PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

FINANCE BILL

(Except clauses 7 to 18, 41 to 44, 65 to 81, 129, 132 to 136 and 144 to 154 and schedules 2, 3, 11 to 14 and 18 to 22)

First Sitting

Thursday 30 June 2016

(Morning)

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PBC (Bill 001) 2016 - 2017

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not later than

Monday 4 July 2016

The Committee consisted of the following Members:

Chairs: † Sir Roger Gale, Mr George Howarth

† Argar, Edward *(Charnwood)* (Con)
† Atkins, Victoria *(Louth and Horncastle)* (Con)
† Blackman, Kirsty *(Aberdeen North)* (SNP)
† Boswell, Philip *(Coatbridge, Chryston and Bellshill)* (SNP)
† Burns, Conor *(Bournemouth West)* (Con)
† Cadbury, Ruth *(Brentford and Isleworth)* (Lab)
† Cooper, Julie *(Burnley)* (Lab)
† Donelan, Michelle *(Chippenham)* (Con)
† Dowd, Peter *(Bootle)* (Lab)
† Frazer, Lucy *(South East Cambridgeshire)* (Con)
† Gauke, Mr David *(Financial Secretary to the Treasury)*
† Hall, Luke *(Thornbury and Yate)* (Con)
† Hinds, Damian *(Exchequer Secretary to the Treasury)*
† Long Bailey, Rebecca *(Salford and Eccles)* (Lab)
† McGinn, Conor *(St Helens North)* (Lab)
† Mak, Mr Alan *(Havant)* (Con)
† Marris, Rob *(Wolverhampton South West)* (Lab)
Matheson, Christian *(City of Chester)* (Lab)
† Merriman, Huw *(Bexhill and Battle)* (Con)
† Mullin, Roger *(Kirkcaldy and Cowdenbeath)* (SNP)
† Quin, Jeremy *(Horsham)* (Con)
† Streeting, Wes *(Ilford North)* (Lab)
† Stride, Mel *(Lord Commissioner of Her Majesty's Treasury)*
† Tolhurst, Kelly *(Rochester and Strood)* (Con)

Simon Patrick, Marek Kubala, *Committee Clerks*

† attended the Committee

Public Bill Committee

Thursday 30 June 2016

(Morning)

[Sir Roger Gale *in the Chair*]

Finance Bill

(Except clauses 7 to 18, 41 to 44, 65 to 81, 129, 132 to 136 and 144 to 154 and schedules 2, 3, 11 to 14 and 18 to 22)

11.30 am

The Chair: Good morning, ladies and gentlemen. I have a few housekeeping announcements before we start the formal business of the day. Members may remove their jackets, if they wish to do so; normally we wait until the Chair has given permission. I remind Members that the only liquid allowed in the Committee Room is water. Please do not try to smuggle in—

Rob Marris (Wolverhampton South West) (Lab): Gin.

The Chair—coffee, because the Treasury will tax it. Please ensure that mobile phones are switched to silent mode or, preferably, off. I also remind all hon. Members that electronic devices are to be used for the purposes of Committee work, not for general communication with the outside world, however tempting that might be.

Mr Howarth and I will not, as a rule, call starred amendments—that means amendments that have been tabled without adequate notice. The notice period for Public Bill Committees is three working days. Any Member, whether a Front Bencher or a Back Bencher, who wishes to table an amendment should do so by the rise of the House on Monday for consideration on Thursday, and by the rise of the House on Thursday for consideration on Tuesday.

Not everyone is familiar with the procedures in Public Bill Committees, and even those who think they are sometimes find that they are not. I hesitate to say this, but that includes the occupants of the Chair, which is why we have the service of excellent Clerks to guide us through this stuff.

Yesterday, the Programming Sub-Committee met and agreed a programme for consideration of the Bill. It must be approved by the whole Committee, so the first thing that we will do is consider the programme motion, as on the amendment paper. The debate on that is limited to half an hour. Do not feel obliged to speak; the programme has been agreed by the usual channels, but if anyone wishes to make any opening remarks, that is fine.

The selection list for today's sittings is available and shows how the amendments have been selected for debate. This is quite an arcane process. Amendments are grouped for discussion by content, and are not considered in sequence. In a group, you will therefore find amendments that relate to a clause much further on in the Bill but that are to be debated much earlier, because of the subject matter. You will find that the Chair—particularly if it is me—rattles through stuff, and you will want to say, "Hang on, I've missed this", or "I wanted to vote on that." Do not worry about it; we will ensure that you are told exactly. Some amendments will be debated early in the proceedings, but the votes on them—if there are any—will be taken much later, when we reach that part of the Bill.

We will call the leading name on any amendment, followed by anyone else who wishes to speak. If any Member wishes to catch my eye, or that of Mr Howarth, please try to indicate that; we do not have second sight. Given the timescale we are working to, we have to move quite fast. Once we have moved on, we cannot go back, so if you want to speak, please make sure that we know.

I am working on the assumption that the Government wish the Committee to reach a decision on all Government amendments. Where the selection list states "stand part"—that is, that that clause or whatever should stand part of the Bill—that permits a general debate, as well as debate on the individual amendments in the group. Mr Howarth may have his own views, but my view is that where there are only amendments in a group, we do not necessarily have to have a stand part debate. I much prefer people to get what they have to say off their chest early on, rather than to have a stand part debate, which tends to mean a rerun of what has been debated for the past two hours. We will try to avoid that.

There is one other thing, which is absolutely vital—almost more important than anything else—and that is these boxes behind me. You will find that you accumulate paper over the course of these sittings; that is why there are no rainforests left. These boxes are for you to store your papers in. They are named. They used to be red for the Finance Bill Committee—that was the only opportunity that some of us ever got to get our hands on a red box—but apparently we have run out, so I am afraid that they have to be green. Completely seriously, these boxes are for your use. Any papers left in them will be put in the cupboard and locked, so you do not have to lug them around the building with you. We aim to serve.

Finally, if anyone has any queries, do not be frightened; the Chair is not going to eat you, and neither are the Clerks. None of us has a monopoly on wisdom. If there is something that you do not understand, for goodness' sake please ask, and we will try to take you through it. I, at least, will probably make mistakes.

Without further ado, I call the Minister to move the programme motion in the terms agreed by the Programming Sub-Committee.

Ordered,

That—

(1) the Committee shall (in addition to its first meeting at 11.30am on Thursday 30 June) meet—

(a) at 2.00 pm on Thursday 30 June;

(b) at 9.25 am and 2.00 pm on Tuesday 5 July;

(c) at 11.30 am and 2.00 pm on Thursday 7 July;

(d) at 9.25 am and 2.00 pm on Tuesday 12 July;

(e) at 11.30 am and 2.00 pm on Thursday 14 July;

(2) the proceedings shall be taken in the following order: Clauses 1 to 5, Schedule 1, Clause 6, Clause 19, Schedule 4, Clauses 20 to 22, Schedule 5, Clauses 23 to 39, Schedule 6, Clause 40, Clause 45, Schedule 7, Clauses 46 to 50, Schedule 8, Clauses 51 to 60, Schedule 9, Clauses 61 and 62, Schedule 10, Clauses 63 and 64, Clause 82, Schedule 15, Clauses 83 to 122,

Schedule 16, Clauses 123 to 128, Clauses 130 and 131, Clauses 137 to 141, Schedule 17, Clauses 142 and 143, Clause 155, Schedule 23, Clauses 156 to 168, Schedule 24, Clauses 169 to 172, Schedule 25, Clauses 173 to 179, new Clauses, new Schedules, remaining proceedings on the Bill;

(3) the proceedings shall (so far as not previously concluded) be brought to a conclusion at 5.00 pm on Thursday 14 July.—*(Mr Gauke.)*

Resolved,

That, subject to the discretion of the Chair, any written evidence received by the Committee shall be reported to the House for publication.—*(Mr Gauke.)*

The Chair: Copies of any written evidence that the Committee receives will be made available to Committee members. We now commence line-by-line consideration of the Bill.

Clause 1

Income tax charge and rates for 2016-17

Rob Marris: I beg to move amendment 6, in clause 1, page 1, line 9, at end insert—

"(3) The Chancellor of the Exchequer shall, within three months of the passing of this Act, publish a report on the impact of setting the additional rate of income tax at 45% and at 50%.

(4) The report must estimate the impact of setting the additional rate for 2016-17 at 45% on the amount of income tax currently paid by someone with a taxable income of—

(a) £150,000 per year;

(b) £500,000 per year; and

(c) £1,000,000 per year.

(5) The report must estimate the impact of setting the additional rate for 2016-17 at 50% on the amount of income tax currently paid by someone with a taxable income of—

(a) £150,000 per year;

(b) £500,000 per year; and

(c) £1,000,000 per year."

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

Rob Marris: On your opening remarks, Sir Roger, I wish that when I entered the House in 2001—I look around with some shock; I think that I entered the House before any other Committee member—someone had given me that explanation. That is not to say that I know it all, but it would have been helpful to have had that explanation when I started as a Member.

The amendment relates to the Chancellor publishing reports. To Committee members who are not familiar with the procedure—as ever, I stand to be corrected by the Chair on this—I say that the Opposition cannot table amendments that would put up taxes. It is therefore quite a common device for the Opposition to express disquiet about a particular course of action being proposed by a Government by means of an amendment asking the Government—often in the person of the Chancellor of the Exchequer, obviously—to prepare a report on a given subject some months or years down the line, so that there might be some evidence of the efficacy or otherwise of the disputed measure. That is, of course, what we seek to do through amendment 6.

It will not surprise Committee members that we on the Labour Benches—I cannot speak for the Scottish National party, of course—think that the highest rate of income tax should be 50%, as it used to be. We do not accept the overall medium-term accuracy of the figures propounded by the Government that suggest that the drop in the top rate from 50% to 45% was subject to a Laffer curve, whereby a greater sum was brought in even though the rate was lower. We do not accept that because, due to the change in rate, there was tax shifting, such that there was a bulge in receipts in one year, which was offset by lowered receipts in later years.

In our view, the Government have on occasion mistakenly cited the bulge year as evidence that a lower top rate of tax brought in a higher amount than a higher top rate of tax would have. They do that simply by quoting one year rather than a sequence of years, which is unfortunate in terms of getting clarity when discussing taxes. I could produce all kinds of evidence of that, but I do not wish to detain the Committee. However, we think that the top rate should be 50%, and amendment 6 seeks to pursue that point using the mechanism available to us as the official Opposition. *[Interruption.]*

The Chair: That is my phone. I am so sorry. It can happen to all of us.

The Lord Commissioner of Her Majesty's Treasury (Mel Stride): You may take your jacket off, Sir Roger.

The Chair: No, that is one thing the Chair never does. I call the Minister.

The Financial Secretary to the Treasury (Mr David Gauke): It is a great pleasure to serve under your chairmanship, Sir Roger, and I welcome you to the Chair. It is a great relief to see you here today; your guidance will be much appreciated by all the Committee members from right across the House.

Let me take this opportunity to say a bit about clause 1 as well as responding to amendment 6. Income tax is the Government's biggest revenue source, making up 32% of revenues in 2015-16. The annual charge legislated for by Parliament in the Finance Bill is essential for the tax's continued collection.

Clause 1 states that UK taxpayers will pay income tax at the same rates as in 2015-16, meaning that we meet our commitment to ensuring that there will be no increases to the main rates of income tax in this Parliament. When that is taken together with commitments on the personal allowance and the higher rate threshold, which I will come to, it means that we are delivering an income tax system in which working people on low and middle incomes receive tax cuts. The latest statistics show that the top 1% of earners have paid over 27% of income tax receipts—more than in any year under the last Labour Government.

Let me turn to amendment 6, which was tabled by the Opposition. As Finance Bill regulars will know, it is a familiar one. The amendment proposes that the Chancellor publish a report reviewing the impact of setting the additional rate of income tax at 45p and 50p within

[Mr David Gauke]

three months of the passing of the Act, and on the effect on the tax liabilities of typical individuals with annual incomes of over £150,000.

As I have said on a number of occasions, for such analysis to be credible, it needs to look at how such different income tax rates affect individual behaviour, for example through affecting work incentives. Simply looking at theoretical income tax liabilities when changing taxes is not enough. Further, this is something that anyone can do if they have the time and inclination.

The Government already consider the behavioural impact of decisions taken, as did the report by Her Majesty's Revenue and Customs on the additional rate, which was published at the 2012 Budget. That report concluded that the underlying yield from the introduction of the 50p rate was much lower than originally forecast, due to large behavioural effects. It even said that it is quite possible that the 50p rate could have reduced income tax revenue instead of increasing it. Indeed, the evidence so far is that despite the reduction of the additional rate, the top 1% of income tax payers are contributing a greater share of income tax receipts than in any year under the last Labour Government. In addition, the 50p rate was one of the most uncompetitive income tax rates in the G20. It would be illogical to re-introduce a tax rate that is ineffective at raising revenue from high earners.

On a practical level, the Government need to spend their resources effectively. The Treasury and Her Majesty's Revenue and Customs have no plans to introduce rolling annual reports on the impact of changes to tax rates. That notwithstanding, the Government always keep tax rates under review and monitor receipts. On that basis, the amendment is unnecessary

We accept that income tax receipts can move from one year to another, and that there is a degree of flexibility as a consequence of changes to rates. We have always been clear that there is some income shifting in response to the changes to income tax rates, just as there was under the previous Government, when they introduced the additional rate of tax. We made it clear that we expected that to happen. However, it is clear that the 50p rate was distorting and an economically inefficient way of raising revenue. The latest statistics show that, following the reduction in the top rate of tax to 45p, the amount of tax paid by additional rate taxpayers is expected to grow from £46 billion in 2013-14 to £47.3 billion in 2016-17.

Clause 1 ensures that the Government can collect income tax for the year 2016-17. It means that the main rates of income tax faced by UK taxpayers will remain unchanged, and will help the Government to achieve their aim of a tax system that is fair for everyone, while rewarding those who want to work hard and progress. I therefore propose that the clause stands part of the Bill without the amendment proposed by the Opposition.

11.45 am

Rob Marris: I have nothing more to say on the clause, but I wish to press amendment 6 to a vote.

Question put, That the amendment be made.

The Committee divided: Ayes 10, Noes 13.

Division No. 1]

AYES

Blackman, Kirsty
Boswell, Philip
Cadbury, Ruth
Cooper, Julie
Dowd, Peter
Long Bailey, Rebecca
McGinn, Conor
Marris, Rob
Mullin, Roger
Streeting, Wes

NOES

Argar, Edward
Atkins, Victoria
Burns, Conor
Donelan, Michelle
Frazer, Lucy
Gauke, Mr David
Hall, Luke
Hinds, Damian
Mak, Mr Alan
Merriman, Huw
Quin, Jeremy
Stride, Mel
Tolhurst, Kelly

Question accordingly negatived.
Clause 1 ordered to stand part of the Bill.

Clause 2

Basic rate limit for 2017-18

Roger Mullin (Kirkcaldy and Cowdenbeath) (SNP): I beg to move amendment 3, in clause 2, page 2, line 4, at end add—

"(3) The Chancellor shall assess the effect on taxation revenue of increasing the basic rate limit in line with the Consumer Prices Index for 2017-18 and by no more than increases in that index until 2021-22."

