PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

FINANCE (NO. 2) BILL

(Except clauses 1, 5 to 7, 11, 72 to 74 and 112, schedule 1, and certain new clauses and new schedules)

Eighth Sitting

Tuesday 13 May 2014

(Morning)

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Clause 49 agreed to.
Schedule 7 agreed to.
Clause 50 agreed to.
Schedule 8 agreed to, with amendments.
Clauses 51 to 53 agreed to.
Schedules 9 and 10 agreed to.
Clauses 54 to 56, 284, and 57 to 60 agreed to.
Clause 61 under consideration when the Committee adjourned till this day at Two o'clock.

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Saturday 17 May 2014

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The Committee consisted of the following Members:

Chairs: Martin Caton, † Mr Gary Streeter

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† Dakin, Nic *(Scunthorpe)* (Lab)
† Dinenage, Caroline *(Gosport)* (Con)
† Duddridge, James *(Rochford and Southend East)* (Con)
† Elphicke, Charlie *(Dover)* (Con)
† Evans, Chris *(Islwyn)* (Lab/Co-op)
† Fuller, Richard *(Bedford)* (Con)
Garnier, Mark *(Wyre Forest)* (Con)
† Gauke, Mr David *(Exchequer Secretary to the Treasury)*
Gilmore, Sheila *(Edinburgh East)* (Lab)
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Hames, Duncan *(Chippenham)* (LD)
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† Jamieson, Cathy *(Kilmarnock and Loudoun)* (Lab/Co-op)
† Kane, Mike *(Wythenshawe and Sale East)* (Lab)
† Kwarteng, Kwasi *(Spelthorne)* (Con)
† Leadsom, Andrea *(Economic Secretary to the Treasury)*
† Leslie, Chris *(Nottingham East)* (Lab/Co-op)
† Mahmood, Shabana *(Birmingham, Ladywood)* (Lab)
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Vaz, Valerie *(Walsall South)* (Lab)
† Wheeler, Heather *(South Derbyshire)* (Con)
† Williamson, Chris *(Derby North)* (Lab)
Wilson, Sammy *(East Antrim)* (DUP)

Matthew Hamlyn, Kate Emms, *Committee Clerks*

† attended the Committee

Public Bill Committee

Tuesday 13 May 2014

(Morning)

[Mr Gary Streeter *in the Chair*]

Finance (No. 2) Bill

(Except clauses 1, 5 to 7, 11, 72 to 74 and 112, schedule 1, and certain new clauses and new schedules)

9.10 am

The Chair: Welcome back, colleagues. When the debate was adjourned on Thursday afternoon, the Committee had agreed that schedule 6 be the Sixth schedule to the Bill. We now come to clause 49. Only 246 clauses to go.

Clause 49

Employment-related securities etc

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

The Chair: With this it will be convenient to consider that schedule 7 be the Seventh schedule to the Bill.

Shabana Mahmood (Birmingham, Ladywood) (Lab): Good morning, Mr Streeter. It is a pleasure to serve under your chairmanship again this morning.

Clause 49 and schedule 7 implement a number of recommendations made by the Office of Tax Simplification to simplify the tax rules in relation to employment-related securities such as employee shares or ERS options awarded to employees. The clause changes the tax treatment of ERS and ERS options awarded to internationally mobile employees, introducing a new relief for certain ERS exchanges. It simplifies the rules around nil-paid and partly-paid ERS and extends the corporation tax relief available to companies in relation to employee share acquisitions. The clause also makes some technical changes to the tax treatment of share awards, providing a new relief for certain share-for-share exchanges on takeovers and extending corporation tax relief in certain situations, principally on takeovers and where international moves are involved.

We support the changes made by the clause and the schedule. Given the attempts to obtain some symmetry in the income tax and corporation tax treatment of option gains for internationally mobile employees, what steps will the Government take to align the new rules in respect of national insurance contributions for IMEs? The new rules for IMEs introduce additional costs for the employers of IMEs, in that they will need to update their reporting systems. They will need to track inbound assignees to a greater extent, as they are more likely to be liable for UK income tax, and reporting to Her Majesty's Revenue and Customs will increase. What is the Government's estimate of the additional costs involved? Given our earlier discussions about tax-advantaged schemes of this nature, can the Minister say how many companies operate tax-advantaged schemes, what percentage of the UK work force are covered and what the overall cost to the Exchequer will be of the various reliefs in relation to share schemes? Have any studies been done to quantify the positive effects that these have on the UK economy?

The Exchequer Secretary to the Treasury (Mr David Gauke): It is a great pleasure to serve under your chairmanship once again, Mr Streeter.

As we have heard, clause 49 introduces schedule 7, which makes various simplifications to the tax rules for employment-related securities, as recommended by the Office of Tax Simplification. Not for the first time, we are making some changes to the law as a consequence of its proposals. In its report on unapproved employee share schemes, the OTS highlighted a number of areas where the rules could be simplified to make life easier for businesses and employees. This is just one of the provisions in the Bill that implements recommendations made by the OTS. It addresses issues indentified as priorities by the OTS and has been welcomed by consultation respondents as a valuable simplification of complex tax rules.

The clause will change the rules for taxing shares and share options awarded to internationally mobile employees. Currently, whether UK tax is chargeable in relation to employee shares or share options might depend upon where an employee resided at the time these were awarded, regardless of where the work to earn that award was carried out and whether it related to UK or overseas duties. The new rules put the position on a simpler, more orderly and principled basis, broadly reflecting OECD guidance and taking into account where duties were performed. Alongside these changes, we will also extend the availability of corporation tax relief. Relief will be available, for example, where individuals are seconded from overseas to work for a UK company.

We have consulted on these changes, and most respondents were agreed on their simplification potential. However, some concerns were raised about implementation. We therefore propose that the new rules will not come into effect until 2015, which will allow affected businesses and employees to prepare. To avoid businesses having to operate different sets of tax rules, we will apply the new rules to all employment-related securities, regardless of when they were awarded. We are introducing a new relief that will allow certain shares awarded to employees to be exchanged for similar shares without an income tax charge arising—for example, in takeover and merger situations.

We are simplifying the rules on notional loans, which apply when an employee is awarded nil-paid or partly-paid shares. The effect of the change is to provide a relief from a potential tax charge in certain cases where an employee disposes of those shares. There will be new corporation tax relief for certain employee share acquisitions that take place after the takeover of a business by an unlisted company.

Let me turn to the questions raised by the hon. Member for Birmingham, Ladywood. On the current cost to the Exchequer, the tax relief granted under the Government's four tax-advantaged schemes increased by 10% to £610 million in 2011-12, the latest year for which we have figures. The figures show an increase in the number of companies currently operating one of the Government's four tax-advantaged employee share schemes, up 3% to 9,260 in 2011-12.

The purpose of the change in relation to internationally mobile employees is to simplify the tax rules, not to raise revenue. In some cases more UK tax may be charged than currently; in some cases it may be less. The changes include new corporation tax reliefs for UK companies with regard to overseas employees. However, it is right and fair that securities income relating to UK work and duty should be taxed as employment income in the UK. International double taxation agreements will continue to protect internationally mobile employees and there will be overrides in the legislation to ensure that the tax treatment is just and reasonable.

The OTS has pointed out that the current rules can impose significant burdens on businesses, particularly when they involve amounts being treated as loans to employees and when separate rules apply for different types of securities. Most respondents to the consultation agreed that the changes have the potential to simplify the position for employers in the longer term. Although there were some concerns about short-term implementation and the need to establish new processes and systems, HMRC has responded by allowing a longer lead-in time before the changes take effect, removing the potential for employers to have to apply two sets of rules when the changes come in.

The hon. Lady asked about the percentage of the work force that is covered. HMRC does not have that figure, but she has some indication of the scale. She asked about the application of the provision to national insurance contributions and whether the rules will be changed in line with the new rules set out in schedule 7. The answer is yes, as far as possible that will be done under international social security agreements. The Government will bring regulations before the House in time for implementation from 6 April 2015. I hope those points of clarification are helpful to the Committee, and I am grateful for the cross-party support for the clause.

Question put and agreed to.

Clause 49 accordingly ordered to stand part of the Bill.

Schedule 7 agreed to.

Clause 50

Venture capital trusts

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

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

Government amendments 16 to 19.

That schedule 8 be the Eighth schedule to the Bill.

Mr Gauke: Clause 50 introduces schedule 8, which makes amendments to the venture capital trust regime to ensure that the tax reliefs are used as the original policy intended and to facilitate different types of investment. The changes should ensure that the VCT regime continues to be well targeted and effective in facilitating access to finance for smaller business with growth potential.

I also want to speak to Government amendments 16 to 19, which clarify the impact of the restriction of VCT returns to capital. The Budget announced a further change to VCTs and the other tax-advantaged venture capital schemes—the enterprise investment scheme and the seed enterprise investment scheme—to prevent low-risk companies already benefiting from particular renewable subsidies from also qualifying for tax relief. I will table an amendment on Report to introduce that legislation. I know that a number of interested parties have raised questions about the types of company that may be affected, so an information note will be published shortly to clarify the scope of the change.

The Government provide generous tax reliefs to individuals taking on the risks of investing in smaller, relatively unproven businesses with growth potential. The VCT regime was introduced in 1995 specifically to encourage investment by retail investors who were interested in investing in smaller, higher-risk trading companies, but who prefer to have their investments made, managed and diversified by a professional fund manager. In 2012 the Government substantially expanded the scope of the VCT regime by allowing companies with up to 250 employees and £15 million gross assets to qualify for investment. Annual investments of up to £5 million were also allowed under the scheme. However, as well as expanding the scheme, the Government have made other changes to ensure that the tax relief continues to be well targeted, supporting high-risk investments into companies that might otherwise struggle to access finance.

In order to preserve the integrity of the regime, it is important that we continue to be vigilant in limiting opportunities for misuse of the generous tax incentives that we offer. It is also important that the regime continues to be relevant to wider changes in the market and does not unnecessarily restrict the regime to one type of investor. The clause makes a number of changes to ensure that the VCT regime continues to be well targeted and effective. The changes are fairly technical; I will provide a brief overview of each in turn. Further information is provided in the response documents and updates on the consultation on VCTs available at gov.uk.

The bulk of the clause deals with two changes that ensure tax reliefs cannot be misused by recycling moneys that benefited from tax relief or returning capital that has not been invested. The first of the changes is described in schedule 8 as linked sales. At Budget 2013, the Chancellor announced his concern that some VCTs were taking advantage of the tax reliefs in the regime in a way that was not intended through a practice commonly known as enhanced share buy-backs. This involved the VCT buying back shares from investors at the same time as providing an opportunity for investors to subscribe for new shares in the same VCT. In effect, the investor's money was simply being recycled within the fund and their tax relief was being refreshed. In some cases no new investments were being made at all.

