackled in correspondence, which I am happy to do, because it does not refer to the subject of the new clause. Mr Bone is nodding at me, which means I will have to leave that there.

Clearly, costs ballooning out of control on a differential system would be a problem and value for money is particularly important at this time. Given that biodiesel derived from waste cooking oil is already incentivised through the RTFO, re-providing a differential in tandem would not represent the value for money that we seek.

The Government strongly believe that the RTFO delivers effective and sustainable market-based support to the biofuels industry. I thank my hon. Friends the Members for Bristol West and for Redcar, who spoke about the new clause, and, indeed, my right hon. Friend the Member for Bermondsey and Old Southwark, who does not serve on the Committee, for their interest in the subject and their work on behalf of the industry to promote its success. I greatly hope that we can provide for that success through the system that is in place.

I reassure all members of the Committee, including in response to the question about capital assessment, that where further assessment or data-seeking is required, the Government are constantly talking to industry, and that dialogue will continue.

With that, I ask my hon. Friend not to press the motion.

Stephen Williams: I introduced the new clause to put some remarks on the record on behalf of the industry that made representations to my right hon. Friend the Member for Bermondsey and Old Southwark, and we have heard the Minister's response. Because she ended on a positive note, saying that she intended to continue to have dialogue with the industry, I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 4

UK RESIDENTS AND FOREIGN PARTNERSHIPS (REVIEW)

'The Chancellor of the Exchequer shall review the implementation of section 58 of the Finance Act 2008, and the impact of its retrospective nature on the taxpayers involved, and place a copy of the review in the House of Commons Library.'.—*(Nigel Mills.)*

Brought up, and read the First time.

Nigel Mills: I beg to move, That the clause be read a Second time.

People who were affected by section 58 of the Finance Act 2008, which ended a particularly awful tax avoidance scheme, have expressed a lot of concern. I am sure we would all agree that that scheme should have been properly closed down many years earlier, and that the Revenue should have properly litigated at the time against those who implemented it rather than letting it run on and give its users the impression that they were acting lawfully and within the tax code. People involved in the scheme have suffered distress and real financial hardship because the measure taken to close it down was deemed to apply for ever. The law that was introduced in 2008 deemed the new rules to have applied going back as far as one could realistically envisage. It is not like the retrospective measure we discussed in an earlier clause of the Bill, where the retrospection was for a matter of months to tackle a large loss that had arisen, the Revenue's becoming aware of a scheme and their having an opportunity to close it. The Revenue had been aware of this scheme for many years.

Mr Hamilton: Does the hon. Gentleman agree that retrospection of any sort, especially in taxation, should always be avoided? The people who were involved in that scheme—going back, as the hon. Gentleman has said, a long way—believed it to be legal, but they now find that it was not legal at the time when it was legal. One of the bases of the rule of law is: no retrospective legislation. The House should stick to that.

Nigel Mills: I agree, and the Committee has debated those points at some length. The hon. Gentleman is in good company. In a debate in the Finance Bill Committee four years ago, an amendment to that effect was moved by Conservatives and Liberal Democrats, which the Labour party voted down. Some of the Members who voted for that amendment are here today, including our illustrious Chairman, under whom we are all enjoying serving. It is interesting to note that Government Members' strong objection to that principle seems to have softened since then. Maybe that is not true; maybe the Minister will tell us that he is prepared to look at this.

Approximately 2,000 people are affected. They are not necessarily the high-earning multi-millionaires; perhaps some relatively low-earning IT consultants were using the scheme. I have no doubt that the scheme was noxious and should have been closed. However, was it right to give people the expectation over many years that the scheme was legal; to have suggested in "Technical Exchange – Issue 63" that HMRC did not think it could successfully litigate against the scheme; and to impose a retrospective provision that applied for ever? I am not sure that that is a sensible way of conducting tax policy, or a fair way of dealing with taxpayers.

No assessment was made at the time of the impact on individuals' pay. The new clause simply asks the Government to go back and consider whether what was done was consistent with how the Government now think we should use retrospection, if at all. Was the impact on those individuals fair and reasonable? Would we not be better off changing the law to close the scheme down from the date of the announcement in 2007, then litigating under the old rules to find out whether the scheme was legal? We would normally do things in that way, which would be better and fairer for the taxpayer.

Mr Syms: I support my hon. Friend. Clearly, there is a lot of unfairness. People have divorced or moved, and their financial circumstances have changed. I saw two constituents in my surgery last week: one is being pursued for £350,000, which is basically his retirement money; the other is being pursued for £150,000, and he may well have to sell his home. The first person was also in Equitable Life, so this is not a good story. A lot of those people who are IT engineers or consultants are getting towards retirement, and they have been hit not only by back taxes, but by penalties, interest and everything else. We need to look at this, because we did take a different view in opposition and there is a degree of unfairness here which needs to be addressed.