It is a great pleasure, Sir Roger, to be with you again in this Public Bill Committee. Last year I served on this very same Committee, and it led to one of the great interventions, which was of great assistance to me at the time. I hope that there is not the same occurrence this time. I can see that some hon. Members are rather confused; I will explain it to them later.

Some hon. Members will be aware that I raised a point of order in the House about whether, in the current circumstances—after the referendum—we should be proceeding as we are with the Bill. To my mind, more important things have occurred that need debating. None the less, we are here. I intend to adopt the rather rare, for me, practice of speaking in this Committee only when I have something to say. Our contributions may be slightly fewer than they were in the past, but they will be no less worthy—*[Interruption.]* How helpful I am.

This is a rather simple amendment, which we will not press to a Division, probing the Government on the proposed increase in the basic rate limit. Particularly at a time of austerity, when people are having to make such great sacrifices, the decision to give this boost to those with significantly above-average earnings strikes us as worthy of further explanation from the Government. The amendment is a sensible proposal that the Government report on and model what would happen if the rise in the basic rate limit was restricted to consumer prices index levels year after year. It is so self-explanatory that I need not detain the Committee any longer.

Mr Gauke: It is a great pleasure to respond to the hon. Gentleman. I note that he will speak only when he has something to say—an approach that he contrasted with that of the previous year. I feel that that is a little harsh on his contributions last year, which were always valuable and welcomed by the Committee. No flies on him; that is the recollection of one or two of us.

Before turning to the amendment, let me say a word about clause 2, which sets the income tax basic rate for 2017-18. The change takes a significant step towards meeting my party's manifesto commitment to increase the threshold at which people pay the higher rate of tax. It will ensure that the Government continue to encourage those who want to progress, while lifting over half a million people out of the higher tax band altogether. This Government have already made significant progress on cutting taxes for working people and ensuring that those on the very lowest incomes pay no income tax at all.

In addition to supporting the low-paid, the Government are committed to supporting those on middle incomes who want to progress. The number of families who have to pay the higher rate of income tax has grown almost without fail over the past three decades. Upon its introduction in 1988, it was paid by around one in 18 taxpayers. Without the action taken at Budget 2016, it was projected to rise to one in six—that is more than 5 million individuals paying income tax at 40%. That is why we committed to increasing the point at which the higher rate of income tax is applied to £50,000 by the end of this Parliament. Summer Budget 2015 took the first steps to meeting that commitment, increasing the higher rate threshold from £42,385 in 2015-16 to £43,000 from April this year.

This Finance Bill goes further. Clause 2 will increase the basic rate limit from £32,000 in 2016-17 to £33,500 in 2017-18. That is the amount of income on which the 20% tax is due. The income tax higher rate threshold, which is the sum of the personal allowance and the basic rate limit, will therefore increase from £43,000 in 2016-17 to £45,000 in 2017-18. Above that level, 40% tax is due. That increase to the higher rate threshold will be the biggest above-inflation cash increase since it was introduced by Lord Lawson in 1988-89. By 2017-18, some 585,000 fewer individuals will be paying the higher rate of tax than did in 2015-16—a reduction of more than 10%. As a result, a higher number of taxpayers on modest incomes will benefit from a lower rate of tax, including our most highly qualified and experienced nurses and teachers.

The amendment requests that the Government report on the impact of increasing the basic rate limit in line with inflation, rather than increasing the basic rate limit as set out in clause 2. I can confirm that the cost to the Exchequer of increasing the basic rate limit to £33,500 was published in the 2016 Budget. As such, the relevant information is already freely available to the hon. Gentleman and to members of the public. I can also confirm, however, that not implementing the clause would mean increasing the income tax paid by some families by £220 in 2017-18, dragging more middle earners into paying the higher rate of tax and breaking an important manifesto commitment that the British people elected the Conservative party to deliver. I urge the Committee to reject the amendment.

The clause will allow the Government to make progress on our commitment to increasing the threshold at which people pay the higher rate of tax, while supporting those on middle incomes who want to progress. It will ensure that there are more than half a million fewer higher rate taxpayers in 2017-18, compared with 2015-16, and will cut the income tax bill of millions of taxpayers on modest incomes. I commend the clause to the Committee.

The Chair: Mr Mullin, you now have the opportunity to respond. You must also indicate whether you wish to press your amendment to a vote or withdraw it.

Roger Mullin: I beg to ask leave to withdraw the amendment.

Rob Marris: I wanted to speak on stand part, not to the amendment.

The Chair: They are being taken together. We are on a learning curve.

Rob Marris: I did say at the beginning, Sir Roger, that there are always things to learn. I appreciate your understanding.

The Labour party welcomes clause 2 because there has been considerable fiscal drag under this Government. The Minister said that, without the clause correcting things, one in six taxpayers would pay the higher rate. When the previous Government, of which the Minister was a prominent part and in which he played a prominent role, took over, the proportion was around one in 12. Fiscal drag meant that the number of people paying higher rate tax doubled. Clause 2 will correct that, or at least move things in the right direction, so we support it.

The Chair: Now let us go back one pace, which we should not do but will.

Roger Mullin: I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 2 ordered to stand part of the Bill.

Clause 3

PERSONAL ALLOWANCE FOR 2017-18

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

Mr Gauke: Clause 3 sets the income tax personal allowances for 2017-18. The change will help working people to keep more of what they earn, and it is a big step towards keeping our manifesto commitment to a £12,500 tax-free personal allowance by the end of the Parliament. The Government's record on personal allowances is already strong. Over the previous Parliament, the personal allowance increased by more than 60%, from £6,475 in 2010-11 to £10,600 in 2015-16. Our reforms have already taken 4 million people out of paying income tax altogether.

The Government want to go further by increasing the personal allowance to £12,500 by the end of the Parliament and by ensuring that no one working 30 hours a week on the national minimum wage pays any income tax at all. Clause 3 marks another significant step towards our meeting those commitments by raising the personal

[Mr Gauke]

allowance from £11,000 in 2016-17 to £11,500 in 2017-18—an increase of £500. The change made by the clause will ensure that 30 million people pay less tax in 2017-18 than at the start of this Parliament, with 1.3 million taken out of paying income tax altogether. Therefore, by April 2017, a typical basic rate taxpayer will pay over £1,000 less income tax than when we took office six years ago.

Clause 3 builds on the Government's determination to support those in work by ensuring that people can keep even more of the money they earn. It takes a significant step towards meeting our commitment to raise the personal allowance to £12,500 and means that more of the lowest-paid are taken out of paying income tax altogether. I commend the clause to the Committee.

Rob Marris: We support the clause, but I caution the Government that, in terms of the benefits it will produce for lower-income families, there is a law of diminishing returns, particularly for those who are in part-time paid employment. They will already be below the income tax threshold of £11,200, which the clause will raise to £11,500. That rise will not benefit such families at all.

I urge the Minister to look at reviewing national insurance contribution thresholds, so that there is greater alignment. I am not suggesting complete alignment, because it is a national insurance scheme and people receive certain benefits or prospective benefits in the comfort of knowing that, having paid national insurance contributions, they have a health service, unemployment benefits and disability benefits, were they to be injured at work and so on. They benefit from that insurance, even if they do not need to draw upon it, as they would hope not to—who wants to be unemployed or in hospital, or whatever?

The Government need to review the thresholds, because there is a growing discrepancy for low-income families between the relatively benign nature of the income tax regime and how national insurance contributions bite at much lower levels of income.

Question put and agreed to.

Clause 3 accordingly ordered to stand part of the Bill.

12 noon

Clause 4

Savings allowance, and savings nil rate etc

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

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

Clause 39 stand part.

That schedule 6 be the Sixth schedule to the Bill.

Mr Gauke: Clause 4 will introduce a personal savings allowance that means basic rate taxpayers can receive up to £1,000 of interest or other savings income without any tax being due. Higher rate taxpayers can receive up to £500. Because the vast majority of taxpayers will have no tax to pay on any of their savings income, clause 39 will remove the requirement for banks and building societies to deduct tax from the account interest they pay.

As the Committee will be aware, over recent years low interest rates have helped households and businesses through difficult economic times by keeping mortgage payments down, but at the same time, low rates have made it difficult for people's savings to grow. Economists, including Nobel prize-winning economist James Meade and Sir James Mirrlees, have long pointed out that ordinary savings are over-taxed compared with other types of investment. The Government believe that in such circumstances it is right to reward and support savers by cutting the tax they pay on their savings. In addition, customer research has shown that individuals do not understand how their savings are taxed. As a result, many low-income savers were paying too much tax by not registering bank accounts for gross interest, even though they were eligible to do so. Simplification of the system is therefore long overdue.

The changes will benefit 18 million savers. From this year, 95% of taxpayers will no longer need to pay tax on their savings. With the personal allowance, dividends tax allowance and 0% starting rate for savings, it is now possible for a taxpayer to receive up to £22,000 of income without paying any tax at all, and that is on top of any income from ISAs. As well as providing a tax cut for millions of savers, the change also simplifies the rules. The vast majority of savers will have no tax deducted from their savings income and will have no tax to pay or reclaim. Most will therefore have no need to contact HMRC about their savings. Crucially, the change removes the possibility that lower-income savers will pay too much on their account interest.

For the minority who do still have tax to pay, most will declare their savings income by completing a tax return, as they currently do. In other cases, where a taxpayer does not complete a return, HMRC will collect tax through pay-as-you-earn, where possible. That will involve changing tax codes based on the information that customers or banks and building societies provide about account interest received or paid.

Clause 4 will introduce a new nil rate of tax for savings income within an individual's savings allowance. Each individual will have an annual savings allowance of £1,000, unless they have any higher rate income for the year, in which case their allowance will be £500, or any additional rate income, in which case their allowance will be nil. The allowance can be used for any of the individual's savings income. It also includes income from alternative finance arrangements, income equivalent to interest, purchased life annuity payments and gains from certain contracts for life insurance.

Clause 39 will remove the requirement for banks and building societies to deduct tax from the account interest they pay. The clause will add bonds offered by National Savings and Investments, including its highly successful 65-plus guaranteed growth bonds, to the list of products that pay interest without tax being deducted.

The changes made by those clauses will provide the most significant reform to the taxation of savings for a generation. That will reward and support millions of savers by reducing the tax they pay and provide a long-overdue simplification of tax rules that have been poorly understood in the past. I therefore hope that the clauses will have the support of both sides of the Committee.

Rob Marris: I thank the Minister for that lucid explanation. I fear that this measure may not be the simplification that he prays in aid. Taken in reverse order, clause 39 is, in a welcome sense, rough and ready, with a £1,000 allowance or nil rate for basic rate taxpayers—call it what one will, but that is important for the accountants and I concede that I do not entirely understand the difference. For a higher rate taxpayer, that figure drops from £1,000 to £500. My understanding from a press release issued in February by the Low Incomes Tax Reform Group, to which I am indebted, is that the drop is a cliff edge, so someone who moves into the higher rate tax band finds their allowance suddenly drops from £1,000 to £500 on the tax at source proposals under clause 39.

If there is a cliff edge, I urge the Government to look at that again, though I appreciate that that is difficult when going for the rough and ready simplification that we broadly support. However, taking these sorts of measures together, it is not clear that there will be the simplification that the Opposition and the Government would wish for. There is often a balancing act when various measures interact, and we will come on to that.

On simplification, the Low Incomes Tax Reform Group fears—I understand this fear—that a number of taxpayers will find it difficult to disaggregate, work out and understand the interconnection between the tax-free savings allowance, the starting rate for savings and the tax-free £5,000 dividend allowance, which is all to do with what we used to call unearned income. That is a problem.

The cliff edge is a problem, though it may be one we have to accept for simplification. However, in terms of the interaction, I start to get quite questioning when the Minister helpfully gives us an example—he will correct me if I have got it wrong—where, in a certain confluence of circumstances, someone could have an income of £22,000 plus ISA income on top and be paying no income tax at all. In particular, later in the Bill—I cannot remember the clause but the Minister will—we will get on to heritable ISAs, which allow surviving spouses to take over ISAs and therefore have the benefit of the tax advantage of the deceased's ISAs.

We would all like those at the lower end of the income scale to get a better deal on income tax. That is what progressive tax is about. We might interpret how progressive it should be, as we did in clause 1, and so on, but as an overall concept, I think there is broad support for the progressive nature of income tax in our society as a measure of those with the broadest shoulders and so on. However, we have that example of someone who could have an income well above £22,000: because ISAs have been around for so long, there are people with £1 million in ISAs and all the income on that is tax free. That is quite legitimate and not immoral at all as any of us would see it; they just built it up year on year, using the ISA allowance for however many years ISAs have existed, which is perhaps 25 years. Because of the interaction of various measures, people can now have quite a substantial income and pay no income tax at all on it. I get a little bit uneasy about that, but overall we support clause 4 and clause 39.

Roger Mullin: This is a very important move by the Government, and we broadly welcome it for two main reasons. First, as the Minister has already rightly indicated from comments by people such as Professor Mirrlees and others, ordinary savings have been overtaxed for many years. Ordinary savings are increasingly important for a lot of people who have lived their working lives on modest incomes. For example, there was a demonstration yesterday by Women Against State Pension Inequality—the so-called WASPI women, many of whom have very modest savings. The measure is of some assistance, albeit small, to many of the people who are in the most vulnerable of circumstances. That must be welcomed.

Secondly, there is always the dilemma of simplification. When moving towards something that is relatively sophisticated, trying to simplify it normally introduces some hazards, so I am particularly interested in the Minister's response to the questions posed by Labour Front Benchers in that regard. On the whole, we think the right thing is being done, so we will support it.

Mr Gauke: I am grateful to both hon. Gentlemen for the points raised on these measures, and I am grateful to the hon. Member for Kirkcaldy and Cowdenbeath for his strong support. He is absolutely right on the concerns of the overtaxing of ordinary savings. The hon. Member for Wolverhampton South West essentially raised two concerns—one about cliff edges and one about circumstances that could involve a substantial amount of income on which no tax is paid. My first point is that both circumstances are likely to be pretty unusual.

First, the allowance has been set at a level at which 95% of savers will not have tax to pay on their savings income, so the question of a cliff edge simply does not apply for the majority of savers. Had we not designed it in such a way, and had there been a differential treatment in terms of the size of allowance for higher rate taxpayers versus basic rate taxpayers, I suspect the Committee would criticise us for the fact that the largest beneficiaries, in terms of the cash benefit, would be higher rate taxpayers and not basic rate taxpayers.

The design of the personal savings allowance means that no one can gain by more than £200 a year, regardless of their circumstances, which is an important means to ensuring that there is no disproportionate benefit to higher rate taxpayers. That is why there is a difference. Our concern is that trying to address the cliff-edge problem would add a degree of complexity to the tax system that would be unfortunate and disproportionate, given the nature of the issue that has been identified.

Secondly, I certainly do not deny that someone could have £22,000 of tax-free income with a combination of all the various policies in this area. That is absolutely true if we take into account the tax-free personal allowance, the starting rate for savings, the personal savings allowance and the dividend allowance. However, in reality that is an uncommon set of circumstances that we believe will be extremely rare. Again, it is not apparent to me how we could try to address that problem without adding considerable further complexity—for example, a system in which, if someone made use of one allowance, they could not use another allowance—and we would be rightly open to criticism for adding that unnecessary complexity to the system.