If the Government leave that practice unchecked, it is likely to increase the Exchequer cost of the VCT regime without increasing the pool of money available to VCTs for investment in small and medium-sized enterprises. Perhaps more importantly, we were concerned that, without a change in the rules, investor perception of

[Mr Gauke]

VCTs would become skewed. Therefore, the clause makes changes to restrict VCT tax relief where there is a sale of VCT shares linked to reinvestment. That should prevent taxpayers from receiving multiple rounds of tax relief on the same underlying investment.

The second change is described in the schedule as "return of capital", and is related to the linked sales of VCT shares and deals with the issue of VCTs using share premium accounts and other reserves to offer investors a tax-free return. Although the return is often described to investors as a dividend, it bears no relation to investments made. In some cases, these returns have been made to investors before the VCT has made any investments into SMEs. The Government recognise that the practice has not been prevalent across the industry, although there have been some examples of misuse. However, we felt that if the rules were left unchanged, the robust action that I have described to limit linked sales from VCTs could quickly be undermined.

Again, without action in this area, arrangements were likely to increase the cost of the VCT tax reliefs, but without an equivalent increase in money invested in SMEs. The schedule therefore introduces a new rule to limit inappropriate returns of capital by restricting the use of these accounts when funds are initially raised and where VCTs may not have made qualifying investments. The new rule limits a VCT's ability to return share capital that does not represent profits made on investments within three years of the end of the accounting period in which funds were raised. We intended the rule to apply only to new issues of shares.

This approach was agreed with the industry shortly before the Budget this year. However, we have received representations expressing concern that the original drafting might affect pre-6 April share issues, which was not the intention of the policy change. We have therefore tabled Government amendments 16 to 19, which make minor changes to the legislation to ensure that the rule clearly applies only to new capital raised.

Schedule 8 also makes a minor amendment to the VCT legislation to deal with time limits for making taxpayer assessments. The change will ensure that HMRC can make assessments to recover VCT tax relief to ensure that the VCT rules will continue to work as intended, rather than relying on the general rules applicable to making assessments. Investors using VCTs must hold their shares for 15 years to continue to qualify for the tax relief that they have received. However, the VCT legislation does not contain its own provisions as to the time period in which HMRC may make assessments to recover tax relief. HMRC is therefore at present reliant on the general rules applicable to the making of assessments contained within the Taxes Management Act 1970 and the Finance Act 2008.

The general time limits in the legislation were reduced to a period of four years from the end of the relevant year of assessment. That change has the unintended effect that if an investor disposes of his VCT shares in the 12 months before the fifth anniversary of their acquisition, HMRC is time barred from raising an assessment to recover the VCT relief. The change that the clause introduces for time limits for making assessments simply preserves the intention of the legislation and the five-year minimum period for VCT investments.

Finally, the clause provides for investors to invest in VCTs via a nominee. Around 11,000 individuals currently invest in venture capital trusts in the UK. By allowing individuals to acquire their investments via nominees, the Government are facilitating a wider range of investment opportunities. The change will allow individuals to invest via platforms, as is already possible for many other investment trusts—and, indeed, for investments in the enterprise investment scheme. This change should mean that VCT investments will be offered on platforms, alongside other investment products, allowing individuals to compare different investment opportunities. We hope the change will open up opportunities for a broader range of investors to engage with the VCT scheme and support SMEs' access to finance. We intend to consider this as part of the consultation and evidence-gathering exercise that will take place over the summer. The amendment also provides a power to amend the regulations relating to a VCT's obligation to provide HMRC with details of their investors.

When speaking to the clause, I said that VCT shares must be held for a minimum of 15 years; the minimum investment period is in fact five years. I apologise if a slip of the tongue may have misled the Committee. With that prompt correction—the Opposition will no doubt have spotted the slip; I am keen to correct it before it is pointed out—let me say that I believe the changes in the clause will result in a better targeted and more effective VCT regime. I hope the clause will stand part of the Bill.

9.30 am

Cathy Jamieson (Kilmarnock and Loudoun) (Lab/Co-op): It is a pleasure to be back in the Committee this morning, Mr Streeter.

It is always good to see a Minister who recognises the error of his ways, even with an inadvertent slip of the tongue. I am glad he was able to correct that point. I thank him for sending us a letter in advance with information about the clause and the Government amendments to it. That is always helpful to us in understanding the Government's thinking.

I note the Minister's point about bringing back further issues on Report. I am sure he will be pleased to hear that we generally support the changes to ensure that investors do not benefit from multiple rounds of tax relief on the same underlying investment, which is one issue the clause tackles. I do no intend to go through every detail he has outlined, but it is worth stressing what, as I understand it, the Government are trying to do. As it stands, the legislation could be exploited in a way that Parliament did not intend. It is important we clear up any issues to do with that.

I would like the Minister to respond briefly to a couple of points. I am interested in how investments and venture capital trusts are actively supporting SMEs. How are the Government monitoring that? Can he provide figures for the level of VCT investments in SMEs? Will he also say how many of the companies invested in by VCTs have gone on to be successful contributors to the UK economy? I also want to draw attention to a point made by the Association of Investment Companies, which supplied information in advance of this debate and recognised that

> "The need for guidance is not a shortcoming of the amendments proposed."

Will the Minister say when and how further guidance will be produced?

The Minister wrote in his letter that

"there may be circumstances in which Government would want to disapply or amend the effect of the new legislation, where one or more VCTs merge."

As he has also said, a power to make such changes by secondary legislation is being introduced. Will he say more about the circumstances in which he would wish to take advantage of that power?

Mr Gauke: I thank the hon. Lady for her support for the clause and the amendments to it. VCTs are a long-standing part of our tax system, in place since 1995. I hope that both Government and Opposition Members share the view that it is important that we incentivise investment in the UK and, in particular, that we do what we can to ensure that investors have the opportunity to invest in those smaller businesses that might involve some risk but have potential for high growth. We need an environment that encourages dynamic and entrepreneurial businesses.

In terms of the level of VCT investment and how the Government monitor that, according to figures from the Association of Investment Companies, £435 million was raised for SME investment in 2013-14. There were 27,000 investors in over 2,000 companies in that sector, so we do think it is significant. From speaking to those in the industry, I sense that this area is growing more strongly and that there is considerable appetite for investment, which is encouraging.

HMRC produces guidance for all legislative change. As a rule it aims to do that within about three months of Royal Assent. HMRC will produce assistance for the VCT industry in advance of formal publication, as necessary. As the hon. Member for Kilmarnock and Loudoun said, guidance is a necessary part of the changes; we hope that that will be of assistance.

HMRC monitors all VCT investments through the specialist advance assurance process, which considers applications for investment. That gives HMRC a strong view and perspective on the types of investment in the area. What is desired is a balance between establishing the necessary incentives and ensuring that there is proper focus on high-risk investment. That is why we have in recent years made the changes that we have, ensuring that the VCT regime is properly focused on those high-risk areas. The tax reliefs are generous and should not be given for low-risk investment. However, we believe that high-risk investment—the VCT regime—deserves support.

As to secondary legislation, the VCT industry has indicated that there may be circumstances where VCT mergers merit different treatment. Officials are still exploring that with the industry; hence the precautionary power to make changes in secondary legislation.

I hope that those points of clarification help the Committee.

The Chair: I commend the Minister for his personal knowledge on those technical issues.

Question put and agreed to.

Clause 50 accordingly ordered to stand part of the Bill.

Schedule 8

VENTURE CAPITAL TRUSTS

Amendments made: 16, in schedule 8, page 325, line 47, leave out 'distribution' and insert 'payment'.

17, in schedule 8, page 326, line 4, leave out 'distribution' and insert 'payment'.

18, in schedule 8, page 326, line 27, at end insert—

'( ) In section 281(1)(f)(i) or (iii) of ITA 2007 references to a company's share capital do not include so much (if any) of its share capital as consists of shares issued before 6 April 2014.'.

19, in schedule 8, page 326, line 27, at end insert—

In section 322 of ITA 2007 (power to facilitate mergers of VCTs: provision that may be made by regulations), after subsection (5) insert—

(5A) Provision for section 281(1)(f) (withdrawal of VCT approval where company has made a repayment of share capital etc) not to apply, or to apply subject to modifications, to the successor company or any of the merging companies, in relation to payments made, or amounts used to pay up new shares, in connection with or after the merger."'.—*(Mr Gauke.)*

Schedule 8, as amended, agreed to.

Clause 51

REMOVING TIME LIMIT ON SEED ENTERPRISE INVESTMENT SCHEME RELIEF

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

Cathy Jamieson: We are making good progress, and I hope that we may continue that in a short discussion of clause 51, which removes the time limit on tax relief for investments through the seed enterprise investment scheme. Previously tax reliefs were limited to investments that took place after 6 April 2012 and before 6 April 2017. Under the new arrangements the scheme is extended permanently. Therefore the provision of the Income Tax Act 2007 that allows the Treasury to extend the scheme by order is removed, as it is no longer necessary.

The SEIS came into effect from 6 April 2012 and was designed to help small early-stage companies to raise equity finance, by offering a range of tax reliefs to individual investors who subscribed for shares with a stake of no more than 30% in the companies. It complements the existing enterprise investment scheme, but offers a higher rate of relief because of specific difficulties that small start-ups have in attracting investment. The investment limit is set at £150,000 for companies that have not benefited from investment under either EIS or VCT, that employ 25 or fewer employees, and that have gross assets of under £200,000. I understand that the Government are also committed to exploring options for tax reliefs to apply when individuals make investments in the form of convertible loans.

We recognise what the Government are trying to do, but I have a couple of questions for the Minister, particularly about the current level of tax relief on investments and the cap of £150,000. Some investors have suggested that it should be higher. Do the Government have any plans to raise the cap on investments eligible for tax relief?

The Minister gave us the benefit of his knowledge of figures about VCTs. Is he able to provide any up-to-date figures for the amounts invested in small start-up companies, through the SEIS in recent years? What is the anticipated level of take-up for the scheme in the years ahead?

[Cathy Jamieson]

In last year's Finance Bill Committee debates we highlighted that, as in a written response, the Government estimated that 300 completely new companies would benefit from SEIS over the course of a year and that, overall, 1,000 companies would benefit. Will the Minister provide an update on progress towards meeting those estimates and can he provide us with any other information about what will happen in future?

Mr Gauke: Clause 51 would make changes to ensure that the SEIS is made permanent. The scheme, which was introduced in 2012, is designed to help small early-stage companies, which often find it difficult to obtain financing in the critical first few years, to attract investment, making it easier for them to grow and become established. The scheme encourages equity investment into qualifying companies, by providing income and capital gains tax reliefs for individuals who invest in shares for such companies.