Graeme Morrice: I am very conscious of the time. We have only five minutes left before we come to a conclusion. I had intended to say a considerable amount about this. Like the two previous speakers, I have also had constituents raise this issue with me. The central aspects of retrospection are of grave concern. The Minister will be aware that I have written to him on this matter and today I received a reply. I have still to go through the detail and digest it. No doubt, he will then receive further correspondence from me. On the basis that we are running out of time and it is important that the Minister has a few moments to respond, I will reserve my position.

Jacob Rees-Mogg: Retrospection is wrong. It undermines the rule of law and if this House does not stand for the rule of law it stands for nothing.

Mr Gauke: In the interests of time, I will not deal with all the issues relating to retrospectivity and HMRC's history in this case. Let me address the new clause, which asks for a review of the implementation of section 58 and the impact of its retrospective nature. The impact of section 58 has been raised previously and it may be helpful for me briefly to say something on this subject. As the right hon. Member for East Ham (Stephen Timms) explained in a written answer in 2009, regulatory impact assessments are not published in respect of anti-avoidance measures where the impact is only upon those avoiding the tax in question. This particular scheme would have resulted in individuals paying income tax at less than 5%. Preventing egregious avoidance is not a regulatory burden, none the less, HMRC reviewed the information it held. Most of the people who would have been affected by the measures were in the top 5% of earners, with a substantial proportion receiving an annual income over £100,000. They have been advised by professional tax consultants. HMRC was quite clear that the legislation would not apply to individuals, other than those seeking to avoid tax through the scheme. Let us be clear, HMRC was challenging the scheme, so its users should have taken reasonable precautions to ensure that they had funds to meet their liabilities. HMRC is not free to distinguish in principle between an individual who spent the money that should have been paid in tax and one who has not. In those circumstances, I urge my hon. Friend to withdraw his clause.

Nigel Mills: I am becoming less of a fan of these programme motions as time goes on.

Jacob Rees-Mogg: On a point of Order, Mr Bone. I thought the Finance Bill could not be cut short and we could debate finance matters for ever.

The Chair: The Public Bill Committee decided that

"the proceedings shall (so far as not previously concluded) be brought to a conclusion at 9.00 pm on Tuesday 26 June."

So the answer is: you are wrong.

Jacob Rees-Mogg: On a point of order, Mr Bone, is such a programme order valid? Can it overrule the Standing Orders of this House relating to the Finance Bill?

The Chair: I thank the hon. Gentleman for his second point of order. First, this is not in the Standing Orders; secondly the House could overrule the Standing Orders anyway.

Nigel Mills: This was a probing clause to get some comments from the Minister on the record about an issue of concern to many. I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

Question proposed, That the Chair do report the Bill, as amended, to the House.

Mr Gauke: Before we conclude, I would like to say some brief words about the points of order. We have considered this Bill in great detail, and while we have not considered every sub-paragraph, we have discussed the range and depth of the measures before us. I am sure that the Opposition will shortly ask the Chancellor to put a report in the Library on the impact of our considerations. The hon. member for Kilmarnock and Loudoun said she had lost count. I can tell her, with the disposal of the civil service, that we have not, and that would make it the 28th request for a report.

Despite the lack of policy proposals, Opposition Members have certainly engaged throughout the 10 weeks of our deliberations. We heard the history of the European cup from the hon. Member for Bassetlaw, who made several entertaining interventions—I am sorry that he is not here. I should point out that the cup was won by a team in one of our Committee members' constituencies, and I am certainly not talking about my hon. Friend the Member for Norwich North.

9 pm

The hon. Member for Edinburgh East provided us with a detailed inventory of listed buildings in her constituency, for which we are grateful. We also had a reminder of the importance of pubs from the hon. Member for Livingston and from the hon. Member for Easington, who is sitting next to him and whose name escapes me for the moment—*[Laughter.]* I was never entirely clear during our proceedings exactly which one was Morris Major and which was Morris Minor, but I thank them for their contributions and determination to scrutinise even the drier elements of the Bill.

Shadow Ministers' contributions have been equally engaging. Such has been their discipline and unity that, by the end of proceedings, they were even dressing the same. I am sorry that the hon. Member for Leeds West is not here. I understand that a refusal to wear a red jacket and a black blouse was the reason why the hon. Member for Pontypridd (Owen Smith) went on to—"bigger and better things" it says here, although I, for one, would dispute that being shadow Secretary of State for Wales was a bigger or better thing. I congratulate him on his elevation to the shadow Cabinet and thank him for his contributions, even if he did accuse us of clever dickery.

We must not forget the work of the hon. Member for Middlesbrough South and East Cleveland and my hon. Friend the Member for Chelsea and Fulham in ensuring that we have got to the end—in the end. Although we may have thought at times that the Mayans were right and the end of the world would come before the end of our deliberations on the Bill, or that we would at least reach Her Majesty's platinum jubilee, we have seen off the final clauses in fine style and I thank the hon. Gentleman and my hon. Friend for their assistance.