[Mr Gauke]

We are trying to end the distortive effects that we have had up to now, to come back to the comments of Professor Mirrlees and others on the effect of the existing taxation system on savings. That is why we have taken these decisions. I hope that that helps the Committee and that, notwithstanding the perfectly fair points made by the hon. Member for Wolverhampton South West, it will support these clauses.

Clause 4 ordered to stand part of the Bill.

Clause 5

RATES OF TAX ON DIVIDEND INCOME, AND ABOLITION OF DIVIDEND TAX CREDITS ETC

12.15 pm

Roger Mullin: I beg to move amendment 4, in clause 5, page 8, line 28, at end add—

"(12) The Chancellor of the Exchequer shall commission a review of how the changes to the tax on dividend income implemented by this Act affect directors of micro-business companies, to include—

(a) the impacts across the distribution of directors' net income;

(b) whether company failure rates have been affected; and

(c) whether the law could be amended to minimise the impact on directors with low income.

(13) The Chancellor shall report to Parliament about his findings within six months of the passing of this Act."

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

Clause stand part.

Government amendments 127 to 133.

That schedule 1 be the First schedule to the Bill.

Roger Mullin: I have been very co-operative thus far, but we now come to an amendment that we feel very strongly about. Sir Roger, I need some advice on matters of procedure. We have very recently become aware of further information that we want to explore, so we will probably want to return to this amendment on Report, rather than fully deal with it here.

The Chair: In that case, let me advise the hon. Gentleman that, although it is perfectly proper to debate the amendment now, if he wants to return to it on Report he will need to withdraw it. If it is voted on here, the likelihood is that the Chairman of Ways and Means—it is not in my gift—will not select it for further debate. The trick is to talk about it now, withdraw it and see whether you can get a second bite of the cherry.

Roger Mullin: I am indebted to you once again, Sir Roger, for your very helpful explanations of the wonderful procedures of this House.

Let me explain, rather more briefly, precisely what our concerns are. Our concerns are predominantly about the effect that the clause will have on microbusinesses—businesses that employ between one and nine people. I was really surprised to find out that HMRC does not model for different sizes of businesses in this area. I believe it has confirmed that in discussions. According to research that has been done by accountancy companies such as Crunch, there will be harm, or potential disbenefits, to some people who get very modest incomes indeed from running very small businesses. We want to ensure that, in encouraging proper taxation and an entrepreneurial climate, we do not unwittingly, through unintended consequences, put at hazard very new microbusinesses that are earning very modest sums of money indeed.

As I said, information is coming our way that we would like to explore further and do modelling on, so our intention is to withdraw the amendment and return to it on Report. I will leave my comments there.

The Chair: The withdrawal will come at the appropriate moment. *[Interruption.]* He really cannot have it all ways. For the moment, the question is that the amendment be made. It is even possible that another Member might wish to move it.

Rob Marris: If we are debating clause stand part, I have some remarks to make. As the hon. Member for Kirkcaldy and Cowdenbeath said, clause 5 will have potential effects on microbusinesses, which are referred to in the soon-to-be-withdrawn amendment. I have had a meeting with Jason Kitcat, who is a microbusiness ambassador for Crunch. I think the Minister is aware of that gentleman. My hon. Friend the Member for Hove (Peter Kyle) has met him, as has the hon. Member for Brighton, Pavilion (Caroline Lucas), because his business is in Brighton. He is a very persuasive individual. He is concerned about the effects of this measure on microbusinesses. People who are running a successful microbusiness and who have an income of that kind of level would see a much greater drop than those who are further up the income scale. I am not an accountant, but Mr Kitcat's analysis is that the proposals in clause 5 and schedule 1 are regressive. If that is the case, it is worrying.

As I understand it, that is also the position of the Federation of Small Businesses. Its submission to the Economic Affairs Finance Bill Sub-Committee in the other place stated that these measures had

"caused substantial disquiet amongst FSB members. This is especially acute from members on modest incomes who, unlike their employed counterparts, will now see a rise in their tax liabilities. Despite these impacts, FSB is yet to see the distributional analysis work and we understand that unlike with previous Budgets, this information will not be released."

There is a broader point here, to which the Library research helpfully draws attention, about changes in the way the Government release information about the distributional analysis of impacts of Budgets. For this Chancellor's first Budget in June 2010, the coalition Government published the distribution analysis of its projected impact. That approach from the Treasury has changed. There is a new analytical framework that uses different metrics, which is troubling because it discloses less information than the old methodology.

I hope that, in response, the Minister will comment on the possible effects on microbusinesses, particularly the apparently regressive nature of this measure, and will allay the concerns of the Federation of Small Businesses.

Mr Gauke: Clause 5 and schedule 1 make changes to the taxation of dividends by abolishing the dividend tax credit and introducing a new £5,000 tax-free dividend allowance. They will also set the tax rates charged on dividend income above the dividend allowance at 7.5% for dividend income within the basic rate band, 32.5% for dividend income within the higher rate band, and 38.1% for dividend income within the additional rate band. The dividend trust rate will also be increased to 38.1% and so will continue to mirror the highest rate of dividend tax. These changes will raise more than £2.5 billion a year by the end of this Parliament. As well as helping to reduce the deficit, these reforms have enabled the Government to reduce corporation tax by addressing the growing incentive for individuals to incorporate in order to lower their tax bill.

The reforms also offer much-needed simplification to an outdated, opaque and complex system. The current system of tax credits on dividends is a legacy from the days of advance corporation tax, which some Members may remember. That system was designed more than 40 years ago, when corporation tax was more than 50% and the total tax bill on dividends for some people was more than 80%. Tax rates have fallen significantly since then and advance corporation tax has been abolished. Since the dividend tax credit was made non-payable, leaving it as a notional tax credit for use only in tax computations, it has been an outdated and complex feature of the tax system. The Government, along with the Office of Tax Simplification, have worked hard to simplify the tax code across a wide range of areas, and we will continue to do so over the remainder of this Parliament. Clause 5 forms part of that agenda.

The reforms enacted by clause 5 also play their part in the Government's long-term economic plan. Since 2010 the Government have presided over significant reductions in corporation tax in order to support investment and growth. That is a central part of the Government's economic strategy. The strategy is working: 2.25 million jobs have been created by the private sector since 2010. Overall, cuts to corporation tax delivered since 2010 will be worth almost £15 billion a year to business by the end of this Parliament.

However, lowering corporation tax does increase the incentive for people to incorporate and remunerate themselves through dividends rather than salary. That behaviour already creates a significant cost to the Exchequer. The Office for Budget Responsibility estimates that new incorporations will cost an additional £2.4 billion a year by the end of the Parliament. Without these changes to dividend tax, the OBR estimates that the cost of the new incorporations will be nearly £800 million higher a year by 2020, making these reforms an important part of this Government's fiscal plan to reduce the deficit.

Clause 5 will spell the end of the dividend tax credit, replacing it with a much simpler tax-free dividend allowance. In practice, that means that, beyond that allowance, the headline rates of dividend tax will be the rates of tax that are actually paid. Clause 5 will also set the dividend tax rates, as outlined in my introduction, and schedule 1 will make consequential amendments required to introduce these changes.

As a result of these changes, around one million individuals will benefit from a tax reduction on their dividend income and 95% of all taxpayers will either gain or be unaffected. The new £5,000 dividend allowance will protect ordinary investors, meaning that only those with significant amounts invested in shares, or who take a significant part of their income as dividends, will pay more tax.

The Government have tabled seven amendments to schedule 1. The amendments result from technical oversights during the drafting process and will not materially affect the measure. Amendment 127 will stop tax being treated as paid on certain types of income received on shares held in an estate. That will align the taxation of that income with other taxpayers and other types of income received by the estate. Beneficiaries will be given a credit for the tax relief paid on their income. Overall, the change will not increase the tax that is due.

Amendment 128 will ensure that all company distributions received by members of partnerships will continue to be taxed on the tax year basis, rather than by reference to the partnership's accounting period. That will provide consistency of treatment for all partnerships receiving that type of income, and remove the need for more complicated transitional rules.

Amendment 130 will ensure that the beneficiary of a trust receives full credit for all the tax already paid by the trustee. That will prevent income being taxed twice. Amendments 129, 131 and 133 are consequential amendments following those first three changes.

Amendment 4 would require the Chancellor to report to Parliament on the impact of the dividend tax reforms on the incomes of directors of microbusinesses within six months of the passing of the Bill. That would require information from the self-assessment process that would not be available until 2018, so the amendment would be impossible to deliver in practice.

More fundamentally, small company owners have benefited from a range of recent tax changes made by the Government, including, for example, cuts to corporation tax and business rates, and the introduction of the employment allowance. The Government therefore believe that it would paint only a partial picture to examine just the impact of the dividend tax changes. Of course, the Government keep all tax policy under review and assess its impact on an ongoing basis.

It is customary at this point for me to try to urge the hon. Member for Kirkcaldy and Cowdenbeath to withdraw his amendment. Perhaps on this occasion I should not urge him to withdraw the amendment but urge the Committee to reject his amendment. That is very much in his hands.

I will briefly pick up a couple of points made by hon. Members. I was asked why we have not undertaken a full assessment of the impact on owners of microbusinesses. I would just point out HMRC does not have ready access to data on owners of microbusinesses as a specific group of firms to enable a separate assessment for this group in advance of the measure taking effect. However, the Government have considered the general economic impact of the changes. As the tax information impact note sets out, the measure is not expected to have any significant macroeconomic impacts.

Ruth Cadbury (Brentford and Isleworth) (Lab): Will the Minister give way?

Mr Gauke: I will give way, but I hope the Committee will forgive me if I remain standing, to save me any difficulties with sitting down and standing up more often than I need to.

Ruth Cadbury: It is a pleasure to serve under your chairmanship, Sir Roger. I certainly do not want to cause the Minister any further pain; I sympathise with him about the state of his back.

Many people in my constituency run microbusinesses. I am pleased to hear that the Minister and his advisers do not believe that the measure will have any fiscal impact. However, I am concerned, and I look forward to hearing from him about the likely impact on the behaviour and choices of people running microbusinesses. We all want those businesses to succeed and thrive, and to move on to employ more people. I hope that the Treasury is doing research and is taking advice from organisations such as the Federation of Small Businesses.

12.30 pm

Mr Gauke: I am grateful for the hon. Lady's concern about my back, which is appreciated.

I want to reiterate a point I made earlier, which is that one behavioural impact of the current tax system is that it tends to encourage people to incorporate. The tax system tends to favour incorporated microbusinesses over those that are unincorporated. It is not obvious that that should happen.

The other point, of course, is that we continue to be engaged with organisations such as the FSB, and the Government have done a lot to support microbusinesses. However, one behavioural effect in the light of what has happened with corporation tax reductions, which I strongly defend, is that people who otherwise would not incorporate have been doing so. Often they face burdens and form-filling that they probably do not want, but they incorporate for an understandable reason: to take advantage of a more beneficial tax regime. However, I think that we should seek to rebalance that, if I may put it that way.

I, too, have met Jason Kitcat of Crunch Accounting. We have looked at his analysis and there are some complicated issues with regard to the impact of the changes. However, I reiterate that the dividend tax remains progressive overall. Those with higher incomes will pay more tax on their dividends than those on lower incomes. Achieving a perfectly smooth result would require a more complex system, and that is why we have not gone down that route. However, we continue to be engaged. I hope that I have provided the Committee with some reassurance.

Roger Mullin: I thank the Minister for his comments, some of which have been helpful, although they have not fully persuaded me that the Government have fully thought through the impact on microbusinesses. There are many reasons why very small business operators might choose to move from being unincorporated to being incorporated. For example, if such businesses have wide seasonal fluctuations in income, it is one way of adapting their way of taking income out of the business—without having to take out a regular income in the traditional way. That is only one of many reasons why a company might make that decision.

I am grateful to the Minister for his explanation. Although I shall withdraw the amendment, I intend to return to the matter on Report. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 5 ordered to stand part of the Bill.

Schedule 1

ABOLITION OF DIVIDEND TAX CREDITS ETC

Amendments made: 127, in schedule 1, page 259, line 20, at end insert—

In section 651 (meaning of "UK estate" and "foreign estate")—

(a) in subsection (4), for "680(3) or (4) (sums" substitute "664(2)(c) or (d) or 680(4) (sums not liable to tax and sums", and

(b) in subsection (5), for "680(3) or (4)" substitute "664(2)(c) or (d) or 680(4)".

In section 657 (tax charged on estate income from foreign estates), for "680(3) or (4)", in both places, substitute "680(4)".

In section 663 (applicable rate for purposes of grossing-up under sections 656 and 657), after subsection (4) insert—

(5) The aggregate income of the estate, so far as it consists of income within section 664(2)(c) or (d), is treated for the purposes of this section as bearing income tax at 0%."

In section 670 (applicable rate for purposes of Step 2 in section 665(1)), after subsection (4) insert—

"(4A) The aggregate income of the estate, so far as it consists of income within section 664(2)(c) or (d), is treated for the purposes of this section as bearing income tax at 0%."

In section 680 (income of an estate that is treated as bearing income tax)—

(a) in subsection (2) omit "(3) or", and

(b) omit subsection (3) (sums treated as bearing tax at the dividend ordinary rate).

In section 680A (estate income treated as dividend income), in each of subsections (1)(a) and (4)(a), after "at the dividend ordinary rate" insert "or as bearing tax at 0% because of section 663(5)"."

Amendment 128, in schedule 1, page 259, line 20, at end insert—

In section 854(6) (carrying on by partner of notional business: meaning of "untaxed income")—

(a) omit the "or" at the end of paragraph (b), and

(b) after paragraph (c) insert—

"(d) income chargeable under Chapter 5 of Part 4 (stock dividends from UK resident companies), or

(e) income chargeable under Chapter 6 of Part 4 (release of loan to participator in closed company).""

Amendment 129, in schedule 1, page 265, line 31, at end insert—

( ) in paragraph (b), for "680(3)(b) or (4)" substitute "680(4)", and"

Amendment 130, in schedule 1, page 265, line 39, at end insert—

'( ) In section 498 (discretionary payments by trustees: types of tax to be included in trustees' tax pool)—

(a) in subsection (1)—

(i) in Type 1 (tax at special rates for trustees on income not attracting tax credits), omit "2, 3 or", and

(ii) omit Types 2 and 3 (tax at dividend trust rate on income attracting dividend tax credits), and

(b) omit subsection (2) (interpretation of Types 2 and 3)."

Amendment 131, in schedule 1, page 269, line 8, at end insert—

( ) the amendments in section 854(6) of ITTOIA 2005," Amendment 132, in schedule 1, page 269, line 9, leave out "sections 425," and insert "section 425 except the amendment in section 425(5)(b), and the amendments in sections 498,"

Amendment 133, in schedule 1, page 269, line 33, at end insert—

'( ) The amendments in sections 651 to 680A of ITTOIA 2005 (but not the repeal of section 680(3)(a) of that Act) and the amendment in section 425(5)(b) of ITA 2007—

(a) so far as they relate to income within section 664(2)(c) of ITTOIA 2005 (stock dividends), have effect in relation to stock dividend income treated as arising in the tax year 2016-17 or at any later time, and

(b) so far as they relate to income within section 664(2)(d) of ITTOIA 2005 (release of loans), have effect in relation to amounts released or written off in the tax year 2016-17 or at any later time."—*(Mr Gauke.)*

Schedule 1, as amended, agreed to.