The scheme currently contains a sunset clause that limits the relief to shares issued on or after 6 April 2012 but before 6 April 2017. The changes made by the clause will remove the 6 April 2017 restriction and permanently extend the scheme, ensuring that vital early-stage funding will continue to be encouraged in new companies, supporting their growth and enabling them to make a valuable contribution to the wider economy.

Richard Fuller (Bedford) (Con): May I place on the record my thanks to the Government for the SEIS and the start-up loan scheme and for their commitment to supporting entrepreneurs? The proposal that the Minister is outlining will go further in supporting that. It is important to put support for entrepreneurs on the record.

Mr Gauke: My hon. Friend makes an important point. This is about ensuring that we have a more dynamic economy and that it is easier for early-stage seed businesses to find finance. That helpful measure is a key part of our long-term economic plan.

On the size of the scheme, which the hon. Lady mentioned, there is no fixed definition of "seed investment" as such, but having considered evidence regarding the generosity of the tax relief and what is affordable, the investment limits have been set to provide the first tranche of investment required to get a business up and running. The scheme is not intended to provide long-term investment support. The EIS and VCT, which we have just debated, remain available for that purpose. Increasing the limits of the scheme would require us to notify the European Commission about that, which could deem it to be an illegal state aid. However, currently it falls below the de minimis level.

The latest figures for the scheme's use show that more than 17,000 early-stage companies have now benefited from investment, which is more than anticipated in the numbers that I gave last year; there have been more than 4,000 expressions of interest for future involvement; and more than £150 million of investment has been supported by seed enterprise investment schemes. On the basis of those numbers, certainly compared with what was predicted previously, we believe that the scheme is working well. I am grateful to have had the opportunity to put that on the record and hope that the clause stands part of the Bill.

Question put and agreed to.

Clause 51 accordingly ordered to stand part of the Bill.

Clause 52

Removing time limit on CGT relief in respect of re-investment under SEIS

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

9.45 am

Cathy Jamieson: The clause would amend the Taxation of Chargeable Gains Act 1992, by removing the time limit currently set on gains accruing to the investor between 2012-13 and 2013-14 on capital gains tax relief for investors reinvesting profits in the seed enterprise investment scheme. It would also extend to changes introduced in 2013, which stipulated that half of the reinvested amount, rather than the whole as previously allowed, can be set against chargeable gains.

Again, the background to this is that to help kick-start the scheme and encourage investment in SEIS, CGT relief was given to chargeable gains accruing to an investor in 2012-13 where the gain was reinvested in shares that qualified for SEIS income tax relief and the amount reinvested was exempt from CGT. That was subject to a £100,000 investment limit, which matches a similar cap on SEIS-related income tax relief. In 2013 the CGT relief was extended to chargeable gains accruing in 2013-14.

We welcome the renewal of the time limit on CGT relief for funds reinvested in SEIS. We recognise the particular difficulties faced by small businesses and start-ups in attracting the necessary finance to grow. It is useful to see the progress that is being made here. We want to ensure that there is a way to incentivise lending to SMEs. I have a brief question on the tax impact and information note, which states that

> "the extension of the scheme will also continue to encourage individuals to become entrepreneurs with the backing of SEIS investors."

What evidence does the Minister have that the tax reliefs available under SEIS actually encourage that entrepreneurship? Have the Government conducted a regional breakdown of the impact of SEIS? What analysis have the Government undertaken to ensure that, given the scale of tax reliefs involved, companies invested in under SEIS are successful in the long term? It is obviously important in terms of the start-up work to look at how they progress in the long term.

Mr Gauke: Clause 52 makes changes to ensure that capital gains tax relief for reinvesting in SEIS shares is made permanent. The capital gains tax SEIS reinvestment relief was introduced in 2012, alongside the income tax relief we have just debated, to help kick-start and build interest in seed enterprise investment schemes. The relief was initially introduced as a one-year holiday for the tax year 2012-13 and worked by exempting from capital gains tax any chargeable gains accruing to an investor in that year where the gain was reinvested in shares qualifying for SEIS income tax relief.

In 2013 we responded to stakeholders who said that more time was needed to build and maintain the momentum of interest in SEIS by extending the capital gains tax relief to chargeable gains accruing in 2013-14. At the same time we reduced relief so that the exemption applies to half the qualifying reinvested amount. The changes made by clause 52 will make the CGT reinvestment permanent in the same way as the main income tax relief is being made permanent. That means that any investors making capital gains in 2014-15, or a subsequent year, will receive 50% capital gains tax relief when they reinvest those gains into seed companies.

This is at a very early stage. SEIS has been in place for a relatively short period so it is not easy to make a long-term assessment of which companies are succeeding. Not all start-up businesses will succeed. It is inherent in a dynamic market economy that some will succeed and some will fail. I have given some aggregate numbers for the regional breakdown of where there has been take-up. There will be a regional breakdown as part of the national statistics being published in December 2014.

Charlie Elphicke (Dover) (Con): My hon. Friend will recall the studies of the OECD and the European Union, which show that enterprise formation is strongly linked with the growth, and particularly the sustainable growth, of economies. The action that the Government are taking to foster enterprise creation is making a massive difference. There is also the incredible rise in self-employment, with people starting their own businesses, striking out on their own and helping to grow the economy. Is that not a key part of the long-term economic plan?

Mr Gauke: I agree with my hon. Friend. For economies to prosper in a sustainable way, it is important to harness the values of entrepreneurism and the entrepreneurial spirit. That is exactly what the Government wish to do.

Richard Fuller: On that point, as the Minister is responding to the interesting question about statistics, there is a tension in the Government between those who would like to see an entrepreneur-driven free market approach to how we grow the wealth to pay for our public services and those who would like to see some form of industrial policy that has grand Government-led designs. That is a view that often comes out of the Department for Business, Innovation and Skills. What is my hon. Friend's view on which of those approaches the clause is designed to support?

Mr Gauke: I know my hon. Friend is trying to be helpful. I would say that the clause is about ensuring that we have an entrepreneurial and dynamic economy. My hon. Friend discusses the tensions that may exist. Of most significance to the country are the different approaches to business between the majority party in the Government and the Opposition. No doubt we will have the opportunity to debate those differences at length in future.

As we are discussing clause 52, let me address the specific question about evidence that the seed enterprise investment scheme is working and helping to harness the entrepreneurial spirit. It is very early days, and it is particularly difficult to do a quantitative analysis, although the take-up of the scheme is greater than anticipated. The qualitative evidence certainly suggests that the scheme is encouraging new companies to be set up, supporting entrepreneurship. Given that the scheme has been in place for only a short time, I am grateful to see that.

I have met some of the companies that have taken advantage of the seed enterprise investment scheme, and it has certainly helped them find finance, inspire new ideas and put those ideas into action. We are pleased with the progress that has been made. It is not just the Government who are pleased, because the CBI said in response to the Budget:

> "The Government has heeded our call to make the SEIS permanent to boost the range of financing options available to growing businesses and spur greater use of equity finance in small firms."

The clause is a widely welcomed measure and one that I hope will have the unanimous support of the Committee, notwithstanding the tensions that exist.

Question put and agreed to.

Clause 52 accordingly ordered to stand part of the Bill.

Clause 53

Relief for investments in social enterprises

Cathy Jamieson: I beg to move amendment 20, in clause 53, page 44, line 29, at end insert—

> '(3) The Chancellor of the Exchequer shall, within six months of the passing of this Act, publish and lay before the House of Commons a report setting out the predicted impact, over the next five years, of the changes introduced by Schedule 9 to this Act to ITA 2007 on the overall level of investment in social enterprises.
>
> (4) This report must in particular set out the predicted impact of sections 257MQ and 257MS of ITA 2007, as inserted by paragraph 1 of Schedule 9, on the overall level of investment in renewable technologies over the next five years.'.

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

Clause stand part.

That schedule 9 be the Ninth schedule to the Bill.

That schedule 10 be the Tenth schedule to the Bill.

Cathy Jamieson: The tensions on the clause, the schedules and our probing amendment might be across the Committee rather than among Government Members.

Clause 53 introduces schedules 9 and 10, dealing with a range of income and capital gains tax reliefs to encourage individuals to invest in qualifying social enterprises. Eligible investments can be through share purchase or through certain types of debt. A social enterprise is defined as a

> "community interest company, community benefit society or charity".

It also provides that the definition can be extended by the Treasury in future, with retrospective effect. I am sure that the Minister will want to explain the Government's thinking on that and in what circumstances they envisage extending the definition.

The schedules cite some specific trades to be exempted from receiving social investment tax relief. They include any company in receipt of feed-in tariffs, such as renewables obligation certificates, for the generation of electricity. I

[Cathy Jamieson]

want to come back to that point in a moment, but it is worth noting that qualifying investments must be in companies with fewer than 500 full-time equivalent employees and with no more than £15 million in gross assets immediately before the investment and £16 million immediately after.

As is our pattern when we wish to probe the Government for further information, we have tabled an amendment to the clause that asks the Chancellor to produce a report that sets out the predicted impact of the changes over the next five years, with specific work on the potential for overall investment in renewable technologies. I want to make some comments and ask the Minister some questions. He may be able to give me some reassurance.

We recognise the value of social enterprises as a means of attracting investment and providing much-needed services to local communities; their benefits are well documented. However, along with the community benefits, we understand the level of commitment and involvement required in local communities to ensure that social enterprises succeed. Their business models need to work.

We have some questions about the scope and ambition of the social investment tax relief outlined in the Bill. The maximum investment is limited to £282,904 over three years. Will too many enterprises be ruled out by overly prescriptive eligibility criteria? We are also concerned about the danger that the provisions may be of more benefit to wealthy investors than social enterprises. Investors who choose to loan money to social enterprises have the option to charge interest on such loans, which would mean that they would benefit from not only tax relief on the loan as a qualifying investment but interest on their loan in the normal way.

One scenario has been suggested to me. I apologise in advance for going through it in detail, but it is important that the Minister can respond. If a top rate taxpayer was to lend a charity £200,000 at 10% interest with all capital repayable at the end of the three-year period, they would collect £60,000 in tax relief from SITR. They then give £80,000 to the charity under gift aid and collect £25,000 in higher rate tax relief. The charity collects £20,000 in gift aid. The lender receives £60,000 in interest on the loan at £20,000 a year. In total, the lender puts £280,000 into the charity and receives back £345,000—the £200,000 loan, £60,000 in interest and £85,000 in tax relief, which will give them a potential profit of some £65,000, which means that they will be better off than if they had simply used SITR. The charity receives £300,000 in loan, gift and tax relief, then repays £260,000 in loan and interest. It therefore makes a £40,000 profit and receives interest-free use of the money for three years. It has effectively borrowed money for three years at an interest rate of 13%.