I must not forget the contributions of my hon. Friends, which have been sharp, intelligent and, in most cases, short. Serving on a Finance Bill Committee is sometimes seen as a rather unappealing prospect, but I suppose it is better than being on the library committee, although my hon. Friend the Member for Amber Valley may have that opportunity before long. Together, my hon. Friends have enlivened our proceedings, for which I sincerely thank them, and I hope many of them will sign up for the Finance Bill in 2013.

I also thank my hon. Friends in our coalition party. Whether they had their notes or not, they have been great value.

I thank my hon. Friends the Financial Secretary and the Economic Secretary. Their help has been invaluable, as has been the quick work of my hon. Friend the Member for South Staffordshire.

I thank Mr Hood, Mr Sheridan, Mr Amess and, if I may say so, above all, you, Mr Bone, for your guidance throughout our debates. I was struck when my hon. Friend the Member for North East Somerset used the word "backbone" in an early debate. I thought that "Back Bone" must festoon posters the length and breadth of Wellingborough at every general election. We are grateful for your assistance.

As always, I thank Mr Patrick, the *Hansard* reporters and the Doorkeepers, who ensured the smooth running of the Committee. I thank them for all their help. I thank parliamentary counsel and officials from HMRC and the Treasury. At times, they have been genuinely inspiring to those of us standing here. I greatly look forward to Report and the Bill's final stages.

Catherine McKinnell: The Exchequer Secretary is a difficult act to follow. He set the tone in thanking you, Mr Bone, who, as my hon. Friends said, are a very decent gentleman. You have chaired extremely fairly and allowed Members to express at length, when that has been necessary, their concerns about particular provisions. That has been much appreciated. Thanks also to Mr Hood, Mr Amess and Mr Sheridan, of whom we have seen less, but who have been equally fair.

I also thank Mr Patrick, the Committee Clerk, the *Hansard* reporters, who studiously write down every word we utter, and the Doorkeepers, who assiduously pass the notes from *Hansard* backwards and forwards as we try to explain our speedy mutterings.

The proceedings have been lengthy. I was inserted into the Committee as a replacement for my hon. Friend the Member for Pontypridd, who indeed refused to wear a red jacket and black blouse and for that has been banished to Wales. There was much disappointment in Committee when he left because he dealt with matters succinctly, and I know that my arrival slowed progress somewhat. However, I have tried to improve, and I think that we are all relieved that we have arrived at the end of our proceedings.

We have managed to scrutinise every clause line by line. Although we did not gain sufficient votes to get the reports placed in the House of Commons Library, for which, we still maintain, the Chancellor and the Treasury team should have provided, we have scrutinised the issues and all our concerns are firmly on the record. Today, we have gone from Angostura Bitters to Jammie Dodgers and we are all getting hungry and thirsty as we finish our deliberations.

I thank the representative bodies, which provide enormous help and assistance to the Opposition team in ensuring that the Bill is scrutinised. I particularly thank the ICAEW, which has been very supportive.

I thank the ministerial team, who have responded courteously and fairly to all the concerns raised. I thank my hon. Friends and others on the Opposition Benches, and also Government Back Benchers. All have contributed with great humour and spirit, but also great sincerity as we have debated very important matters. We look forward to further scrutiny on Report.

Stephen Williams: Just to remind people, Mr Bone, that there are three parties, I should like to make one brief remark.

The hon. Member for Newcastle upon Tyne North mentioned that people may be hungry and thirsty, and it had been my intention, had we finished earlier, to invite everyone on the Committee to the Terrace for food and drink, not to bought by myself, of course. Those who know me will know that that would be an extremely unlikely invitation, but the annual tax reception of the Chartered Institute of Taxation, of which I am a member, is taking place on the Terrace this evening. I am sure that they will still be there, and there will be plenty of free wine and food, and the really good news is that no one will have listen to the speeches, because the Exchequer Secretary and myself made our speeches during the vote on the Opposition business earlier this evening. The invitation is to pop downstairs and have a free drink—we all deserve it.

The Chair: Just before we conclude, I should also like to thank the doorkeepers and *Hansard*, but particularly Mr Patrick, the Committee Clerk, for the enormous amount of hard work that goes on behind scenes in running the Finance Bill, most of which is never seen. We truly appreciate what you have done, Mr Patrick.

May I say to the Committee that this is the best Finance Bill Committee that I have ever served on? Every member has taken part. The scrutiny by the official Opposition has been very good, as has the scrutiny by the unofficial opposition. It was really pleasing to see so many members attending and paying attention throughout the Bill's consideration. It is a great credit to all of you, and of course to the Government for the way in which Ministers answered all the questions asked. All of you can be very proud of what you have done.

As a small souvenir, you are allowed to keep your red or green boxes. I am nearly at the stage where I can have my own views again; this has been an awfully difficult 10-week period for me. The only thing that I had better do before we finish is put the Question.

Question put and agreed to.

Bill, as amended, accordingly to be reported.

9.11 pm

Committee rose.