Clause 6

Structure of income tax rates

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

Mr Gauke: Clause 6 separates the rates of income tax that apply to savings income from the main rates of income tax. These changes ensure that the Government meet their commitment to guaranteeing that MPs representing constituencies in England, Wales and Northern Ireland are given the decisive say on any income tax rates that affect only their constituents. As hon. and right hon. Members are aware, earlier this year the Scotland Act 2016 received Royal Assent. It provides the Scottish Parliament with unprecedented powers over income tax, including the ability to determine the rates of income tax on earned income at the points at which those apply to Scottish taxpayers.

The fiscal framework agreed by the UK and Scottish Governments confirms that the powers will take effect in 2017-18. This means that from April 2017 Members of the Scottish Parliament will have the final say on Scottish income tax. As a matter of fairness, it is only right that, once these powers come into force, MPs in England, Wales and Northern Ireland are given the decisive say over rates of income tax that affect only their constituents.

The clause separates out the main rates of income tax into three distinct groups in order to meet this objective. The main rates will continue to apply to non-savings, non-dividends income, such as employment, pensions and property income, for taxpayers in England, Wales and Northern Ireland. The savings rates will apply to savings income of all UK taxpayers. The default rates will apply to a limited category of income tax payers who will not fall into either of these two categories; the category is made up primarily of non-residents and some trustee income. This will mean that, from April 2017, changes to the main rates of income tax will no longer affect Scottish taxpayers. Changes to the savings rates or default rates will continue to remain a reserved matter for the UK Government, in line with the recommendations of the Smith commission.

The clause will meet the Government's commitment to ensuring that English votes for English laws applies to income tax. As a result, following the Finance Bill 2017, MPs representing constituencies in England, Wales and Northern Ireland will have a decisive say on the main rates of income tax that affect only their constituents.

Rob Marris: I appreciate the recommendation of the Smith commission, but the clause simply introduces a further layer of complication to the overall tax regime in the United Kingdom—we are still the United Kingdom, of course. As I understand it, we are now almost back to how it was in my youth—and, I suspect, yours as well, Sir Roger—with the differential rates on earned and unearned income and all that sort of stuff, because EVEL is now bleeding into the income tax regime, depending on whether a certain source of income is a reserved or a devolved matter.

I tend to agree with my hon. Friend the Member for Rhondda (Chris Bryant), the former shadow Leader of the House, who called the current EVEL procedure an "incomprehensible mess". I also tend to agree with the Chair of the Procedure Committee, the hon. Member for Broxbourne (Mr Walker), who described the proposals as "over-engineered". It will get incredibly messy unless there is full fiscal devolution—another debate we may or may not get on to today.

On a technical matter, I am indebted to the Chartered Institute of Taxation, as I suspect many hon. Members are, for its helpful suggestions, and this is an arena in which we get to put forward some of its suggestions. One of its technical suggestions is about the table in clause 6. It wonders whether including a table of rates in the statute, which is introduced as having a general effect, might as a matter of statutory interpretation cause issues if the general effect conflicts with a specific effect of other provisions. I hope the Minister can come up with a short piece on that, as regards statutory interpretation.

Kirsty Blackman (Aberdeen North) (SNP): We argued against English votes for English laws all the way through. It was a dreadful initiative. The Government intend to reassess English votes for English laws at the end of this year and look at how it has worked, so I think we might be jumping the gun on some of the income tax measures. I will not move against them, but this is possibly doing things a bit too soon. Obviously, we will have our own Scottish rate of income tax, which we can set; it is fabulous that the devolved Administration will be able to do that. However, Scottish MPs will be excluded from discussions on income tax—a major, serious part of the Finance Bill—and that further compounds the difference between Scottish MPs and English and Welsh MPs in this House. The impression given to the general public by the change in the law to enable that to happen will be even worse, and that will hasten the break-up of the United Kingdom.

Mr Gauke: First, I will respond to the hon. Lady. I have certainly heard the comment by the likes of the hon. Member for Perth and North Perthshire (Pete Wishart) that the people of Scotland could not care less about English votes for English laws. He changed his position, and then found himself somewhat outraged by EVEL.

It is perfectly reasonable that when measures affect one part of the UK but not another, those MPs who represent the constituencies affected by it are able to

[Mr Gauke]

express their views on it and vote on it, and that any such measure should have the support of people representing that part of the UK.

Kirsty Blackman: I understand that the issue is whether or not a measure affects people in those areas, but will the Minister not concede that changes on income tax rates might have a knock-on effect, albeit indirect, on people in Scotland, particularly those who live around the borders?

Mr Gauke: I suppose that is true, but if one wanted to follow the logic of that argument through, independence for Scotland would certainly have a very significant knock-on effect on people living south of the border, and I suspect that the hon. Lady does not advocate any future referendum on that issue requiring the consent of the whole of the United Kingdom. Sir Roger, we could debate this matter for some time, but I suspect the Committee's appetite to do so is not great.

I do not think that this measure particularly adds to complexity. Non-savings income and non-dividend income, such as employment income, are already taxed differently from other sources of income, such as savings and dividends, so separating out in legisation the rates of income tax on non-savings and non-dividend income from savings will not introduce any real additional complexity. Employees, individuals and pension providers will see no changes to the level of tax paid or the way they pay tax as a result of legislation being introduced in the Finance Bill to separate out the main rates of income tax.

On the specific technical point made by the hon. Member for Wolverhampton South West, if I may, I will write to him on that.

Question put and agreed to.

Clause 6 accordingly ordered to stand part of the Bill.

Clause 19

Standard lifetime allowance from 2016-17

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

The Chair: With this it will be convenient to discuss that schedule 4 be the Fourth schedule to the Bill.

Mr Gauke: Clause 19, together with schedule 4, reduces the lifetime allowance from £1.25 million to £1 million from April 2016. This change will restrict the benefits of pensions tax relief for the wealthiest pension savers, ensuring that the pensions tax system is fair, manageable and affordable.

Pensions tax relief is one of the Government's most expensive reliefs. In 2013-14, the Government spent or forwent revenue of more than £34 billion on income tax relief for pensions. That has increased from £17.6 billion in 2001. About two thirds of pensions tax relief currently goes to higher and additional rate taxpayers. In the last Parliament, we took steps to control that cost, in order to ensure that pensions tax relief is appropriately targeted. This clause takes further significant steps to help us achieve that.

As I have said, the changes made by clause 19 will reduce the lifetime allowance from £1.25 million to £1 million. As I have also said, the lifetime allowance is the maximum amount of tax relief on pension savings that an individual can build up over a lifetime. Only 4% of individuals who are currently approaching retirement have a pension pot worth more than £1 million; reducing the allowance will make sure that the wealthiest pension savers do not receive a disproportionate benefit from the pensions tax system. However, it would be unfair for the lifetime allowance to be eroded by future inflation, so the clause also makes provision for the lifetime allowance to be uprated in line with the CPI from 2018, which will maintain fairness between those retiring this year and those retiring in the future.

12.45 pm

Clause 19 also introduces two transitional protection schemes for those affected by the reduction of the lifetime allowance. These will protect individuals who have saved on the basis that the lifetime allowance would be at least £1.25 million, who have UK tax-relieved pension rights of more than £1 million, or who think that they will have rights of more than £1 million by the time they come to take their pension benefits. Two types of protection are available: fixed protection 2016 and individual protection 2016.

The details of the protection regimes are set out in schedule 4. Individuals applying for fixed protection 2016 will have their lifetime allowance protected at £1.25 million after 5 April 2016, regardless of the value of their pension savings on that date, which means that if their pension pot gains value, they will not be subject to the lifetime allowance charge unless the value is greater than £1.25 million. Individual protection 2016 is intended to help those who would not be able to receive their employer contribution as additional income if they stopped saving into their pension scheme. Individuals applying for individual protection 2016 will have a protected lifetime allowance equal to the amount of any pension savings they had on 5 April 2016, subject to an overall maximum of £1.25 million. Individuals will be able to apply for both individual and fixed protection 2016; when they hold both, fixed protection 2016 will take precedence. These protections are intended to ensure that the reduction of the lifetime allowance does not inadvertently advantage or disadvantage certain individuals.

In conclusion, the Government believe that this approach is a fair and balanced way to reduce the cost of pensions, tax-free; indeed, it is estimated that the measure will save almost £2 billion by the end of this Parliament. In addition, it limits the benefit that the wealthiest pension savers can receive, while maintaining fairness between people retiring now and people retiring in the future.

Rob Marris: Oh, I do wish I could declare an interest in this clause.

We welcome the transitional protections—the fixed protection and the individual protection—and, indeed, the clause's overall architecture. Schedule 4, though—not many of us are that technical about this stuff, but schedule 4 runs to 17 pages. Talk about complexity in the tax regime!

On the overall approach, I am delighted that the Government are moving in a direction that I urged on the Labour Government back in 2002, when the forgone revenue was £18 billion a year, from memory—it was £17.6 billion in 2001, as the Minister said—first because the pension tax regime is very regressive, and secondly because there was no evidence then that that tax relief encouraged people to save for pensions. Earlier this year I checked with the Library for an update on the situation, and it could find hardly any evidence that the forgone tax revenue, which is now £34 billion per year, encourages the very behaviour it is intended to encourage. It is probably the biggest single tax relief in the whole tax regime; it is regressive; and it does not do what it is intended to do. This pottiness continues, though clause 19 and schedule 4 make some welcome steps in the right direction.

I have a more minor point, connected to HMRC's cuts in staff numbers—although those have increased a bit—and its unfortunate proposal to close a whole load of offices. The tax information and impact note published on 9 December 2015 estimated that the additional cost to HMRC of administering and monitoring the protection regimes would be £2.4 million for IT and—get this—£500,000 for staff resources over a five-year period. On average, that is £100,000 a year in extra staffing costs due to the protection regime.

Perhaps the Minister can assure me that I am misinterpreting the situation. If not, HMRC is living in a different world. As he pointed out, 4% of individuals might be caught by having a pension pot approaching or exceeding £1 million, and therefore might face the protection regime, whether fixed or individual. That 4% of pensioners is not just a whole lot of people, but people with around £1 million in their pension pot. They are likely to be some of the most educated and articulate pensioners, or prospective pensioners, and are certainly some of the most prosperous. I may be misinterpreting this, but does HMRC really think that an average of £100,000 a year in additional staffing costs will deal with the protection regime, the queries arising from it and so on? How will that 4% of pensioners or prospective pensioners who are likely to raise queries, quite properly, with HMRC be dealt with on £100,000 a year?

Mr Gauke: This is an area where HMRC has some experience, from making changes to the lifetime allowance. It is therefore in a position to assess how many customer contacts it will receive and is well placed to assess the various demands likely to result from the transitional arrangements. It is also worth pointing out that HMRC is moving to digital processes, allowing the organisation to reduce numbers and making processes simpler and easier to use, so that individuals can self-serve. I argue that the assessment was made in good faith, based on previous experience.

Rob Marris: I will enable the Minister to gather his thoughts. The figure that I have devolved upon—I appreciate that it is an average; £500,000 over five years is £100,000 a year—is, very roughly, three members of staff, depending on their seniority and so on. That is three members of staff dealing with, potentially, thousands of prospective pensioners of the sort who will, quite properly, get in contact. It does not seem enough. Am I missing something in the equation? Technology alone will not solve it.

Mr Gauke: On the ability to cope with additional phone calls and so on, let us remember that in some cases these people will be well advised. The hon. Gentleman makes the point that, often, they will be the people best placed to understand the changes, and many will also be well placed to make use of new technology. On the demands likely to be placed on HMRC over the next few years, it is difficult to argue that they are likely to be particularly significant. To make a point that applies more widely than the transitional regime, this is similar to what we have done in the past and there is some experience of how it will operate, so I think that it is reasonable.

HMRC will keep the matter under review. If there is evidence that further resources are needed to deal with it, then of course resources will be redeployed in that area. With that reassurance, I hope that this measure will have the support of the Committee.

Question put and agreed to.

Clause 19 accordingly ordered to stand part of the Bill.

Schedule 4 agreed to.

Clause 20

Pensions bridging between retirement and state pension

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

Mr Gauke: Clause 20 makes changes to help align the tax rules on the payment of bridging pensions for the introduction of the single-tier state pension. As the Committee will know, bridging pensions are paid by some occupational pension schemes for members who start to receive their scheme pensions but are yet to reach state pension age. The purpose is to level the amount of regular income that some members receive from the date they retire. When the individual reaches state pension age, their scheme pension is reduced by approximately the level of the state pension, thereby providing the individual with a level income throughout retirement.

Currently, the maximum amount by which the bridging pension can decrease is calculated by reference to the old state pension applied prior to April 2016. If no change were made to the legislation, any reductions made for members entitled to the new single-tier pension could result in unintended tax consequences for the individual concerned. The changes made by the clause, together with forthcoming regulations, will therefore enable schemes to reduce bridging pensions in an appropriate way when the members concerned become entitled to the single-tier state pension. The clause will allow pension schemes to continue to provide their members with a bridging pension from retirement to state pension age, which will provide individuals with a level income throughout retirement and prevent any unintended tax charges.

Question put and agreed to.

Clause 20 accordingly ordered to stand part of the Bill.

Ordered, That further consideration be now adjourned.—*(Mel Stride.)*

12.56 pm

Adjourned till this day at Two o'clock.

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

FINANCE BILL

(Except clauses 7 to 18, 41 to 44, 65 to 81, 129, 132 to 136 and 144 to 154 and schedules 2, 3, 11 to 14 and 18 to 22)

Second Sitting

Thursday 30 June 2016

(Afternoon)

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PBC (Bill 001) 2016 - 2017

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor's Room, House of Commons,

not later than

Monday 4 July 2016

The Committee consisted of the following Members:

Chairs: Sir Roger Gale, † Mr George Howarth

† Argar, Edward *(Charnwood)* (Con)
† Atkins, Victoria *(Louth and Horncastle)* (Con)
† Blackman, Kirsty *(Aberdeen North)* (SNP)
† Boswell, Philip *(Coatbridge, Chryston and Bellshill)* (SNP)
† Burns, Conor *(Bournemouth West)* (Con)
† Cadbury, Ruth *(Brentford and Isleworth)* (Lab)
Cooper, Julie *(Burnley)* (Lab)
† Donelan, Michelle *(Chippenham)* (Con)
Dowd, Peter *(Bootle)* (Lab)
† Frazer, Lucy *(South East Cambridgeshire)* (Con)
† Gauke, Mr David *(Financial Secretary to the Treasury)*
† Hall, Luke *(Thornbury and Yate)* (Con)
† Hinds, Damian *(Exchequer Secretary to the Treasury)*
† Long Bailey, Rebecca *(Salford and Eccles)* (Lab)
† McGinn, Conor *(St Helens North)* (Lab)
† Mak, Mr Alan *(Havant)* (Con)
† Marris, Rob *(Wolverhampton South West)* (Lab)
Matheson, Christian *(City of Chester)* (Lab)
† Merriman, Huw *(Bexhill and Battle)* (Con)
† Mullin, Roger *(Kirkcaldy and Cowdenbeath)* (SNP)
† Quin, Jeremy *(Horsham)* (Con)
Streeting, Wes *(Ilford North)* (Lab)
† Stride, Mel *(Lord Commissioner of Her Majesty's Treasury)*
† Tolhurst, Kelly *(Rochester and Strood)* (Con)

Simon Patrick, Marek Kubala, *Committee Clerks*

† attended the Committee

Public Bill Committee

Thursday 30 June 2016

(Afternoon)

[Mr George Howarth *in the Chair*]

Finance Bill

(Except clauses 7 to 18, 41 to 44, 65 to 81, 129, 132 to 136 and 144 to 154 and schedules 2, 3, 11 to 14 and 18 to 22)

Clause 21

Dependants' scheme pensions

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

2 pm

The Financial Secretary to the Treasury (Mr David Gauke): Welcome to the Chair, Mr Howarth; it is a great pleasure to see you again. I am pleased to see the Gale-Howarth team reunited.