Given the scale of potential profit for investors, it is possible that they could use SITR as a means of avoiding tax on their investments in an enterprise at little risk to themselves and with limited value to the enterprise in question. That is why we want to probe this issue further. The tax impact and information note perhaps tacitly admits some of those points, as it states that investors in such schemes

"tend to be male, located in the south of England and have higher overall income levels".

Will the Minister respond to that?

I have further questions on that point. The Charity Tax Group has raised concerns that SITRs will be quite expensive to arrange and are most likely to be used by charities with an income of £1 million to £2 million. According to that estimate, many small-scheme social enterprises will be excluded.

10 am

We also note that there have been concerns expressed by others in the social economy sector that thousands of legitimate social enterprises—companies limited by guarantee that are not charities—will also be excluded. As I have mentioned, of particular concern is the impact of the clause on investment in the renewable energy sector. Proposed section 257MS explicitly rules out enterprises that benefit from Government renewable subsidies, including feed-in tariffs, renewables obligation certificates and the heat incentive scheme. Given the well publicised need for alternative sources of energy, is the Minister able to explain the rationale for that? There have been concerns that it could make investment in the sector difficult, potentially jeopardising the chances of meeting the renewable energy and climate change targets.

Can the Minister reassure us? For example, if funds had already been invested in renewable energy projects, would they have to be returned? Particular concern has been raised in relation to anaerobic digestion systems. More than £130 million of potential investment has been raised so far, but could that be lost? It will help if the Minister can respond to that. Can he give us a full explanation of the rationale behind excluding the enterprises in receipt of renewable subsidies, and how does he respond to those concerns regarding the potential impact of the clause on investment in the renewables sector and the ability to meet the climate change targets? Will he specifically address the concerns raised by the charitable organisations and social enterprises on the point that I have made about SITR being more likely to benefit wealthy investors than the organisations that they are investing in?

Finally, will the Minister tell us what efforts are being made to simplify SITR, given the concern that has been expressed that it can be overly complicated and expensive to arrange? If the Minister is able to reassure us on those points, I will be able to assess whether it is necessary to press the amendment to a vote.

Mr Gauke: Clause 53 introduces schedules 9 and 10, which provide for a new social investment tax relief. The scheme offers income tax and capital gains tax reliefs on sums invested by individuals in social enterprises. Many social enterprises currently have difficulty raising capital from investors and commercial lenders. The reliefs will support social enterprises seeking external finance by incentivising private individuals who invest in them.

I will provide a little background for the Committee. The Chancellor announced these reliefs in his 2013 Budget and consulted on them over the summer. Nearly 80 organisations and interested individuals responded. Taking on board their comments, we have modelled the reliefs on the existing enterprise investment scheme reliefs, but with significant differences to make them attractive to social enterprises and investors. An innovative feature of the new reliefs is that they will be available on investments that take the form of debt where the debt is unsecured. This will allow enterprises that are unable to issue shares to raise capital more readily.

I will set out the changes being made in schedules 9 and 10 respectively. Schedule 9 introduces a relief from income tax for individuals who make qualifying investments in qualifying social enterprises that are carrying on a trade with a social motivation. The relief takes the form of a deduction from income tax liability at a rate of 30% of the amount invested. Schedule 9 also defines what is meant by a social enterprise—community interest companies, certain community benefit societies and charities—and lists other conditions relating to size, structure and the activities to be carried on by the enterprise.

Schedule 10 introduces a relief and an exemption from capital gains tax, which complement the income tax relief in schedule 9 and closely resemble the capital gains tax reliefs available under the enterprise investment scheme. The chargeable gain on the disposal of any asset may be held over if an amount equal to the gain is invested in a social enterprise and the investment is eligible for the income tax relief. Tax will not be payable on the gain until the social enterprise investment is sold or repaid, or unless it ceases to qualify for the income tax relief. Even then, if there is a new eligible investment in a social enterprise, the gain may be held over once more.

As an extra incentive to investors, any gains on the social investment itself will not be charged to capital gains tax, where losses would be allowable losses. They will still be allowable, less or subject to restriction by the amount of tax relief previously given. The number of community interest companies has increased by 20% to 9,000 since the tax relief was announced in the Budget last year. The social enterprise sector estimates that the tax relief could lead to new capital of £480 million flowing into the sector over the next five years. We expect that figure to be slightly lower, to take into account the limit on the amount of tax-advantaged investment that each organisation can receive under EU state aid rules.

Amendment 20 would require the Exchequer to publish a report, within six months of Royal Assent, on the predicted impact over the next five years of the changes introduced by schedule 9. That is unnecessary. Until the tax relief is well established and investments are approved, we will have no better prediction than that provided by the sector. In the 2014 Budget, we announced that we would evaluate the impact of the relief in two years' time to see whether it is having a transformative effect. In the next six months we will concentrate on promoting the relief and expanding the scheme so that it can make a difference. Surely, that is the right focus at the moment. We will be consulting stakeholders on how to expand the scheme, in particular by extending it to new forms of indirect investment, in the summer.

I appreciate that amendment 20 was tabled to elicit a debate, but I will attempt to address the concerns raised by the hon. Member for Kilmarnock and Loudoun. On the limits that are set out, the hon. Lady focused on gross assets but there is also a limit on employee numbers. We are in a fiscally constrained environment, and we want to encourage investment in organisations with the greatest market failure. Those are the smallest organisations. That is consistent with the EU approach and will help our application for a wider scheme. The presumption in the European Commission is that state aid is directed at small organisations most in need of assistance, and it will be looking for limits such as those, which are in place for venture capital tax reliefs.

In the autumn statement, we doubled the size of organisations that will be eligible for SITR, from fewer than 250 employees to fewer than 500. The vast majority of voluntary organisations will be eligible. The employee limit of 500 is, in particular, more generous than for the EIS, which has an employee limit of 250. The Government recognise that the employment intensity and funding challenges of the social enterprise sector are different from those of commercial organisations and that a higher employee limit is more appropriate for the social enterprise sector.

On the question of whether SITR is too complicated, HMRC will publish guidance and explanatory notes for organisations and offer an advance assurance scheme. We have learnt from the experience of EIS, on which the relief is modelled, that it needs to include tax avoidance clauses. We recognise that issue.

The hon. Member for Kilmarnock and Loudoun raised the point that, somehow, wealthy individuals will benefit, rather than charities and similar organisations. Social investment is a nascent market. The relief is designed to kick-start that market and bring in new investors, just as EIS has for risky commercial companies—hence our setting a similar rate of return. There will be no minimum investment, so the tax relief will be available for any size of investment. We expect crowdfunding to be a growing part of future social investment, so thousands of retail investors will potentially benefit. Charities and social enterprises will benefit from being able to borrow money more cheaply than would be possible otherwise. They will get a lower rate of interest than from a commercial lender—they would not seek SITR investment otherwise.

The hon. Lady gave the example of an investor using SITR and gift aid, but unless I missed this detail, she appears to have overlooked the fact that the investor in the scenario she described will be subject to higher rate tax on the interest received. Clearly that needs to be part of the equation.

The data in the impact assessment on who will invest and make use of the relief are pulled from historical data on the enterprise investment scheme and so are somewhat speculative. The Government will continue to monitor the take-up of social investment tax relief with a view to ensuring that it brings in genuine new sources of investment.

The hon. Lady highlighted the issue of changes to extend the scope with retrospective effect. The power to extend the scope exists to ensure that the legislation complies with our EU obligations, which do not allow member states to restrict the free movement of capital by restricting the scope of the measures to UK-only enterprises. Should the Government wish to extend the scope in future to overseas equivalents of community interest companies or community benefit societies, they can do so.

We have no intention of expanding the definition of those companies or organisations that can benefit. We acknowledge that a company limited by guarantee is a long-standing and common form for social enterprises, but do not wish to include other organisations that are not regulated by a body checking for a social purpose,

[Mr Gauke]

as that would open up the scheme to the risk of abuse, which I know is a concern that all Members of the Committee will share. Setting up a new regulatory process for those organisations would duplicate the one already carried out by the regulator of community interest companies, which would not be good value for money for the taxpayer. Companies limited by guarantee that wish to take advantage of the relief can convert into community interest companies or community benefit societies for a nominal cost. As with other features of the relief, the Government will keep the situation under review to ensure that the relief is operating effectively.

On community energy schemes, it is worth pointing out that renewable energy schemes will receive £7.6 billion in subsidies in 2020, and in 2015-16 up to £430 million of taxpayers' money will be used to subsidise renewable heating through the renewable heat incentive. Those figures include significant support for community energy schemes. Most such schemes will be too large to qualify for the social investment tax relief, but the Government will consider whether they should be eligible for the larger social investment tax relief, which requires notification to the EU. Part of the summer consultation exercise will be on how to provide a more consistently easy-to-follow approach. Some community schemes are eligible for tax relief under other tax-advantaged social capital schemes, such as SEIS, EIS and VCTs, including where they benefit from feed-in tariffs.

The Government are committed to ensuring that tax relief schemes are effective. The new social investment tax relief is not aimed at any specific social or community sector, and as part of its overall effectiveness it is important that it is not skewed towards one sector to the possible detriment of others.

This new relief on income tax and on capital gains tax will promote the growth and activity of the social enterprise sector by allowing qualifying businesses to access new sources of capital. It is the first tax relief of this kind or on this scale in the world. With these measures, the UK leads the way in supporting social enterprises as an effective and efficient way of delivering services and facilities for the benefit of us all. I therefore hope that the clause and schedules 9 and 10 stand part of the Bill, and that I have provided sufficient information to persuade the hon. Lady to withdraw her amendment.

10.15 am

Cathy Jamieson: I thank the Minister for his response to the issues I raised. Of course, we welcome the support that will be given to the social enterprise sector and I have said how valuable that is to communities across the UK. I understand what he says in relation to the scope of our amendment and the point at which it would be reasonable and feasible to report back. I still have some concerns about the renewable energy sector and how that will impact on community energy schemes. However, it would be entirely possible to pursue those by other means rather than press the amendment at this point. I therefore beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 53 ordered to stand part of the Bill.

Schedules 9 and 10 agreed to.

Clause 54

Relief on disposal of private residence

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

Shabana Mahmood: The clause reduces, in most cases, the period for which an only or main residence automatically qualifies for final period exemption from 36 months to 18 months. The exception to that is individuals who are disabled or in a care home and who have no other property on which they can claim private residence relief. They will continue to get the 36-month final period exemption.

The stated policy objective is to make the tax system fairer by

> "reducing the incentive for those with more than one property to exploit the rules while still providing people with sufficient time to sell a previous residence after moving to a new one."

This measure would increase the capital gains tax liability for an individual who has two or more private residences at the same time for more than 18 months. Those affected by this change are likely to be wealthy individuals with more than one property.

We understand the thinking behind the clause and, of course, we do not want people to be able to effectively play the system and avoid paying capital gains tax artificially. We therefore support the thrust of the measures contained in the clause, but I seek clarification from the Minister on a number of points. He will be aware that the OTS, in its final report, said in relation to principal private residence:

> "This relief is clearly of considerable importance and is itself a simplification on the basis that it keeps many taxpayers outside the CGT net. However, there has to be scope for simplification due to the numerous conditions and sub-reliefs causing complexity in anything other than straightforward cases. It is therefore proposed that these conditions be reviewed to test which are still appropriate, researched to see whether any can be streamlined and rewritten in a simpler format."

I would be grateful for the Minister's comments on the view taken by the OTS. After the clause is agreed today, does he intend to take on board some of what the OTS said, and if so, what is his proposed timetable for doing so?

I should be grateful if the Minister would set out the evidence base used to establish that 18 months is sufficient time for those who are genuinely trying to move home. I am concerned that there might be large regional variations in how long it takes people to sell their home. The expectation would be that sales take place in a shorter period of time in London and the south-east, where the housing market is much more buoyant, but 18 months might not be sufficient to sell in areas where it is less buoyant. What assessment has he made of those regional variations?

Some commentators have raised concerns about the definitions contained in the clause and, in particular, that the relaxation to 36 months only applies where a person is disabled or is a long-term resident in a care home at the date of disposal of the property. They fear that the "long-term resident in a care home" criterion is too restrictive. The low incomes tax reform group has suggested that instead of the current definition catching people who are long-term resident in a care home, it might be extended to include a long-term resident in a care home, respite accommodation, sheltered or very sheltered accommodation or those who, for reasons of old age or disability, choose to sell their homes and live with family or friends. The group makes the reasonable point that older or more vulnerable people do not often move into a care home straight away, but end up spending time in hospital, with family, in sheltered accommodation or short-term respite care first. It also suggests extending the definition of a disabled person to not only those in receipt of the relevant benefits, but those who might be eligible to receive them, as well as those who are suffering from a long-term chronic illness.

I understand the difficulties in capturing all those whom the exclusion to the new 18-month rule is intended to catch while still keeping the system simple, and I bear in mind the OTS's comments that I quoted earlier, but will the Minister set out his views on the definitions that have been adopted by the legislation? Why has he rejected the wider definitions suggested by the low incomes tax reform group? Will he keep those matters under review as clause 54 beds in?

The Association of Taxation Technicians raised concerns about those who are moving to take up a new job and may lose out as a result of the proposed changes. It points out that people will often initially move into rental accommodation, perhaps to cover a probationary period until permanent appointment in their new job is confirmed. They may retain their former main residence as the only house that they own, so there is no question of their trying to exploit the rules and artificially avoid paying capital gains tax. They may only find a buyer and complete the sale of their house more than 18 months after they moved into rental accommodation. It does not seem the legislation's intention that someone in those circumstances would be liable to capital gains tax. What should happen in those cases? Is the Minister concerned that there is a danger that the approach to counter unacceptable exploitation of the current laws might have been imprecisely targeted?

Mr Gauke: Clause 54 provides that where an individual owns a property that has at any time been their main home in the last 18 months, they will automatically qualify for relief from capital gains tax. That is reduced from the current position where the last three years qualify. Currently, if a person lives in a property as their principal private residence, no capital gains tax is due for that period or for certain allowed periods of non-residence. One of those allowed periods is the last three years of ownership, which is known as the final period. That was intended to deal with the scenario where an individual moves to a new house before the old one is sold and to give them time to sell it before capital gains tax starts to be due on it. However, some people are using the final period in a way that was never intended and getting up to three years' relief on a property that they are not living in.

James Duddridge (Rochford and Southend East) (Con): I fully support the clause. I see it as a way of freeing up some housing stock that may otherwise be empty. Anecdotally, I have heard that affluent people that can afford to have two houses are keeping the first one right up to the end of that period to maximise the capital gain. Quite often that property is not let so it is left empty. Was that a driving force behind the clause?

Mr Gauke: My hon. Friend makes an interesting and important point. That may be one of the consequences of the clause, but I would not necessarily say it was the driving force behind it. It will certainly be interesting to see what the consequences will be. Whether it will help to free up housing capacity is a point that should not be dismissed, so I am grateful for his observation.

It is worth pointing out that the final period of relief was originally one year. It increased to two years in 1980 and to three years in 1991. It may be useful if I remind the Committee of what the then Member for Islington, South and Finsbury, Chris Smith, said in the 1991 Finance Bill Committee:

> "In the current very flat housing market, the period of two years may be inadequate…Although that relief is not unreasonable where the house is left vacant during that period, especially when it is not appreciating much in value, relief becomes rather generous where the house is let before it is sold so that rental income will accrue as a result of the house being unoccupied by the owner or it is left deliberately vacant during a housing boom so that a much greater gain can be realised at a later date".—[*Official Report, Standing Committee B,* 13 June 1991; c. 311.]

That point is not dissimilar to the one made by my hon. Friend the Member for Rochford and Southend East a moment ago. The then Financial Secretary to the Treasury, my right hon. Friend the Minister for the Cabinet Office and Paymaster General, agreed with that observation then and we agree with it now. The housing market is very different now compared to 1991. The current evidence shows that on average UK properties do not stay on the market long before they sell.

People have changed their behaviour to use the relief in ways that were not intended to be covered. Some people have taken unfair advantage of the final period by flipping their property to get relief on second homes—"flipping" is where a property owner buys a second home and nominates it as their private residence for a short time, with the express intention of securing private residence relief on it before they flip the nomination back to the first property. If they sell their second home within three years, none of the capital gain they make on the sale of the second investment property will be chargeable to tax. They also get near full relief on their main home and often full relief after deduction of a person's annual exempt amount.

The Government support home ownership, but the three-year period is too generous and we are reducing it to 18 months. However, we recognise that not everyone will be aware when they leave their home that they may not be returning to it—such as when they go into hospital or respite care because of illness or injury. The decision to forgo the independence symbolised by living in one's own home is not easy. The Government want to give people time to make that decision without fear of the possible capital gains tax consequences. The clause therefore maintains the final period of three years for people with disabilities and for anyone who is a long-term resident of a care home, when they sell their former home. The Government do not want to impact on anyone who is genuinely struggling to sell their home and we will keep this policy under review in the context of housing market trends.

Let me respond to the points made by the hon. Member for Birmingham, Ladywood, who asked why the Government have not sought to simplify private residence relief, as recommended by the Office of Tax Simplification. We continue to monitor the tax system

[Mr Gauke]

and act when problems are identified. To be fair, the measure is not about reforming private residence relief as a whole. However, we wanted to act swiftly to address the worst abuses of the private residence relief. On the issue of whether 18 months is sufficient time for those who are genuinely trying to sell to move house, a wealth of data are publicly available on property market trends, including the time taken to sell. Officials looked at information on the average length of time to sell in a range of regions across the UK. They were informed by home.co.uk, the monthly national house price survey, and hometrack.co.uk. These indicate that people will be able to sell a property in the UK within 18 months. Those who cannot sell their home within 18 months are likely only to be liable for CGT on gains apportioned to a short period and the annual exempt amount may provide part or full relief on any gain on the property. Someone struggling to sell their home also has the option to rent it out. Lettings relief of up to a maximum of £40,000 may also be available to someone who lets out a property that is, or has been, their main residence.

In terms of the issues over where we have maintained the three-year period and whether the definition should be expanded to include those in hospice or respite care, the hon. Lady hinted at the answer.

On the question of where we have maintained the three-year period and whether the definition should be expanded to include those in hospice or respite care, the hon. Lady hinted that the answer was the potential complexity. It would be impractical to have a relief that allowed someone moving in with relatives to claim the longer final period, so it is fair that the relief is only for people with disabilities as defined in schedule 1A to the Finance Act 2005.

The word "disabled" is defined elsewhere in the tax code and making use of an existing definition ensures consistency and means that the definition is already understood by tax advisers. Introducing a new definition would add further complexity to the legislation. We keep all aspects of the tax system under review and we will act if there is evidence that people who are intended to benefit by the relief are being excluded.

10.30 am

On introducing a new definition of "care home", there is no such definition in the tax code and no agreed definition in general use in the UK. To make the legislation easily understood, it was thought clearer to introduce the straightforward definition:

"an establishment that provides accommodation together with nursing or personal care".

That means exactly what it says. It includes people with disabilities in respite care, but to include sheltered housing would be difficult as there is no legislative definition.

It is worth pointing out that there is a separate relief when someone has been absent from a property for work, and the proposals make no changes to those rules. They allow a person to receive up to four years' relief in addition to the final period if they cannot live in their main residence because they are employed elsewhere, providing they do not nominate a new main residence during the time and they return to the property after they are required to work away from home. It is useful to note that those who are required to work abroad may still be able to benefit from the full private residence relief as long as they return to the same property when they are no longer required to work broad.

With that clarification, I hope the Committee is satisfied that the clause strikes the right balance between providing people with sufficient time to sell their home after leaving it while reducing the incentive to take advantage of the rules, and I hope the clause can stand part of the Bill.

Question put and agreed to.

Clause 54 accordingly ordered to stand part of the Bill.

Clause 55

Remittance basis and split year treatment

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

Shabana Mahmood: Clause 55 makes a technical change to amend an error in the Finance Act 2013. It ensures that when the split year treatment applies, no capital gains tax is charged in respect of gains made by a remittance basis user during the overseas part of the split year. Currently, the opposite is the case and capital gains tax is charged due to a mistake in the 2013 Act.

The split year treatment was introduced from 6 April 2013 and allows a tax year to be split into two parts in eight specific circumstances. The split year treatment means that someone can be treated as a UK resident for only part of a tax year if they leave or arrive in the UK part of the way through a tax year. The remittance basis allows someone who is not a UK domiciliary to choose to have their non-UK income and gains taxed in the UK only to the extent that they are brought into or enjoyed in the UK. Therefore, income and gains made abroad and left abroad are called unremitted income and gains.

I have three short questions for the Minister. When and how did he become aware of the error in the legislation, how many people will be affected by the change, and what is the expected impact on the Exchequer?