The clause makes changes to simplify the administration of dependants' scheme pensions. At present, when an individual who is entitled to a scheme pension dies, their dependants may be entitled to receive a scheme pension from the deceased's registered pension scheme. The value of that dependant scheme pension must be tested annually to ensure that an individual has not avoided paying a lifetime allowance charge by setting aside excessive amounts to fund a pension for their dependants.

That test applies to all members who died on or after 6 April 2006, having reached age 75 and either started to take a scheme pension on a date from 6 April 2006 onwards or died without starting to take their scheme pension. That is the case even if their pension savings are small or with modest benefits for dependants where there is little chance of manipulating the lifetime allowance. As a result, the industry faces a substantial administrative burden, carrying out unnecessary tests on modest pension savings where the risk from abuse is low.

The changes made by the clause will remove the vast majority of dependants' scheme pensions from the current test, thereby reducing the administrative burden for industry. New and simpler tests will be applied to determine whether the total of all the deceased's pensions savings used to fund dependants' scheme pensions are below a certain threshold. The threshold for this tax year will be either the total amount of the individual scheme pension at their death or, if higher, £25,000.

The clause also makes provision for an annual increase in both thresholds by 5%, or the rate of inflation if that is higher, so that more dependants' scheme pensions are not drawn back into the current tests over time. The clause will exempt those cases where the deceased had already had all their pension savings tested against the lifetime allowance at age 75, before their death, or where the deceased had had enhanced protection since 2006, so that they are not subject to the lifetime allowance charge on their pensions during their lifetime. As a result of those changes, more than 90% of dependants' scheme pensions will fall within the exclusions provided by the clause, which will mean that the current tests will focus on the larger dependants' scheme pensions that remain, reducing administrative costs and making the scheme easier to operate.

The current tests serve a useful purpose as they prevent individuals from avoiding the lifetime allowance charge, but we want to reduce the administrative burdens where we can. The clause has been introduced to make the alteration of dependants' scheme pensions simpler and to support the Government's policy to reduce the administrative burden on UK industry. I hope the Committee will agree that the clause should stand part of the Bill.

Question put and agreed to.

Clause 21 accordingly ordered to stand part of the Bill.

Clause 22

Pension flexibility

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

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

Government amendment 134.

That schedule 5 be the Fifth schedule to the Bill.

Mr Gauke: The clause makes changes to ensure that the historic pension flexibility measures that we introduced last April are working as intended for everyone. As the Committee will be aware, from April 2015 individuals with defined contribution pension savings have been able to access their entire pension flexibly, subject to their marginal rate of tax. The Government introduced that historic reform because they believe that individuals who have worked hard and saved responsibly throughout their lives should be trusted to make their own decisions with their pension savings. In general, the flexibilities have been working well, and so far more than 230,000 people have benefited from pension flexibility in the first year of operation. However, there are a few minor points in the legislation that have not been working as intended. The Government therefore propose a series of small changes to ensure the new pension flexibility works for everyone.

The first change being introduced by the clause relates to serious ill health lump sums. Serious ill health lump sums are paid when an individual can produce medical evidence that they are expected to have fewer than 12 months to live. Before the introduction of pension flexibility, those lump sums were paid tax-free if the individual was under 75 and taxed at 45% if they were aged 75 or over. That was in line with the taxation of certain lump sum death benefits and was intended to ensure that tax considerations did not drive whether pension lump sums were taken before or after an individual dies.

From 6 April this year, the rules around death benefits have changed. Now, when someone dies having reached age 75, the lump sum death benefit is taxable at the marginal rate of the individual who receives it, not 45%. Under the clause, where someone takes a serious ill health lump sum having reached age 75, it will be taxed at the recipient's marginal rate instead of 45%. The clause will therefore realign the tax treatment of serious ill health lump sums with that of the lump sum death benefits.

In addition, the clause makes changes to help people with a pension who have become seriously ill. Under the current rules, serious ill health lump sums can only be paid from the pension savings that have not been accessed at all. The current legislation was appropriate for a world in which people could either access the whole of their pension or not access it at all, but it now means that people could be disqualified from taking a serious ill health lump sum if they take a small lump sum from their pension and then become seriously ill later in life. The clause will remove the rule that prevents serious ill health lump sums being paid from the unaccessed portion of partially accessed funds. The changes bring the taxation of such lump sums into line with the treatment of comparable lump sum death benefits, while ensuring that there is flexibility in the system.

The second change relates to charity lump sum death benefits. Under current rules, when a pension scheme member dies leaving certain unused pension savings and uncrystallised funds, a lump sum death benefit can be paid to any beneficiaries, including a charity. That is tax-free if the member is under 75 at death, but the payment needs to be made within a two-year period, or it is taxed at a separate rate of 45% if paid to a charity. The changes being made by the clause will ensure that unused funds at the member's death can be used to pay a charity lump sum death benefit completely tax-free, whatever the age of the member or length of time taken to pay.

The third change relates to dependants' flexi-access drawdown funds. Before pension flexibility was introduced, children of a deceased member who wanted to claim funds from a drawdown account had to use all of this fund by the age of 23. Any remaining funds paid to them after reaching that age would be taxed at rates of up to 70%. The reforms last year enabled any nominated beneficiary, including a member's child aged 23 or over at their parent's death, or a member's step-child of any age, to inherit their parent's pension and receive drawdown pension payments at any age. However, the current legislation still means that children aged under 23 at their parent's death have to draw all of their funds before they turn 23 in order to avoid paying 70% tax on those funds. Schedule 5 will amend legislation to allow dependants with drawdown accounts to access their funds as they wish without incurring a 70% tax charge from their 23rd birthday.

The fourth change relates to trivial commutation lump sums. Before pension flexibility, the option of trivial commutation existed for both defined-contribution and defined-benefit pensions. That allows individuals aged 60 or over with total pension savings of £30,000 or less to withdraw all of their savings as a lump sum, with the first 25% of any previously untouched savings paid tax-free. Since April 2015, pension flexibility changes allow anyone aged 55 or over to withdraw some or all of their funds that they have yet to access as a lump sum, 25% of which is tax-free. Trivial commutation was therefore removed for defined-contribution pensions and limited to defined-benefit arrangements, which were not affected by the introduction of pension flexibility.

Under the defined-benefit arrangement, the only kind of pension possible is a scheme pension, although some people have scheme pensions that come from a defined-contribution fund. As such, under current rules, if a defined-contribution scheme pension is already in payment, it cannot be taken as a trivially commuted lump sum. Schedule 5 will allow defined-contribution scheme pensions that are already in payment to be paid as a lump sum, if they satisfy all the other requirements of trivial commutation.

The fifth change brought about by this legislation relates to the top-up of dependants' death benefits. Some pension schemes specify a minimum amount that dependants are entitled to receive when the member dies. If there is not enough money in the member's pension pot when they die, their employer will top it up to ensure that it reaches the minimum amount. Under current rules, certain lump sum death benefits funded by an employer top-up will count as an unauthorised payment and be taxed at rates of up to 70%. Schedule 5 will address that issue by allowing employer top-ups to fund certain dependants' death benefits to be paid out as authorised payments and therefore not be taxed at those rates.

The sixth and final change introduced by the clause relates to inheritance tax in respect of alternatives to annuities for dependants. At present, some schemes can pay an annuity to a deceased member's surviving spouse, civil partner or dependant if the deceased had the option for a lump sum to be paid to personal representatives instead. The lump sum is not included in the estate of the deceased member for inheritance tax purposes. Pension flexibility changes mean that, after an individual's death, an annuity may be paid to someone other than a spouse or partner or dependant, such as a nominee. However, nominees are currently not included in the inheritance tax exclusion, so if an annuity is payable to a nominee, any alternative lump sum payment could be subject to inheritance tax. The changes made by the clause will provide for the same treatment as in April 2015 and keep annuities for nominees out of inheritance tax.

Government amendment 134 to schedule 5 clarifies that the sums or assets available to fund a lump sum death benefit are valued immediately after the member's death. The change is a minor, technical one to provide clarity and to ensure that the legislation works.

To conclude, the Government introduced pension flexibility because we believe that individuals who have worked and saved responsibly throughout their life should be trusted to make their own decisions about their pension savings. The changes made in the clause will help to ensure that the flexibilities work for everyone. I hope that it may stand part of the Bill.

Rob Marris (Wolverhampton South West) (Lab): It is a pleasure to appear before you again, Mr Howarth.

The Labour party supports clause 22, schedule 5 and the amendment, which will come as no surprise. Pension flexibility was in the manifesto on which you and I got elected, Mr Howarth, and we support it. I have a few technical questions that the Minister may wish to write to me about, or not. As ever, I was helped by the Chartered Institute of Taxation briefing, which, in reference to paragraph 6(3) of schedule 5, on page 297 of the latest print edition of the Bill, states: "This is complicated,

[Rob Marris]

although we agree that it achieves the stated aim. However, it is not clear to us what exactly paragraph 6(3) is trying to do, and it is unclear whether the 'person' is the dependant or the original member." Perhaps the Minister will clarify that.

More importantly, the CIOT goes on to state: "It will be very complicated in future to determine who might be a dependant for various legislative purposes." Thirdly, it said that it contacted Her Majesty's Revenue and Customs about various typographical errors. Perhaps the Minister will reassure the Committee about that, or look into it to ensure that any of the errors CIOT discovered have been tidied up, or will be on Report, if necessary. Notwithstanding all that, we welcome the five small changes to which the Minister referred.

Mr Gauke: I thank the hon. Gentleman for his support for pension flexibility, which I debated with some of his colleagues and predecessors over many months in the previous Parliament. Inevitably, when a fundamental change is undertaken in how we address these matters, there will be areas that require refinement and correction, and that is what we are doing.

2.15 pm

The hon. Gentleman asked about the definition of "dependant". Hopefully I can reassure him by saying that that will be clarified in the guidance that will be produced. I can also assure him that any typographical errors are being dealt with, with regard to the guidance and so on. We welcome engagement from the CIOT in these matters, as with other matters.

As for paragraph 6(3), I will be—

Rob Marris: Sometimes it is helpful to sort this out in Committee, because it goes on the record in *Hansard*. However, if the Minister is unable immediately to bring the answer to mind, I appreciate that he might clarify later the contents of paragraph 6(3).

Mr Gauke: For paragraph 6(3), guidance will be produced dealing specifically with that point. I hope that is helpful and that the clause will be accepted by the Committee.

Question put and agreed to.

Clause 22 accordingly ordered to stand part of the Bill.

Schedule 5

Pension flexibility

Amendment made: 134, in schedule 5, page 299, line 9, after "immediately", insert "after".—*(Mr Gauke.)*

Schedule 5, as amended, agreed to.

Clause 23 ordered to stand part of the Bill.

Clause 24

Fixed-rate deductions for use of home for business purposes

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

Mr Gauke: Clause 24 makes changes to ensure that businesses that operate through a partnership have clarity on how they should apply the simplified expenses regime. The Finance Act 2013 introduced a new simplified expenses regime for small unincorporated businesses. Two of the simplifications relate to the expenses of premises used for both personal and business use. As originally enacted, it could be difficult to interpret how a partnership business should apply the provisions. The changes made by clause 24 will enable unincorporated partnerships to apply these rules with clarity and in line with the original policy objective.

The changes will achieve two things. First, where partners occasionally work from home, they can also apply the fixed-rate deductions, subject to the partnership applying the provision consistently and ensuring that any hour worked at the home is counted only once, no matter how many people work at the home at the same time. Secondly, if only some members of the partnership live on the business premises—for example, a pub, restaurant or B and B—the partnership can apply the fixed-rate adjustments for the non-business costs based on the number of occupants in the same way as for individual traders.

The clause will clarify the rules and ensure that partnerships can apply the simplification as intended. Overall, the clause will put partnerships on the same footing as businesses operated by individuals and I hope it stands part of the Bill.

Rob Marris: I have one or two minor technical issues to raise, the first of which has been brought to my attention by the ever helpful Association of Taxation Technicians. It tells me, and I quote, "The current wording of section 94H(4)"—this is set out on page 32 of the Bill—"is silent on how any overlap of hours worked should be treated," so there may be a technical issue when more than one person is working in the premises under consideration.

The Chartered Institute of Taxation says: "It would appear that clause 24 is actually restricting the claim that can be made for use of a home by an individual, compared to what is in existing 94H." Proposed new section 94H(4B) of the Income Tax (Trading and Other Income) Act 2005 states:

> "Where more than one person does qualifying work in the same home at the same time, any hour spent wholly and exclusively on that work is to be taken into account only once".

The CIOT continues: "There was no similar restriction in existing section 94H, which defined number of hours worked." Will the Minister look at those two technical points, if he does not have the answer immediately to hand? Will he also give us an indication of what take-up there has been of these deductions and so on, since they were introduced in 2013?

Mr Gauke: Let me turn first to section 94H(4). The simplified expenses option is designed to cover all the expenses of the home. Many of those are not affected by the number of people working in the home at any one time. Some other expenses, such as telephone and broadband costs, can be claimed separately. In line with the desire to provide simplicity, any hour is counted only once, no matter how many people are working in the home at the time. It is also worth bearing in mind, in the context of these provisions, that this regime is optional. Nobody needs to make use of it if they do not want to or if they find themselves disadvantaged by it.

It was also asked whether the need to record the actual hours worked in the home would make things more complicated, especially where individuals work in the home at different times. Ensuring that any overlap hours are counted only once does require some element of calculation, but we still believe that simplified expenses is an easier calculation for businesses to make than measuring the actual expenses incurred and then correctly apportioning these between business and private use. In any case, where a home is used extensively for business, it is likely that simplified expenses will not be appropriate. It is also worth drawing the Committee's attention to the fact that the gov.uk website has a straightforward, simplified expense checker, which allows a business to quickly see whether using the fixed-rate amounts would be to their benefit.

As for whether we should backdate this change to the start date of the simplified expenses regime in 2013-14, it is three years since the option to use simplified expenses became available. This measure is a clarification, and Her Majesty's Revenue and Customs will accept partnerships applying the pre-existing legislation in the same way when making tax returns covering a period before the legislation has effect. I hope that is helpful.