Mr Gauke: Clause 55 makes a small change to ensure that the remittance basis works as intended in respect of gains arising during the overseas part of a split year of residence. Schedule 45 to the Finance Act 2013 introduced a new statutory residence test for individuals. It also introduced the concept of a split year of residence previously in extra-statutory concessions so that a year in which a person arrives in or leaves the UK is split into a UK part and an overseas part. That required amendments to a lot of existing legislation. One of those amendments was not quite right and resulted in gains arising in the overseas part of a year but remitted in the UK in part of that year, or in a subsequent period of UK residence, being charged to tax. Such gains would not be charged in the hands of a taxpayer assessed on the arising basis of taxation. The remittance basis is a deferral of the taxations of gains until they are remitted; it should not create a charge to tax that would not otherwise arise. The clause would correct that error and is backdated to

6 April 2013, so that the charging of gains on the remittance basis excludes gains arising in the overseas part of a split year.

The changes made by the clause will ensure that gains arising in the overseas part of a split year for a remittance basis taxpayer are not taxable. That is the same position that applies to any other taxpayer. The change will preserve the integrity of the tax system. Only remittance basis taxpayers who realise gains in the overseas part of a year and remit the gains while UK-resident will be affected. There is negligible cost, as it was never intended that such gains should be charged.

The error crept into the change to the remittance basis rules for capital gains that was inserted into section 12 of the Taxation of Chargeable Gains Act 1992 by paragraph 95 of schedule 45 to the Finance Act 2013. Despite extensive consultation, the error was not spotted until after the 2013 Act received Royal Assent. In fact, it was drawn to the attention of officials in autumn 2013.

It is not known many people will be affected by the measure, but it is unlikely to be many given the nature of the error. I hope that those points of clarification help the Committee and that this technical clause stands part of the Bill.

Question put and agreed to.

Clause 55 accordingly ordered to stand part of the Bill.

Clause 56

Termination of life interest and death of life tenant: disabled persons

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

The Chair: With this it will be convenient to discuss clause 284 stand part.

Shabana Mahmood: Clause 56 will extend the capital gains tax upper limit provisions that apply on a death of a vulnerable beneficiary and extend the range of vulnerable beneficiary trusts that qualify for special income tax, capital gains tax and inheritance tax treatment. That will enable more vulnerable people to have their property safeguarded for their benefit within a trust, while ensuring that it is not taxed more adversely than if it were owned by the individuals themselves.

Clause 284 will, from 6 April 2014, extend the definition of a disabled person that is used in relation to trusts with a vulnerable beneficiary to include those in receipt of the mobility component of disability living allowance at the higher rate, or the mobility component of the personal independence payment at either the standard or enhanced rate. By way of background, a beneficiary is anyone who benefits from a trust. A vulnerable beneficiary is either a person who is mentally or physically disabled, or someone under 18—a relevant minor—who has lost a parent through death.

Capital gains tax is a tax on the gain in the value of assets, such as shares, buildings or land. A trust may have to pay capital gains tax if assets are sold, given away or exchanged and their value has increased since being put into the trust. The trust will have to pay the tax only if the assets have increased in value above a certain allowance known as the annual exempt amount.

Trustees are responsible for paying any capital gains tax that is due. They can claim a relief, which is calculated in a similar way to income tax relief, in that they work out what they would ordinarily have paid if there were no relief and then work out what the beneficiary would have to pay if the gains arose directly to them as individuals. They can claim the difference between those two amounts as a relief on what they have to pay in capital gains tax. The special capital gains tax treatment does not apply in the tax year when the beneficiary dies.

I have some questions for the Minister. Last year's Finance Bill made a number of changes to vulnerable beneficiary trusts. I am interested to know why the introduction of a capital gains tax uplift for trust assets on the death of a vulnerable beneficiary was not included in the Finance Act 2013 and is instead being introduced now.

What estimate has the Minister made of the current number of trusts with vulnerable beneficiaries? Do the Government agree with the low incomes tax reform group that the current meaning of "disabled person" could be expanded further to bring more disabled beneficiaries within the scope of the legislation, as we have just discussed in relation to clause 54? For example, it could include those who are vulnerable, yet not eligible; those with fluctuating or early-stage symptoms of mental incapacity; those with addictions; and those in abusive relationships. Will the Government consider consulting on that point?

Mr Gauke: No doubt the Committee is excited by the fact that we are debating clause 284. That excitement is tempered only by the fact that we are also debating clause 56 and there is a long way between the two. Clauses 56 and 284 both relate to trusts established for a person with a disability, and I am grateful to the Opposition for agreeing that they be debated together. Clause 56 extends the special capital gains tax provisions that apply on the death of the beneficiary of a qualifying disabled person trust. Clause 284 extends the special tax rules more generally by widening the meaning of "disabled person" for tax purposes. That extended definition will also apply, irrespective of whether there is a trust, in determining whether a person qualifies for the capital gains tax private residence relief final period exemption of three years when they sell their former home, which we debated under clause 54 a moment or so ago.

By way of background, I should say that trusts can be a sensible way to manage the property of a person who is unable to manage their own affairs. Such trusts are recognised in the tax system under long-standing rules. In essence, they allow any tax liabilities to be calculated as though they had arisen on the beneficiary rather than on the trustees. The rules, however, are limited to trusts set up for bereaved minors or certain persons with a disability—those who cannot manage their affairs because of a mental disorder, or who are in receipt of welfare payments in respect of their care needs.

Last year, in consequence of the welfare reform changes, we extended the definition of "disabled person" to include those in receipt of the daily living component of the new personal independence payment. However, we were encouraged to go further. Those representing vulnerable members of society argue that the rules should also include trusts established for those who,

[Mr Gauke]

while able to manage their own affairs, may be at risk of abuse or exploitation if left to manage their own property, a trust being a sensible way to protect their property. The then Economic Secretary to the Treasury, now the Secretary of State for Culture, Media and Sport, assured last year's Finance Bill Committee that we were more than happy to have further discussions with stakeholders on potential future changes to the rules relating to those trusts and how they could be practically achieved.

After careful consideration, we agree that the rules should be extended. Clause 284 extends the meaning of "disabled person" to include those in receipt of welfare payments in respect of their mobility needs—either the mobility component of disability living allowance at the higher rate or the mobility component of the personal independence payment at the standard or enhanced rate. We were also encouraged to look at a specific anomaly within the capital gains tax provisions that apply on death. The general principle of the death provisions is to take unrealised gains accrued up to the date of death out of the charge to capital gains tax when a person dies, thereby ensuring that the gains are not subject to double taxation under capital gains tax and inheritance tax.

Assets held in a qualifying disabled person trust are not subject to the normal periodic inheritance tax charges that apply to trusts. Instead, they are treated as if they were held outright by the beneficiary. As such, they are potentially subject to inheritance tax when that person dies. It follows, therefore, that the capital gains tax death provisions should also apply to gains accrued in that type of trust. The current rules do ensure that, but in a limited way. They apply only to one form of qualifying disabled person trust, which is those where the beneficiary has what is known as an "interest in possession" in the trust—essentially, an entitlement to the trust income. That restriction is distorting decisions on whether to establish a trust and the most appropriate trust structure to use. I am grateful to the organisations representing those with disabilities or those who care for them; they brought the anomaly to our attention and we are pleased to be able to take action.

10.45 am

The changes made by clause 56 will remove that restriction by extending the death provisions to all forms of qualifying disabled person trusts. They will have effect in relation to deaths occurring on or after 5 December 2013, the date when we announced the change.

The hon. Member for Birmingham, Ladywood asked how many vulnerable beneficiary trusts are likely to be affected. We are unable to assess that accurately because there is no central record. As to vulnerability and the reason why people who do not claim benefits, such as those suffering abuse, are not included in the definition, we have sought to draw a balance between making provision for those most in need and over-complicating the tax system. However, we will of course keep matters under review.

I was asked why the CGT death uplift anomaly was not corrected before now. It is true that it is of long standing. We listened carefully to recent representations about it and decided to act. Last year we focused on changes necessary as a result of welfare reform, but we have used the opportunity this year to address this particular point, and I hope the Committee welcomes that.

Clauses 56 and 284 will make the tax regime for trusts that are established for the benefit of a person with a disability more tax-neutral—that is, nearer to a regime in which tax neither penalises nor encourages their use in preference to the person holding the same property outright.

Question put and agreed to.

Clause 56 accordingly ordered to stand part of the Bill.

Clause 284 ordered to stand part of the Bill.

Clause 57

Capital gains roll-over relief: relevant classes of assets

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

Shabana Mahmood: Clause 57 is a technical amendment in relation to capital gains tax roll-over relief on business assets. Essentially, it is possible to defer capital gains tax when a qualifying business asset is sold, and to reinvest the proceeds in a replacement qualifying business asset. The clause updates the list of qualifying assets following a change in the EU rules affecting one type of EU agricultural subsidy. It will ensure that farmers are not disadvantaged by changes to the EU's agricultural subsidy scheme.

What discussions has the Minister had with farmers about the change? Will he confirm that no additional changes will be required following the changes to EU rules that have prompted the clause? How will farmers be made sufficiently familiar with the change? Will there be an additional administrative burden on farming businesses, and if so, how big does the Minister expect that burden to be?

Mr Gauke: As we have heard, clause 57 extends the list of assets that are eligible for capital gains tax roll-over relief. Roll-over relief allows capital gains tax to be deferred where the proceeds of disposing of certain qualifying assets are reinvested in new qualifying assets. That helps businesses to modernise and expand.

The list of qualifying assets has included payment entitlements under the European Union's main agricultural subsidy scheme, the single payment scheme, since its introduction in 2005. However, under reform of the common agricultural policy, payments under the single payment scheme will cease at the end of 2014, with subsidies paid in future under a new scheme—the basic payment scheme.

The changes being made under clause 57 will include payment entitlements under the new basic payment scheme within the list of assets eligible for roll-over relief. About 11,000 farmers transfer single payment scheme entitlements each year, typically with the transfer of agricultural land, and a similar number of transfers of basic payment scheme entitlements is expected to take place. It is perhaps worth pointing out that about 8,000 farmers out of 105,000 English single payment scheme applicants transfer entitlements permanently each year in England. In Scotland the number of permanent transfers is 450 out of 19,000 applicants. In Northern Ireland and Wales it is in both cases in the region of 1,200, out of 38,000 and 16,000 respectively. Similar numbers of transfers of basic payment scheme entitlements are expected once the scheme is fully established. I hope that is helpful in informing the Committee of how many farmers will see an impact from this measure.

With regard to ensuring that farmers know about the changes, detailed discussions have not taken place with farmers. HMRC is considering the implications of the changes and will discuss them with representative bodies in future. On how a person can get basic payment scheme entitlement, in England, where entitlements are already at a flat rate in each region, existing single payment scheme entitlements will automatically become basic payment scheme entitlements on 1 January 2015. In other parts of the UK, where the value of entitlements currently varies, they will be allocated to farmers who apply to the scheme. No additional changes to the CGT rules are required in response to the EU changes to the subsidy scheme.

I hope that those points of clarification are helpful. Clause 57 can ensure that farmers are not disadvantaged by the changes to the European Union's agricultural subsidy scheme.

Question put and agreed to.

Clause 57 accordingly ordered to stand part of the Bill.

Clause 58

Capital gains roll-over relief: intangible fixed assets

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

Shabana Mahmood: Clause 58 is another rewrite to correct a tax law error, such as the one we discussed in connection with clause 55. In this case the error appears to have gone unnoticed for a lot longer—five years after the original legislation was passed. The clause concerns roll-over relief on the disposal of tangible assets, where the proceeds are reinvested in replacement and tangible fixed assets. A tangible asset includes both fixed assets, such as machinery, buildings and land, and current assets such as inventory. An intangible asset covers not only intellectual property, such as patents, copyrights, trade marks and know-how, but a variety of other assets with commercial value, such as agricultural quotas, payment entitlements under the single payment scheme for farmers, franchises and telecommunication rights.

The intent behind the law, which we support, was to deny roll-over relief in those circumstances, but a drafting mistake in the tax law rewrite in 2009 appears inadvertently to have reinstated the relief. The effect of the clause is to make clear in law that roll-over relief is not available on such transactions. As I mentioned earlier, it has taken five years for this to come to notice. I am interested to know when the Minister was made aware of the need for the change and whether it only recently came to light. How many companies have taken advantage of this error in law? Has there been any loss to the Exchequer as a result? Will the Minister tell the Committee whether there are any current court cases going through the tax tribunal system that might be affected by the measures in clause 58?

Mr Gauke: Clause 58, as we have heard, corrects an error in legislation rewritten in 2009, arising from the tax law rewrite project. The changes made by clause 58 ensure that companies are not able to claim capital gains roll-over relief where the proceeds from the disposal of a tangible asset, such as a property, are reinvested in an asset taxed under the intangible fixed asset rules. Intangible fixed assets include goodwill and certain types of intellectual property such as trade marks, patents, design and copyright. The clause also ensures that there can be no double relief given on or after 19 March 2014 for earlier claims. It does so by taking into account any roll-over relief already given when calculating future relief under the intangible fixed asset rules.

Let me briefly set out some background. The Finance Act 2002 introduced a new tax regime from 1 April 2002 for companies' intangible fixed assets. The new treatment generally follows the accounting treatment rather than treating them like other capital assets. Capital gains roll-over relief was withdrawn where the proceeds from a disposal of assets charged as a capital gain were reinvested in intangible fixed assets acquired on or after 1 April 2002.

The roll-over provisions were partly rewritten in 2009 as part of the tax law rewrite project. Regrettably, it has now come to light that the rewritten provisions contain an error and could be interpreted as undoing the 2002 provision dealing with roll-over relief. That interpretation is not only incorrect but contrary to the intentions of Parliament, so we are taking steps to put matters right. Changes made by clause 58 are effective from 19 March 2014, the date on which HMRC published the draft legislation. The clause corrects the drafting error in the capital gains roll-over relief provision to prevent future claims and restore the legislation to what was intended by Parliament. Clause 58 also amends the intangible fixed asset rules to ensure that where roll-over relief has been given in error, the amount of relief is taken into account when companies claim future relief under the intangible assets rules, which will prevent double tax relief from being given from 19 March 2014.

The clause is not expected to have any wider economic impact. Very few companies are known to be affected by the change, because most have operated the rules as Parliament intended. HMRC is aware of one case in which roll-over relief has been claimed contrary to the rule that existed before 2009.

Shabana Mahmood *rose—*

Mr Gauke: I will give way in a moment. There are no court cases as yet; HMRC has challenged that one known case, but the matter has not yet gone to court. I give way to the hon. Lady.

Shabana Mahmood: The Minister has answered my question.

Mr Gauke: Excellent. On the question of how the error arose, HMRC was made aware of it only at the beginning of 2014. There is no cost to the Exchequer because HMRC is challenging the interpretation in the one case that I have mentioned.

Question put and agreed to.

Clause 58 accordingly ordered to stand part of the Bill.

Clause 59

AVOIDANCE INVOLVING LOSSES

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

11 am

Shabana Mahmood: The clause amends the targeted anti-avoidance rules in sections 184G and 184H of the Taxation of Chargeable Gains Act 1992 on the use of capital losses to shelter income profit. A capital loss is incurred when a capital asset, investment or real estate, decreases in value. That loss is not realised until the asset is sold for a price lower than the original purchase price. The intention is to put it beyond doubt that the rule includes arrangements involving derivative contracts and other financial products.

The clause clarifies the operation of one of the chargeable gains targeted anti-avoidance rules. It confirms that the rule applies generally to the contrived use of capital losses to reduce income profits, by whatever means, and it will affect companies that use avoidance schemes that involve claims for relief for capital losses against gains arising on derivative contracts and other financial products. This is primarily seen as a technical change, but I am interested that it is not expected to have an Exchequer impact. I should have thought that some revenue to the Exchequer that is under threat, or is being lost, will now be protected. It would be helpful if the Minister explained why there is a negligible impact on the Exchequer, as evidenced by the tax information and impact note. Will he also explain what gave rise to the view that the targeted anti-avoidance rule needed clarification? Was there case law that went in the wrong direction, or is there something of which HMRC became aware through another route?

Mr Gauke: As we have heard, the clause makes changes to an anti-avoidance rule that restricts the use of capital losses by companies. The changes make it clear that the rule applies to all artificial arrangements in which a chargeable gain accrues.

In normal circumstances, companies are able to offset capital losses only against capital gains. In the past, many and varied avoidance schemes were devised to get around that principle and use capital losses in arrangements against income profits. There is therefore a targeted anti-avoidance rule specifically to counter schemes that misuse capital losses to shelter income profits. The rule applies subject to a number of express conditions. In particular, there are references to a company accruing a gain on a "disposal," and to incurring "expenditure" or receiving a "receipt" related to the gain.

HMRC has become aware of artificial arrangements whereby it is argued that the targeted anti-avoidance rule does not apply. If that were so, the rule would not be effective in ensuring that a company's capital losses are used only to relieve chargeable gains. The changes will amend the conditions under which the anti-avoidance rule applies. There will no longer be any reference to disposals, and it is made clear that, for the purpose of the rule, the terms "receipt" and "expenditure" have broad application. The changes will put it beyond doubt that the rule applies to all arrangements designed to offset capital losses against income profits.

On the yield and revenue protection, the existing rule has generally been effective in discouraging avoidance through such schemes. HMRC has been made aware of some potential challenges to the rule, and the changes are intended to pre-empt any attempt to implement those challenges and to make it clear that such arrangements will not get around the rule. HMRC estimates that up to £500 million of tax will be at risk in the first year should the challenges succeed. HMRC would need to rely on the general anti-abuse rule to prevent the loss of that tax, which may be successful.

We want to ensure that existing legislation is effective in achieving its purpose, and the changes do that. It is possible that the arrangements of which HMRC has become aware are sufficiently abusive for the general anti-abuse provision to apply, and there is therefore no anticipated revenue yield. Indeed, the revenue may have been protected by the general anti-abuse rule. We have made it clear, however, that the general anti-abuse rule does not replace targeted anti-avoidance rules that address avoidance in specific parts of the tax system, which is why we are making these changes. The clause is part of the Government's determination to address avoidance, which is bearing considerable fruit. The clause will ensure that the anti-avoidance rule that restricts the use of capital losses by companies works as intended, and I hope it may stand part of the Bill.

Question put and agreed to.

Clause 59 accordingly ordered to stand part of the Bill.

Clause 60

EXTENSION OF CAPITAL ALLOWANCES

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

Shabana Mahmood: The clause gives the Treasury the power to extend, by Treasury order, the duration of four 100% first-year capital allowances—the enhanced capital allowance schemes. Those are expenditure on cars with low carbon dioxide emissions; expenditure on zero-emission goods vehicles; expenditure on plant or machinery for gas refuelling stations; and expenditure on plant and machinery for use in designated assisted areas. The clause also extends the fourth ECA scheme for expenditure on plant and machinery for use in designated assisted areas—namely, enterprise zones—which is due to expire on 31 March 2017, for an additional three years to 31 March 2020. In effect, therefore, if someone buys equipment that qualifies, they can write off 100% of the cost against that year's taxable profits.

We introduced the ECA schemes in 2001 and we support them. In addition, one of the enterprise zones affected by the measure is in my constituency, and I welcome that, too. On enterprise zones, will the Minister explain what the anticipated cost is of expanding the ECA scheme for the additional three years? What level of take-up is the Minister expecting of that ECA scheme in those different enterprise zones? What impact assessment has been made on businesses that are ineligible for ECA due to their location outside an enterprise zone? What impact assessment has been made on the effectiveness of the ECA scheme on the growth of small businesses in those designated areas?

On the other three ECA schemes affected by the clause, what is the Government's expectation of the impact on incentivising businesses to invest in cars with the lowest carbon emissions? How much progress do the Government expect will be made towards helping businesses to reduce their carbon emissions and encourage a shift to cleaner goods vehicles?

Mr Gauke: Clause 60, as we have heard, extends the enhanced capital allowance scheme in enterprise zones by three years. Currently, a company must invest in a designated site by 31 March 2017 in order to claim enhanced capital allowances. The clause extends that period, so companies will be eligible provided that they invest before 31 March 2020. It also enables the Government to extend the ECA scheme, and those applying to low-emission cars, zero-emission goods vehicles and gas refuelling stations, through statutory instrument, rather than primary legislation in future. That will mean that Finance Bill space will not be required to implement such measures, saving parliamentary time—although possibly disappointing some members of the Committee.

The enterprise zones introduced by the Government are supporting regional growth. So far, enterprise zones have created more than 9,000 jobs and have attracted more than £1.2 billion of private sector investment. To give just one example, the Committee will welcome the announcement made by Siemens in March that it would invest £160 million in the Humber enterprise zone. A further £150 million will be invested by Associated British Ports in the Green Port Hull development. That combined investment will create 1,000 jobs directly. We want to see the success continue; that is why we are extending the financial incentives offered in enterprise zones for a further three years.

Enhanced capital allowances in enterprise zones allow businesses locating on designated ECA sites to claim a 100% allowance on investments made in new plant and machinery. There are currently seven enterprise zones in England with enhanced capital allowance sites—in the black country, the Humber, Liverpool, London, the north-east, Sheffield and the Tees valley. The scheme is designed to support very large, capital-intensive investments, which can take several years to finalise. Extending the end date of the scheme to 2020 will give the local enterprise partnerships that run enterprise zones more scope to land major investments.