On wider issue of take-up, I am not sure how much information I can provide at this point—*[Interruption]*—although if I think long and hard about it, my recollection is that we have no analytical data available to answer that question. The self-assessment returns used by unincorporated businesses do not require businesses to separately identify if they have used the simplified expenses or not. Information from HMRC's customer call handlers is that some callers found the simplified expense approach useful, in particular the fixed-rate deductions for working from home. I am not sure I can provide any more information than that. I hope that provides useful clarification for the Committee and that the clause will stand part of the Bill.

Question put and agreed to.

Clause 24 accordingly ordered to stand part of the Bill.

Clause 25

AVERAGING PROFITS OF FARMERS ETC

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

Rob Marris: I have a couple of technical points and an opening comment. Clause 25 is about averaging profits of farmers. I am a great believer in averaging income. I first filled in an income tax form many years ago—I think it was called a T4 then; it might still be called that in Canada—in the days of automatic income tax averaging. As a fairly impecunious student, I benefited from that as my income rose over the years. I do not know whether it was done by computers in those days, but income tax averaging makes a lot of sense and the clause will extend it from two to five years. I gather there was a consultation on it, which closed on 27 September last year, but that there were only 26 respondents, 17 of whom thought the two-year option should be retained.

The Chartered Institute of Taxation has raised a technical issue. It likes the idea of retaining both the two-year system and the five-year system. That was its suggestion, and fair enough: the CIOT is not always right, but it is very helpful to all parts of the House. The CIOT cross-references clause 25 with HMRC's "Making tax digital" approach, with its quarterly reporting or quarterly records being lodged, or whatever term we used to use—I realise they are technically not quarterly returns. The CIOT says: "We wonder how something like farmers' averaging is going to work, given that taxable profits will depend on averaging calculations over a number of years, so rendering quarterly figures pretty much meaningless." Perhaps they are meaningless; perhaps they are not. Will the Minister say a little about that?

Mr Gauke: Clause 25 will give self-employed farmers the option to average their profits over five years as well as the existing option to average over two years. Farmers typically have volatile profits, often due to uncontrollable factors such as the weather, disease or fluctuating product prices. Farming is a highly capital-intensive sector, the volatility of which makes it difficult for farmers to plan and invest for the future. It is a long-standing feature of our income tax system to allow farmers to average their profits over two consecutive years for income tax purposes, smoothing their tax bills over consecutive good and bad years, which prevents them from having to pay significantly higher amounts of tax in the good years. The clause will give farmers additional flexibility and protection from volatile profits by allowing them to choose to average their profits over a two-year or five-year period. More than 29,000 self-employed farmers could benefit from the additional option, with an average saving of around £950 on their income tax bill each year.

As for online digital accounts, it is expected that annual claims such as the averaging of profits will be incorporated into the design of the "Making tax digital" programme as it develops. However, I stress that quarterly reporting is not a quarterly calculation or a quarterly return. It is not about being taxed on the basis of what is earned in the quarter; it is about the provision of information. HMRC is well aware that issues such as seasonal work mean that one quarter may be very different from the next—it is certainly alive to that. As more information on HMRC's thinking is put into the public domain, people will be reassured that the "Making tax digital" programme should not in any way undermine the policy objectives set out in clause 25.

Question put and agreed to.

Clause 25 accordingly ordered to stand part of the Bill.

Clause 26 ordered to stand part of the Bill.

Clause 27

INDIVIDUAL INVESTMENT PLANS OF DECEASED INVESTORS

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

Rob Marris: I would like to make a general comment, which is partly related to clause 26, which we have just covered. With all the changes to inheritance tax—this is tangentially related to that, of course, and I referred to

[Rob Marris]

it this morning when I spoke about inheritable individual savings accounts—it is time to look at the whole issue of taxes related to death, if I can put it that way. Because of the huge changes to inheritance tax there is now effectively a £1 million threshold for those who own an expensive house. It is time to look again at the whole panoply of death-related taxes, to which the clause relates.

2.30 pm

Mr Gauke: I shall not run through all the aspects of the clause. The change it contains builds on earlier individual savings account changes we have made. It will allow us to remove unfair tax charges and simplify the tax-advantaged transfer of ISA savings after death. I note the hon. Gentleman's remarks about the tax treatment of death and look forward to Opposition Front Benchers putting forward their policy proposals, which we will no doubt scrutinise closely.

Question put and agreed to.

Clause 27 accordingly ordered to stand part of the Bill.

Clause 28

EIS, SEIS and VCTs: exclusion of energy generation

Rob Marris: I beg to move amendment 135, in clause 28, page 2, line 42, at end add—

'(7) The Chancellor of the Exchequer shall, within one year of the passing of this Act, publish a report giving the Treasury's assessment of the effect of excluding energy generation from EIS/SEIS/VCT schemes on—

(a) the renewable energy sector,

(b) community energy projects, and

(c) the energy sector".

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

Rob Marris: I hope the amendment is fairly clear. It is a standard amendment of the sort we are all used to, requiring the Chancellor of the Exchequer to publish a report. There is concern that the leverage afforded by the three types of tax advantage scheme referred to in the clause will be completely removed if all energy-generation schemes are removed from those fiscal schemes. I appreciate that the risk factor of several types of energy-generation schemes has dropped so much that the use of such tax measures is no longer efficacious, because they are giving people a tax break for doing something that used to be very risky but no longer is—namely, the development of technology—but it seems a little strange to remove tax breaks for energy generation completely. Will the Minister say something about that?

Mr Gauke: The clause makes changes to exclude all remaining energy-generation activities from the tax advantage venture capital schemes, thereby ensuring that the schemes continue to be well targeted towards high-risk companies and that the tax reliefs are in keeping with the original policy intent.

The venture capital schemes offer generous tax reliefs to encourage investment in small and growing higher-risk companies that cannot otherwise access finance. In recent years, there has been a significant increase in tax-advantaged investment in energy-generation companies. Such activities are generally lower risk, with predictable, reliable and regular income streams. The Government have previously made changes to exclude from the schemes those companies that have benefited from guaranteed income streams for the generation of energy. However, those exclusions have resulted in investment shifting to other forms of energy generation, rather than to the higher-risk investment that the schemes are intended to support. The changes made by this clause will ensure that the Government remain consistent in their approach by keeping the venture capital schemes targeted at higher-risk companies.

The clause will exclude all forms of energy generation from qualifying for the venture capital schemes, including the seed enterprise scheme, the enterprise investment scheme and venture capital trusts. The Government also intend to apply the exclusions to the social investment tax relief once it is enlarged. The measure is expected to yield £95 million annually from 2016-17 onwards, helping the Government to deliver on their commitment to tackle the budget deficit.

Amendment 135 would require a report to be published on the impact of the exclusion of energy generation from the venture capital schemes on the renewable energy sector, community energy projects and the energy sector. Such a report would need to be published within one year of the Bill becoming an Act. The Government provide a range of support for renewable energy, and that support will double over this Parliament, reaching more than £10 billion in 2020-21. That represents a sixfold increase in spend since 2011-12. The relief schemes I have mentioned serve a different purpose: to help smaller, higher-risk companies across a range of sectors to access the investment they need to grow and create jobs.

Energy generation is typically a lower-risk activity for which investment can be secured without tax relief. Allowing it to qualify for tax relief diverts investment away from the companies that need it most. In addition, from a practical perspective, companies that raised investment for the purpose of energy generation before its exclusion have up to two years to spend the money. A report in just one year's time would therefore serve little purpose.

A report as suggested by the amendment would have little value from a practical point of view. The exclusion of energy from the venture capital schemes is a principled decision based on the lower risk profile of the activity. The Government therefore believe the amendment is unnecessary, and I hope it will be withdrawn.

Kirsty Blackman (Aberdeen North) (SNP): With all the changes the Government are making to the support of energy policy and with the lack of a pot 1—established technologies—contracts for difference round in the near future, does the Minister not feel that projects such as onshore wind are much less likely? This measure has to be taken in the round. It may cause problems because the Government are doing many other things that go against, in particular, onshore wind generation.

Mr Gauke: Where I agree with the hon. Lady is that these things should be looked at in the round. The Government are committed to supporting the investment and innovation needed to achieve a cost-effective transition to a low-carbon economy while ensuring security of energy supply and avoiding unnecessary burdens on businesses and households. We are making great strides towards our commitments, with emissions down 30% since 1990. Support for renewables from taxpayers and bill payers will double over this Parliament, reaching more than £10 billion in 2020-21, as I mentioned. That is a sixfold increase in spend since 2011-12. We have more than trebled our renewable electricity capacity since 2010. In the round, the Government's record is strong.

We are committed to supporting small and growing businesses. The presence of low-risk, asset-backed investments such as those described today crowds out investment in higher-risk propositions. It is right that the Government act to exclude such investors.

Rob Marris: I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 28 ordered to stand part of the Bill.

Clauses 29 to 32 ordered to stand part of the Bill.

Clause 33

Transactions in securities: company distributions

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

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

Clause 34 stand part.

Amendment 7, in clause 35, page 57, line 2, at end add—

'(4) The Chancellor of the Exchequer shall, within one year of the passing of this Act, publish a report on the impact of this section on deterring tax avoidance during the procedure of distributions during a winding up."

Clause 35 stand part.

Rob Marris: I will refer first to amendments 7 and 8, which I think we are dealing with in this group.

The Chair: Order. Amendment 8 is not in this group.

Rob Marris: I beg your pardon, Sir—I am shuffling a lot of papers—and I am grateful to you for your guidance.

Amendment 7 is the usual amendment—no doubt the Minister will say the timeframe is too premature—to have a report from the Chancellor of the Exchequer within one year, on how efficient or otherwise the provisions in clause 35 are at deterring tax avoidance during wind-ups.

Clause 33 relates to transactions and securities. We welcome the tax avoidance measures introduced by the Government. I understand from a response from HMRC that guidance is due to be published on these sorts of issues. Can the Minister say when that is likely to be?

Mr Gauke: Clauses 33 and 34 will amend the transactions in securities legislation, which focuses on transactions where one of the main purposes is to obtain a tax advantage. Clause 35 will introduce a new targeted anti-avoidance rule aimed at preventing an unjustified tax advantage being obtained from distributions in the winding up of a company. Together, these changes will raise £80 million by the end of this Parliament. As well as helping to reduce the deficit, they will protect revenue raised from the reform of dividend taxation by ensuring that those who should pay income tax on dividends cannot convert their income into capital, which is chargeable at lower capital gains tax rates.

Companies usually distribute profits to shareholders by way of dividends, which are subject to income tax when received by individuals. There is an incentive for some people, particularly those running owner-managed companies, to convert this income into a capital receipt, which would attract lower capital gains tax rates. This incentive will be increased by the proposed reform to dividend taxation.

Clauses 33 and 34 deal with the changes to the transactions in securities legislation, strengthening and modernising those rules. They will apply where there is a transaction in securities, such as a disposal of shares, and where one of the main purposes of the transaction is to obtain a tax advantage by manipulating the border between income and capital. They will ensure that people who should pay income tax on distributions do so.

Clause 35 addresses the phenomenon of "phoenixism", whereby a person carries on the same trade or activity through a succession of companies, extracting the profits as capital by winding the companies up rather than paying dividends. The new rule is carefully targeted and will not affect the vast majority of companies that are being wound up—for example, where a shareholder sells the trade or is retiring—but it will spell the end of companies being wound up by people seeking to obtain an unfair tax advantage.

The changes will introduce additional safeguards, including a connected parties rule, and modernise the way in which the rules are applied. They remove some of the archaic mechanisms that applied to the compliance process. Like the new "phoenixism" rule, the changes will not affect transactions that are undertaken for normal commercial reasons and they will only apply to transactions that have as one of their main purposes the aim of obtaining a tax advantage. Without these changes, the owners of some companies would be able unfairly to reduce their income tax liability simply by changing the form in which they take money out of a company, which would put at risk revenue from the dividend tax reform.

The Opposition's amendment to clause 35 seeks to explore how the Government will determine the effectiveness of the measures to deter tax avoidance that it contains. I quite understand the hon. Gentleman's interest in this issue; it is an interest that I share. The Government expect that the clause will be effective in closing off the great majority of tax avoidance in this area, as it involves very specific arrangements that the legislation has been carefully designed to address.

In practice, determining the clause's deterrent effect will require information from the self-assessment process that would not be available until 2018 at the earliest. *[Laughter.]* Again, the hon. Gentleman anticipates the point that I was going to make. For that reason, we will be unable to report within a year on its effectiveness as the amendment proposes we should, so I hope that he will understand if we are not minded to accept the

[Mr Gauke]

amendment. HMRC will publish guidance on the new rules as soon as possible and before the end of the year, when any tax that is due under the new rules will first become due.

In summary, this reform strengthens and modernises the rules that prevent tax advantages from being unfairly obtained by a minority of shareholders who artificially convert income into capital. It also protects revenue accruing from the dividends tax reform and makes the UK a fairer place to do business. Therefore, I hope the clause will stand part of the Bill.

Question put and agreed to.

Clause 33 accordingly ordered to stand part of the Bill.

Clauses 34 and 35 ordered to stand part of the Bill.

Clause 36

Disguised investment management fees

2.45 pm

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

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

Amendment 8, in clause 37, page 58, line 26, leave out from "is" to end of subsection and insert "100%".

Government amendments 43 to 49.

Clauses 37 and 38 stand part of the Bill.

Mr Gauke: With your permission, Mr Howarth, my remarks will cover clauses 36, 37 and 38, and amendments 43 to 49. I will also touch on amendment 8.

These clauses introduce a test to limit the circumstances in which performance-based rewards paid to asset managers will be taxed as chargeable gains. The main test will be introduced by clause 37. Clause 36 will change some related definitions in the disguised investment management fees rules. Clause 38 sets out how the rules will work with regard to individuals coming to the UK. Taken together, these clauses will ensure that only fund managers engaging in long-term investment activity pay capital gains tax on their performance-related reward or carried interest; otherwise, that form of remuneration will be fully charged to income tax.

In 2015, we legislated to ensure management fees are always subject to income tax. Where carried interest is taxable as a chargeable gain, the full amount will be taxable without reduction through arrangements such as base cost shift. These clauses build on the previous legislation. They will ensure that capital gains treatment for carried interest is reserved only for those managing funds that are genuinely long-term investments. Treating carried interest as a capital gain rather than an income is the right approach and keeps the UK in step with other countries. It is also the approach that has been adopted consistently by previous Governments in this country over a long period. However, to ensure the regime is fair and not open to abuse, these changes limit capital gains tax treatment to those managers who can demonstrate long-term investment activity by the fund they manage.

Clauses 37 and 38 will insert a test that applies to all payments of carried interest. On receipt of carried interest, asset managers will be required to calculate the average holding period of the investments in the fund. If the average holding period is less than 36 months, the payment will be subject to income tax. If the period is more than 40 months, the payment will be subject to capital gains tax. There is a taper in between those two time limits, and targeted anti-avoidance rules to ensure that the rules cannot be exploited. The rule is slightly different for managers of debt funds, turnaround funds or venture capital funds, reflecting the specific investment strategies of those kinds of funds.

Clause 38 specifically sets out how individuals who move to the UK will be taxed in certain situations. It will apply in the first five years after an individual moves to the UK when he or she receives a reward that is taxable to income under the time held test, which I referred to earlier. Where the reward relates to services performed outside the UK, before they were resident in the UK, it will be charged to UK tax only when it is remitted to the UK. That reflects the fact that the reward relates to work done before the individual lived in this country, and it will help to ensure these rules do not make it harder for UK asset managers to attract the best talent in the global labour market.

Clause 36 will amend definitions in the disguised investment management fees rules to ensure the rules introduced by clauses 37 and 38 work as intended, especially in relation to more complicated investment fund structures.

The Government tabled seven amendments to clause 37. They are technical changes to ensure the provisions operate as intended. Amendments 43, 46 and 48 make the same technical change in three of the specialised rules we have included in clause 37. Each rule will apply a targeted calculation rule to a particular type of fund investment strategy—for example, a fund that invests in real estate or provides venture capital—thus ensuring that the average investment holding test accurately captures a fund's underlying activity.

A fundamental concept in all these rules is that of a relevant disposal. A relevant disposal is, in effect, a disposal that is taken into account when calculating a fund's average holding period. These changes will ensure that the legislation uses a consistent definition throughout the various specialised regimes that is clear and understood by industry and its advisers.

Amendments 44, 45 and 47 will correct a technical error that would have prevented the relevant provisions from working in practice.

Amendment 49 will expand the definition of a secondary fund to include the acquisition of investment portfolios from unconnected investment schemes. Stakeholders have informed us that many secondary funds undertake that type of activity, and that amendment is necessary to ensure that the relevant rules still apply to those funds.

The Opposition's amendment 8 would remove the taper rule that I have described. The decision to introduce a taper rule followed extensive engagement with interested parties to examine the impact of such a measure on the market. Removing that rule would create a cliff edge—a concern that the Opposition raised in another context—so that marginal differences in the average time for which a fund held its assets could lead to radically different tax treatment for its managers. That cliff edge would lead to a market-distorting incentive for fund managers to dispose of assets earlier than was optimal, to the detriment of investors and with no policy benefits. For those reasons, I urge that that amendment is not pursued.

Clauses 36 to 38 will ensure that only those managers engaged in genuinely long-term investment activity pay capital gains tax on their performance-related rewards, and I therefore hope that those clauses stand part of the Bill and amendments 43 to 49 are made.

Rob Marris: This series of clauses is an interesting mixture of the technical, the conceptual and the political. Technically, the clauses are complex and lengthy, and the Government have been forced to table several amendments because of the complexity of these issues and the way that they have gone about dealing with them.

The conceptual point is about whether we go for a simpler and more rough and ready approach or a lengthy one. Professor Sol Picciotto at Lancaster University said about these clauses that instead of going for a broad provision to allow carried interest to be treated as income, the Treasury and HMRC had, typically for them, preferred long and complex statutory provisions that would keep tax lawyers happy and spawn more avoidance. These provisions are very lengthy.

The political point is highlighted by amendment 8. Our wording of that amendment may well be deficient, but it is not designed to create a cliff edge; it is designed to remove the table on page 58 completely, so that there is no taper and all carried interest is treated at 100%—that is, taxed as if it were income. As I understand it, that is in line with the OECD recommendations. Ministers properly say that when we engage in double taxation agreements, which the Minister and I have discussed on several occasions in different Committees, Her Majesty's Government's starting point is the OECD model, and I quite understand that, but suddenly we are not going along with an OECD suggestion when it comes to carried interest. That is obviously guidance and has no direct statutory relevance, but it is issued by the OECD, which is made up of our sister advanced countries. Instead of going for a simpler approach in which carried interest is straight income—that is what amendment 8 is designed to introduce—we have ended up with 21 pages of complex provisions in the Bill, which necessitate 10 pages of explanatory notes.

I hope that the Minister will say a little more about that conceptual point and why we do not just follow the OECD guideline. To those of us who are politicians and not tax experts, it appears quite just for carried interest, which has on occasions been used for legitimate tax avoidance, to be knocked on the head simply by being treated and taxed as income, as the OECD suggests.

As far as my excellent researcher Imogen Watson could find, there is no tax information and impact note. If that is the case, I hope that the Minister will outline—or perhaps write to members of the Committee to outline—what the Government think the impact on the Exchequer will be, and the number of taxpayers the Government expect to be affected by the provisions.

Roger Mullin (Kirkcaldy and Cowdenbeath) (SNP): It is a pleasure to serve under your chairmanship again, Mr Howarth. I will be brief. We on the Scottish National party Benches support the amendment. The issue of carried interest has also been of interest to us, as the Minister knows only too well. I commend the amendment, and if the Labour party wishes to press it to a vote, we will certainly support it.

Mr Gauke: Let me address the issue of complexity; I hope I can be helpful to the Committee on that. The new rules replace the badges of trade that previously outlined the tax treatment of carried interest. The badges of trade are based on complex case law, which means that the law was determined by a wide range of varied and outdated judicial decisions. Bringing these new rules into legislation removes ambiguity and makes the tax code easier to follow. Furthermore, much of the detail of the legislation comprises bespoke rules that apply to specific types of funds. Those specialised rules will help reduce the compliance burden for funds in practice. Asset managers are sophisticated taxpayers who often have personal advisers; we therefore anticipate it being easy for those individuals to follow these rules.

Very often, the measure of tax complexity is taken to be the length of the tax code. I confess that I have sat where the hon. Member for Wolverhampton South West is sitting and made that point myself; he has heard me make it. In this example, there are additional pages of legislation; however, they are replacing legislation that took up fewer pages but was based on case law, which can be very complicated. It is worth pointing out the limitations of pages as a measurement of complexity.

On the OECD recommendations, treating carried interest as a capital gain rather than income is the right approach. It keeps the UK in step with other countries and, as I said, it is the approach adopted consistently by previous Governments in this country over a long time. There is nothing particularly unusual about the way in which we treat carried interest in this country. I am conscious that this is a matter that we debate on a fairly regular basis; it is the second time we have debated it in a week. We are being consistent with what we have done in this country for some time and with what other countries do. I hope those points are helpful, but if the hon. Gentleman presses amendment 8, I will urge my colleagues to oppose it.

Question put and agreed to.

Clause 36 accordingly ordered to stand part of the Bill.

Clause 37

Income-based carried interest

Amendments made: 43, in clause 37, page 67, line 45, leave out "value" and insert "amount".

Amendment 44, in clause 37, page 68, line 41, leave out "company" and insert "underlying scheme".

Amendment 45, in clause 37, page 68, line 43, leave out "a company" and insert "an underlying scheme".

Amendment 46, in clause 37, page 68, line 47, leave out "value" and insert "amount".

Amendment 47, in clause 37, page 70, line 15, leave out "company" and insert "underlying scheme".

Amendment 48, in clause 37, page 70, line 21, leave out "value" and insert "amount".

Amendment 49, in clause 37, page 70, line 34, at end insert

", or the acquisition of portfolios of investments from,".—*(Mr Gauke.)*

3 pm

Clause 37, as amended, ordered to stand part of the Bill.

Clauses 38 and 39 ordered to stand part of the Bill.

Clause 40

DEDUCTION OF INCOME TAX AT SOURCE: TAX AVOIDANCE

Mr Gauke: I beg to move amendment 20, in clause 40, page 80, leave out lines 33 to 39 and insert—

""intellectual property royalty payment" means a payment referred to in section 906(2)(a) or (3)(a);".

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

Government amendment 21.

Clause stand part.

Government new clause 7—*Receipts from intellectual property: diverted profits tax.*

Government new clause 8—*Deduction of income tax at source: intellectual property.*

Government new clause 9—*Receipts from intellectual property: territorial scope.*

Mr Gauke: For the benefit of the Committee, I will discuss clause 40 together with new clauses 7 to 9, as they collectively implement the royalty withholding tax policy that the Government announced at Budget 2016.

Together with the new clauses, clause 40 strengthens our regime for the deduction of income tax at source from payments of royalties overseas. It introduces a rule to prevent the abuse of the UK's tax treaties. It will prevent multinational enterprises using conduit arrangements and other schemes to exploit the provisions of tax treaties to avoid UK taxes on royalties.

New clause 8 broadens the categories of royalties from which tax must be deducted at source in the UK when they are paid abroad. Going forward, all payments considered to be royalties under internationally recognised criteria will be subject to withholding tax in the UK unless a specific exemption applies.

Mr Speaker—sorry, Mr Howarth.

The Chair: I am sure that there will be lots of changes of personnel over the next few days, but I can assure the Minister that that will not be one of them.

Mr Gauke: Thank you, Mr Howarth, although such is the fast-moving nature of British politics at the moment that who knows?

New clause 9 introduces rules to ensure that royalties paid by non-residents have a UK tax charge if they are paid in connection with a trade carried on in the UK through a permanent establishment. New clause 7 introduces consequential changes to the diverted profits tax to ensure that no advantages accrue to entities within its charge as a result of the changes I have described.

Taken together, the clauses mean that all payments of royalties from the UK will now be subject to withholding tax, unless we have explicitly given up our taxing rights under an international agreement or domestic law. The new regime will provide a robust defence against those wishing to use royalty payments to shift profits to jurisdictions where there is little, if any, taxation.

Most countries tax non-residents on royalties that arise in that country. They generally require the payer of the royalty to withhold tax from the payment and account for it to the tax authorities. The UK is no exception to this practice. The withholding requirement is subject to tax treaties, of which the UK has more than 120, and the EU interest and royalties directive. Many of those treaties provide that royalties are taxable only in the country where the royalty payment is received. The Government think that that is an appropriate treatment, as it removes tax obstacles from cross-border investment and provision of services.

However, the UK gives up its taxing rights under tax treaties only in the expectation that the royalties will be paid for the benefit of a resident of a treaty partner country. It is a frustration, and not the intention of a tax treaty, that a person resident in a third country can use a bilateral tax treaty with the UK to extract tax-free royalties from the UK, especially if no tax is paid on the receipt and no substantive activity is taking place in that third country.

It has become increasingly prevalent for multinational groups to derive large sums from the exploitation of intellectual property and cross-border royalty payments. The need to ensure that they are taxed appropriately is more important than ever. Some multinational groups have put in place arrangements under which intellectual property is held in jurisdictions where no tax is paid and no substantive activity takes place. They structure the payments of royalties to such companies in a way that takes advantage of the UK's tax treaties with other countries, depriving the UK—the country in which the royalty arises from sales or other activity—of the right to tax. Had the royalty been paid direct to that ultimate jurisdiction, the UK would have retained its taxing rights on the basis that there was no treaty in place between the UK and that jurisdiction.

For that reason, many tax treaties in the EU interest and royalties directive contain anti-abuse provisions to prevent so-called treaty shopping and other abuses by third country residents. The OECD has recognised such abuses as a problem and, as part of its recent work to counter base erosion and profit shifting, has recommended that countries adopt regimes, either in their tax treaties or in domestic law, to counter such treaty shopping.

Not all of the UK's tax treaties contain anti-abuse provisions that frustrate treaty shopping arrangements and other abuses. The Government have therefore introduced a targeted domestic anti-abuse rule based on the rule recommended by the OECD and aimed at royalty payments between related parties that seek to take advantage of the UK's tax treaties. The rule took effect for royalties paid on or after 17 March 2016. As part of this approach to tackling tax avoidance, new clause 8 will bring the definition of royalties on which non-residents are required to withhold tax into line with the OECD definition of royalties used in tax treaties. At present, payments for the right to use trade names and trademarks are subject to UK withholding tax only if they are annual payments. New clause 8 will ensure that all such payments will be subject to withholding tax.

The third part of the Government's reform, which goes hand in hand with the anti-abuse element introduced by clause 40, is to change what is meant by royalties arising in the UK—that is, to define whether they come from a source in the UK. At present, there is no statutory definition of what constitutes a UK source for royalties. As a result, it is not clear that all royalty payments connected to a permanent establishment that a non-resident has in the UK have a UK source. New clause 9 will introduce a new rule to ensure that all royalties have a UK source where the payment is connected with activities taking place through a permanent establishment that the payer has in the UK. Royalties paid by a non-resident to another non-resident that are connected to a UK permanent establishment of the payer will now be taxable in the UK, and the non-resident payer will be expected to withhold tax and account for it to Her Majesty's Revenue and Customs.

However, where there is a tax treaty between the UK and the country of residence of the beneficial owner, that treaty will govern the taxation of the payment. Where that treaty follows the OECD model and the anti-abuse rule does not apply, the taxation rights will continue to belong exclusively to that other country. New clause 7 is being introduced to ensure equal treatment between cases where a non-resident company maintains an actual permanent establishment in the UK, and cases where a person has contrived to avoid a taxable presence in the UK in circumstances that bring them within the diverted profits tax.

The changes made by the clauses are fairly simple. Clause 40 inserts a rule that denies the benefit of a tax treaty in the face of abuse. New clauses 8 and 9 extend the definition and territorial scope of royalty payments within the charge to tax in the UK. Finally, new clause 7 amends the diverted profits tax to ensure that entities within the scope of that tax are subject to the changes being made. The changes bring the UK into line with accepted international practice in respect of the taxation of royalty income arising in a state. The benefits of tax treaties and the interest and royalties directive will remain available, except where taxpayers have entered into transactions internationally recognised as abusive.

Before I conclude, I will speak briefly to amendments 20 and 21, also tabled by the Government. The amendments are being introduced to ensure that royalty payments subject to the anti-abuse rule include those payments brought within the scope of withholding tax by new clause 8. Together, the proposed new clauses will protect the UK from arrangements that seek to avoid UK tax through the use of royalty payments.

I hope that my explanation helps the Committee to understand the issues set out both on the odd-numbered pages and on the even-numbered pages.

Amendment 20 agreed to.

Amendment made: 21, in clause 40, page 81, line 12, at end insert—

'(3) In relation to payments made (under any such arrangements) on or after 17 March 2016 and on or before the day on which this Act is passed, section 917A of ITA 2007 as inserted by subsection (1) has effect as if the definition of "intellectual property royalty payment" in that section were as follows—

""intellectual property royalty payment" means—

(a) a payment of a royalty or other sum in respect of the use of a patent,

(b) a payment specified in section 906(1)(a) (as originally enacted), or

(c) a payment which is a "qualifying annual payment" for the purposes of Chapter 6 by virtue of section 899(3)(a)(ii) (royalties etc from intellectual property);".

(4) In relation to payments made (under any such arrangements) on or after 28 June 2016 and on or before the day on which this Act is passed, section 917A of ITA 2007 as inserted by subsection (1) has effect as if "intellectual property royalty payment" also included (so far as it would not otherwise do so) any payments referred to in section 906(2)(a) or (3)(a) of ITA 2007 as substituted by section (deduction of income tax at source: intellectual property).'—*(Mr Gauke.)*

Clause 40, as amended, ordered to stand part of the Bill.

Clause 45

Loan relationships and derivative contracts

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

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

Amendment 9, in schedule 7, page 305, line 3, leave out

"the preceding provisions of this section"

and insert

"Part 4 of TIOPA 2010".