The extension to the deadline for ECAs in enterprise zones will also apply to the three zones in Scotland and the three zones in Wales, which offer ECAs in addition to incentives in the gift of the Scottish Government and the Welsh Government. As well as extending enhanced capital allowances, we announced at the Budget that business rate discounts in enterprise zones will also be extended by three years. We will legislate for that separately in the Non-Domestic Rating (Rates Retention) Regulations.

Ian Swales (Redcar) (LD): As an MP with one of the enterprise zones to which the Minister referred in my constituency, I can certainly bear out the need for the extension. For example, we are currently working on an investment wherein, if a spade was put in the ground tomorrow, the project would take four years to complete. I therefore very much welcome the change.

Mr Gauke: I am grateful to my hon. Friend for his intervention. I know that he provides a strong voice for businesses in Redcar and does a great deal of work to ensure that his local economy is successful.

I was asked about the cost to the Exchequer, and can assure the Committee that the measure is not expected to have Exchequer impact. In terms of the impact assessment for ineligible businesses, it is too early to say. On the level of take-up and the effectiveness of the schemes in encouraging SMEs in the use of low-carbon transport, again, it is too early to say exactly as tax returns for 2012-13 have only just been submitted and have yet to be analysed by HMRC.

It is worth pointing out that we are seeing significant investment on ECA sites. For example, Vantec, a subsidiary of Nissan, recently opened a new logistics centre in the north-east enterprise zone. That £240 million investment is part of the local supply chain for Nissan and will create 230 jobs. Air Products is currently nearing completion on the construction of its first energy-from-waste facility in the Tees Valley enterprise zone, with which I know my hon. Friend will be familiar. It broke ground on a second plant in the enterprise zone in April this year. The first plant will secure 50 new jobs and employ 700 construction workers.

I hope that those points are helpful to the Committee and that the clause can stand part of the Bill.

Question put and agreed to.

Clause 60 accordingly ordered to stand part of the Bill.

Clause 61

Business premises renovation allowances

Shabana Mahmood: I beg to move amendment 21, in clause 61, page 52, line 41, at end insert—

(a) the Chancellor of the Exchequer shall, within six months of this Act receiving Royal Assent, undertake a review of the impact of changes made by this section on—

(i) the uptake of the business premises renovation allowances (BPRA);

(ii) the number of BPRA schemes disclosed through DOTAS being investigated by HMRC; and

(iii) the value of BPRA schemes disclosed through DOTAS being investigated by HMRC.

(b) the Chancellor of the Exchequer must publish the report of the review and lay the report before the House.'.

The Chair: With this it will be convenient to discuss clause stand part.

Shabana Mahmood: Amendment 21 is intended as a probing amendment, and I would like to explain to the Committee what clarification we are seeking from the Minister in his response.

The express purpose of the business premises renovation allowance is to provide an incentive to bring derelict or unused business properties back to use in the form of an initial allowance of 100% for expenditure on converting or renovating unused properties in disadvantaged areas and bringing them back into use. Clause 61 does two things: it provides for amendments to business premises

[Shabana Mahmood]

renovation allowances in order to clarify the expenditure that qualifies for relief; and it reduces the balancing adjustment period from seven to five years.

In terms of the amendments to qualifying expenditure, the clause clarifies that expenditure is incurred on the conversion or renovation of a qualifying building into qualifying business premises. Expenditure is incurred on certain types of work: building works, architectural or design services, surveying or engineering services, planning applications, and statutory fees or permissions.

Expenditure on fixtures is defined at an extraordinary level of detail, with the clause clarifying that qualifying expenditure includes: automatic control systems for opening and closing doors, windows and vents; window cleaning installations; fitted cupboards and blinds; protective installations such as lightning protection, sprinklers and other equipment for containing or fighting fires; and much more.

The clause also clarifies that expenditure must be at market value on a building that has not been used in the past 12 months, and must be on works that are completed within 36 months. If a person who has submitted a tax return becomes aware that their return has become incorrect in that regard, they must tell HMRC. The clause also confirms that the allowance fully complies with state aid rules. In relation to the balancing, it says that where qualifying expenditure has been incurred on a qualifying building and a balancing event occurs within five years, a balancing adjustment must be made. That limit was previously seven years.

11.15 am

Let me give some background. In July 2013 it was reported that HMRC had recently received a number of DOTAS disclosures—disclosures of tax avoidance schemes—involving business premises renovation allowances that exhibited features that had been part of avoidance schemes that HMRC had challenged in the past. The technical note states that

"broadly the schemes contain a varying balance of genuine expenditure on actual regeneration and some features that have elements of artificiality, possibly aimed at ramping-up qualifying expenditure and accelerating tax relief in ways that could be regarded as inappropriate."

HMRC launched a technical review in July 2013 and asked for comments by 30 September 2013. The main areas of concern were about what constituted qualifying expenditure, the use of limited-recourse, often circular borrowing arrangements designed to increase the amount of expenditure that is claimed, and timing issues.

The Government gave their response to the consultation and decided on the approach that would be taken. They concluded that a number of the problems identified by HMRC could be dealt with by clarifying the expenditure that qualifies for the allowances, as I detailed earlier. That would mean that there was no need, according to the Government, for a targeted anti-avoidance rule.

Broadly, we agree that this is the right way forward. It is important that action is taken to close down what appears to have become a significant loophole that, if not dealt with, could drain income away from the Exchequer. However, there are a number of matters that I would like to clarify.

Proposed new subsection (2C) states:

"Condition B is treated as met in respect of expenditure incurred on matters not mentioned in that Condition to the extent that that expenditure (in total) does not exceed 5% of the qualifying expenditure incurred on the matters mentioned in subsection (2B)(a) to (c)."

Condition B

"is that the expenditure is incurred on—

(a) building works,

(b) architectural or design services,

(c) surveying or engineering services,

(d) planning applications, or

(e) statutory fees or statutory permissions."

However, one of the key problems, it has been suggested, with the original legislation is a lack of precision. Indeed, the Government state in paragraph 3.8 of their response that they have

"decided to amend the existing legislation to make the scope of the relief more certain in its application."

However, new subsection (2C) seems to fly in the face of that and I fear that it might open up the door again for abuse, so I should be grateful if the Minister would explain the thinking behind new subsection (2C) and how he can be sure that this will not be used for tax avoidance. I note that the Government, in their response, indicate that the 5% is for associated activities such as project management. The Minister will, I hope, see that, as the provision is drafted, there is scope for concern that it might lead to other avoidance measures.

It would be good to know more detail about how many DOTAS disclosures were made involving business premises renovation allowances with features that were part of avoidance schemes that HMRC had challenged in the past. How many were there and what features did they display? It would be useful to know that, so that we can assess when the loophole has been successfully tackled.

As I said at the outset, given the lengthy clauses tabled by the Government on these issues and the level of abuse that HMRC surmises has occurred, we have tabled a probing amendment, seeking a review, to try to get greater clarification. We want to be clear that this clause deals with what is a very real problem and that those claiming the allowance are doing so within the spirit of the legislation and the intention of Parliament in enacting it. Just a short internet search on my part suggested that the construction of some of the schemes means that the allowance can be worth many millions of pounds. If it is abused, that is clearly a very real risk to the Exchequer. We all want to ensure that derelict buildings are brought back into use in deprived areas and that it is not used as a tool by those who are just bent on avoiding tax.

I should be grateful for the Minister's clarification on those points.

Mr Gauke: As we have heard, the clause makes various changes to the business premises renovation allowance that ensure that only the actual direct costs of bringing unused business premises back into business use are relieved and that where tax relief has been claimed up front, the related works are completed within a reasonable time. BPRA is designed to aid the regeneration of the UK's most economically disadvantaged areas. It provides a 100% tax relief for the direct costs incurred by a business in converting or renovating premises left empty for at least a year, in order to bring such premises back into productive use. The property must be located in an assisted area of the UK.

Many areas have benefited from BPRA to date, improving both the properties involved and local job prospects. However, the existing BPRA rules do not clearly define the expenditure that qualifies for relief, nor do they require future renovation works on which tax relief has been claimed up front to be completed within a set period. That has led to the development of tax avoidance schemes that seek to exploit those weaknesses: for example, tax relief has been claimed for indirect costs such as financing or promoter's fees, or for works that will not be started for many years—furniture has even been screwed to the floor to qualify for relief. That situation cannot continue. To ensure protection for the Exchequer and to maintain fairness for taxpayers, last July a review set out the Government's concerns and proposed counter-measures. The changes introduced by the clause flow from that review and consultation.

The main changes made by the clause clarify that relief is available only for the actual building works and certain listed fixtures. Certain specified activities, such as architectural and surveying services, will also qualify for relief. In addition, unspecified activities directly connected to the works, such as project management services, can also qualify for relief limited to 5% of the costs. The existing rule that prevents tax relief from being claimed before a building has been unused for a year will also be clarified, as some parties have said that that is ambiguous. That will prevent BPRA claims on properties that have only recently become unused that are then left empty for a year before renovation works commence simply to qualify for relief.

Where expenditure is paid and tax relief claimed in advance of the works being carried out, a new condition requires the works to be completed within 36 months. Any relief claimed on works not completed within that period must be repaid. That provides an incentive, taking account of reasonable building schedules, for works to be completed as soon as possible rather than for the funds to lie idle, which will ensure that local areas benefit from BPRA as soon as possible.

The period for which the completed building must be owned once available for letting will be reduced from seven to five years. That acknowledges concerns expressed during the consultation that the present seven-year period can make it difficult to attract bank finance. Finally, to ensure that BPRA complies with state aid rules that limit the total value of aid that can be ordered to an individual project, we are introducing a condition that ensures that BPRA cannot be claimed where another form of state aid has been received.

The Government held useful consultations with representative bodies, advisers and other interested parties about the proposals. I thank them for their valuable input in that process, which led to some of the original proposals being modified to meet concerns expressed. For example, where tax relief has already been claimed, the time limit in which the works must be completed was extended from the proposed 12 months to 36 months. That recognises the challenges encountered in refurbishing old properties, and listed buildings in particular. The legislation also allows for a wider range of fixtures to qualify for relief than was originally proposed.

On the question whether the definition used in proposed new section 2C is exact enough, BPRA aims to offer relief on the cost of project management services provided to co-ordinate building works. In some BPRA schemes, the project management role can be much wider and include attracting tenants or marketing the property to investors, which are not allowed expenditure. To focus the relief on managing the building works, allowable costs have been limited to 5% of the total costs of those works, which is considered to be in line with commercial rates for such activities.

The legislation does not prevent more than 5% being charged, but only a sum that relates to direct building works can be relieved. HMRC will also examine claims to see whether they are realistic.

11.25 am

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

Adjourned till this day at Two o'clock.