Amendment 10, in schedule 7, page 305, line 9, leave out

"the preceding provisions of this section"

and insert

"Part 4 of TIOPA 2010".

That schedule 7 be the Seventh schedule to the Bill.

Rob Marris: I rise to address amendments 9 and 10, which are technical amendments. Schedule 7 is a technical area about which I know little.

The Chair: I have never known that to stop the hon. Gentleman.

Rob Marris: That is indeed the case. I will now proceed to address the Committee at some length—well, appropriate length.

The amendments have been suggested by our old friends at the Chartered Institute of Taxation. The schedule is designed to address three particular scenarios in which I understand previous legislation has had unintended consequences in relation to notional finance costs, credits arising on reversal of debits—of course, you are intimately familiar with that part of the financial world, Mr Howarth—and, finally, amounts excluded from taxation under our old friends, the transfer pricing rules. On the first two issues—non-market loans and transfer pricing—the world has changed since the legislation

[Rob Marris]

was introduced. The UK accounting standards have changed and the Bill, in a sense, is matching up the standards with what will be in statute.

On the third area—exchange gains and losses—the explanatory notes helpfully state:

"A particular concern has been identified with those provisions, as a result of which they can introduce a foreign currency exposure for corporation tax purposes even though none exists commercially or in the accounts."

It seems a strange state of affairs that a company can suddenly have notional foreign currency transactions that do not really exist. Such things can happen in the wonderful and weird world of finance, but it is not a good idea and the Bill will helpfully sort that out.

The amendments were suggested by the CIOT, and the Minister, with his excellent knowledge and information, will no doubt say whether they will work as intended—they might not. That is not to doubt the CIOT, as I may have mixed things up in translation when tabling the amendments. I have a whole page of technical information, Mr Howarth, but you will be pleased to know that I do not propose to read it out unless members of the Committee wish me to do so.

The excellent research by Imogen Watson shows that the amendments would make it clear that, in each case, the references in paragraphs 3 and 4 of schedule 7 are to debits that have been left out of accounts for the purposes of sections 446, on loan relationships, and 693—as all hon. Members will recall, section 693 is on derivative contracts—of the Corporation Tax Act 2009 as a result of the application of part 4 of the Taxation (International and Other Provisions) Act 2010. I am told that the amendments are not controversial, although the Minister may tell me otherwise, and they are intended merely to refer to the provisions that have resulted in debits not being brought into account as debits.

It is unusual for the Government to accept Opposition amendments. It may be that I get a result today because of the technicalities, but after looking at the Minister's face I am not optimistic. No doubt he will explain, with his usual patience and helpfulness, either why he thinks they should not be made, or that what I am seeking to do does not need doing or would not, in fact, be done by the amendments.

3.15 pm

Mr Gauke: Clause 45 introduces schedule 7, which deals with three different issues that can arise from interactions between accounting rules and tax rules. These changes will prevent some unintended and unfair outcomes. I welcome the opportunity to debate amendments 9 and 10, tabled by the hon. Member for Wolverhampton South West, which are linked to the clause and which I will turn to later.

All three of the issues being addressed arise when loans made by companies are interest-free or otherwise involve financial instruments on non-market terms. Typically, those will happen in the context of commercially driven funding arrangements where loans are between companies that have some connection. Some of the issues have come about because of recent changes to accounting standards. The changes will support the Government's policy of simplifying taxation, ensuring businesses pay the right tax at the right time.

Accounting standards can now require an interest-free loan, or other loan taken out on non-market terms, to be recognised in accounts at a lower value than the actual amount of the loan. That can lead to an interest cost being shown in the accounts of the borrower, even when no interest has actually been paid. This cost can lead to a tax deduction for the borrower, but no matching tax liability for the lender. That is an unfair outcome. The changes made by schedule 7 address this unfair situation by putting the borrower back in the position that applied before the changes to accountancy rules, to make sure that they do not benefit unfairly from the new rules.

The second issue also involves adjustments that apply when a loan or financial derivative is not made at arm's length. Tax law means that an adjustment is made to the amount brought into account for tax on the loan. The adjustments can have the effect of restricting the deductions that can be claimed by the company for tax purposes. However, under the current rules a corresponding amount can be taxed in full later. The changes made by schedule 7 ensure that in these circumstances the company will not be taxed on amounts if it has not been given a tax deduction for corresponding amounts previously. Again, this restores the position before the accounting changes were made.

The final issue addressed by schedule 7 concerns the application of the transfer pricing divisions to exchange gains and losses. In some circumstances these provisions can give companies a tax charge or benefit from foreign exchange movements, even when there is no commercial exposure to foreign exchange. Schedule 7 will make minor technical changes so that the transfer pricing will not create an overall foreign exchange exposure for tax purposes in cases where the company is commercially hedged.

The changes made by schedule 7 ensure that the rules operate as intended. The impact on the Exchequer will be negligible. Only companies or other corporate bodies will be affected by the changes, and the impacts will be negligible as companies learn the new rules. Moving forward, we expect companies' costs to be reduced as the legislation will be simpler to use in practice.

Let me take the opportunity to discuss amendments 9 and 10, which concern paragraphs 3 and 4 of schedule 7 respectively. They propose that the new legislation dictating the tax treatment of loan relationships and derivative contracts be linked directly to the transfer pricing rules. The Government have looked closely at that suggestion but concluded that the amendments are unnecessary.

Transfer pricing adjustments in respect of loans and derivatives are already given effect by sections 446 and 693 of the Corporation Tax Act 2009 respectively. That includes a situation in which deductions are decreased. This point was considered and confirmed by the tax tribunal last year, in the case of Abbey National Treasury Services plc *v.* Her Majesty's Revenue and Customs. It is therefore right that the changes introduced by clause 45 do not refer directly to the transfer pricing rules but instead refer to sections 446 and 693, which apply them to loans and derivatives. To be clear, the exclusion of credits as a result of paragraphs 3 and 4 of schedule 7 applies to cases where deductions have been reduced as a result of the transfer pricing rules operating through sections 446 and 693 respectively. The rules therefore work as currently drafted.

The amendments could give rise to problems. In particular, they could have the effect of the exclusions applying more widely than intended. In addition, the amendments would go against the decision in the Abbey National case. For those reasons, it is important that the limitations link through sections 446 and 693.

Schedule 7 addresses three situations in which the interaction of accounting and tax rules may lead to unintended and unfair outcomes. It supports the Government's policy of simplifying taxation by giving certainty to the rules and making them easier to comply with, and I therefore invite the hon. Gentleman to withdraw the amendment. I am grateful for the opportunity to provide some clarity to the Committee on the technical concerns that have been expressed. I hope that clause 45 and schedule 7 will stand part of the Bill.

Rob Marris: I had forgotten about the legal case to which the Minister referred. I will not press either of my amendments.

Question put and agreed to.

Clause 45 accordingly ordered to stand part of the Bill.

Schedule 7 agreed to.

Clauses 46 to 49 ordered to stand part of the Bill.

Rob Marris: On a point of order, Mr Howarth. I want to put on record my thanks to the Chartered Institute of Taxation, the Association of Tax Technicians, members of the Committee and my researcher, Imogen Watson. I thank the Minister for the patience he has shown and the excellent support and help he has given me. I thank you, Mr Howarth, and Sir Roger Gale, because I am resigning as the shadow Financial Secretary to the Treasury forthwith, and I will not be before this Committee unless there is a change of leadership in the Labour party.

The Chair: I am grateful to the hon. Gentleman. He has effectively taken himself out of the Committee. Strictly speaking, it is not a point of order, but the Committee is grateful for the information he has given, because obviously it will affect the future conduct of the Committee.

Mr Gauke *rose—*

The Chair: Strictly speaking, that was not a point of order and there should not even be a "Further to that point of order", but in these exceptional circumstances I will stretch the point.

Mr Gauke: Further to that non-point of order, Mr Howarth. I want to put on the record my thanks to the hon. Member for Wolverhampton South West. He has performed his role with great diligence, good humour and common sense. He has performed the role extremely well in sometimes difficult circumstances. Whatever the future holds for his party, I wish him well. I am sure he will continue to be an excellent and dedicated Member of Parliament.

The Chair: On behalf of Sir Roger Gale and myself and the Officers of the House, I thank the hon. Member for Wolverhampton South West for his kind words.

The Lord Commissioner of Her Majesty's Treasury (Mel Stride): May I also associate myself with the generous comments that have been made?

Ordered, That further consideration be now adjourned. —*(Mel Stride.)*

3.24 pm

Adjourned till Tuesday 5 July at twenty-five minutes past Nine o'clock.

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

FINANCE BILL

(Except clauses 7 to 18, 41 to 44, 65 to 81, 129, 132 to 136 and 144 to 154 and schedules 2, 3, 11 to 14 and 18 to 22)

Third Sitting

Tuesday 5 July 2016

(Morning)

CONTENTS

PBC (Bill 001) 2016 - 2017

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor's Room, House of Commons,

not later than

Saturday 9 July 2016

The Committee consisted of the following Members:

Chairs: Sir Roger Gale, † Mr George Howarth

† Argar, Edward *(Charnwood)* (Con)
† Atkins, Victoria *(Louth and Horncastle)* (Con)
Blackman, Kirsty *(Aberdeen North)* (SNP)
† Boswell, Philip *(Coatbridge, Chryston and Bellshill)* (SNP)
† Burns, Conor *(Bournemouth West)* (Con)
† Cadbury, Ruth *(Brentford and Isleworth)* (Lab)
† Cooper, Julie *(Burnley)* (Lab)
Donelan, Michelle *(Chippenham)* (Con)
† Dowd, Peter *(Bootle)* (Lab)
† Frazer, Lucy *(South East Cambridgeshire)* (Con)
† Gauke, Mr David *(Financial Secretary to the Treasury)*
† Hall, Luke *(Thornbury and Yate)* (Con)
† Hinds, Damian *(Exchequer Secretary to the Treasury)*
† Long Bailey, Rebecca *(Salford and Eccles)* (Lab)
† McGinn, Conor *(St Helens North)* (Lab)
† Mak, Mr Alan *(Havant)* (Con)
Marris, Rob *(Wolverhampton South West)* (Lab)
† Matheson, Christian *(City of Chester)* (Lab)
Merriman, Huw *(Bexhill and Battle)* (Con)
† Mullin, Roger *(Kirkcaldy and Cowdenbeath)* (SNP)
† Quin, Jeremy *(Horsham)* (Con)
Streeting, Wes *(Ilford North)* (Lab)
† Stride, Mel *(Lord Commissioner of Her Majesty's Treasury)*
Tolhurst, Kelly *(Rochester and Strood)* (Con)

Simon Patrick, Marek Kubala, *Committee Clerks*

† attended the Committee

Public Bill Committee

Tuesday 5 July 2016

(Morning)

[Mr George Howarth *in the Chair*]

Finance Bill

(Except clauses 7 to 18, 41 to 44, 65 to 81, 129, 132 to 136 and 144 to 154 and schedules 2, 3, 11 to 14 and 18 to 22)

Clause 50

Tax relief for production of orchestral concerts

9.25 am

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

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

That schedule 8 be the Eighth schedule to the Bill.

Clause 51 stand part.

Rebecca Long Bailey (Salford and Eccles) (Lab): Who knows what adventures the Finance Bill will take us on today? Hopefully the sittings will be a little more sedate than last week's.

I will first address clause 50 and schedule 8, and then move on to clause 51 relating to television and video games tax relief. Clause 50 brings in schedule 8, which introduces a new relief for orchestral concerts, provides for consequential amendments to other parts of taxes Acts as a result, and arranges for the commencement of the relief. First announced in the autumn of 2014, the new tax relief for orchestral production will allow qualifying companies engaged in the production of concerts to claim an additional deduction in computing their taxable profits and, where that additional deduction results in a loss, to surrender the losses for a payable tax credit. The additional deduction and the payable credit are calculated on the basis of European Economic Area core expenditure, up to a maximum of 80% of the total core expenditure by the qualifying company. The additional deduction is 100% of qualifying core expenditure, and the payable tax credit is 25% of losses surrendered.

The credit is based on the company's qualifying expenditure on the production of a qualifying orchestral concert. The expenditure must be on activities directly involved in producing a concert, such as rehearsal costs. Qualifying expenditure will not include indirect costs, such as financing, marketing and accountancy and legal fees, and at least 25% of the qualifying expenditure must be on goods or services that are provided from within the EEA. Concerts that have among their main purposes the advertising of goods and services or the making of a recording, or that include a competition, will not qualify for relief.

The stated objective of the measure is to support the creative sector and sustainably promote British culture. I certainly back that approach, not least because the BBC Philharmonic orchestra is based in my constituency and continues to attract many like-minded orchestral organisations to my city. On the machinery of the calculations, however, as the deduction of credit is calculated on the basis of EEA core expenditure, what assessment has the Minister made of amendments that might need to be made to the clause as a result of Britain's exit from the EU?

I am pleased that the Government took the time to consult on the measure, and I note that the summary of responses published in March 2015 indicates that the industry welcomed the introduction of the relief. I am also pleased that the Government took heed of the Opposition's concerns about the initial proposal exempting brass bands from the relief, effectively introducing a brass band tax, and that the Government subsequently included brass bands in the relevant definition in March 2015. The draft Bill and a policy paper were published in December 2015, and the Government did not make any substantive changes after the technical consultation exercise, so I am confident that the legislation will do what it says on the tin.

The measure is expected to cost the Exchequer £5 million in the financial year 2016-17 and £10 million every financial year thereafter until 2019-20. The Opposition agree with the principle of supporting the UK's creative industries and therefore support clause 50 and schedule 8, but we are concerned that we keep creating relief after relief. Why does this targeted measure take the form of a tax relief, rather than a grant? Also, the industry is concerned that the relief does not support commercial music production, which is supported in other countries. Will the Minister clarify today, or indeed in a written response after today, what support is in place for this important industry?

Finally, what modelling have the Government done to ensure that the legislation is rigorous enough to prevent use of the relief for avoidance purposes? I understand that there were some issues about film tax relief and avoidance, and I am also concerned that the wording in proposed new section 1217RL to the Corporation Tax Act 2009 may not be very robust, especially with reference to those tax avoidance arrangements that fall within the ambiguous term, "understanding"; I am sure that the Minister will agree that by their very nature those will not be contractual. Will he confirm whether he has given thought to additional resources that Her Majesty's Revenue and Customs might need if it is adequately to investigate such scenarios?

Clause 51 simply makes minor, consequential amendments to the Taxation of Chargeable Gains Act 1992 and the Corporation Tax Act 2010, substituting the words "section 1218B" for "section 1218". The Opposition support television and video games tax relief, as we introduced it. We see no issue with this technical clause.

The Financial Secretary to the Treasury (Mr David Gauke): It is a great pleasure to serve under your chairmanship again this morning, Mr Howarth. I welcome the hon. Member for Salford and Eccles to the Committee. She has taken on a substantial workload in the past few days. Having had experience of performing her role of holding the Government to account in the Finance Bill, I recognise how challenging it can be. I wish her luck in that; if I may say so, she has made an excellent start, raising important points about this group of clauses.

I will start with a few words about clauses 50 and 51 and schedule 8, and then I will respond to the hon. Lady's questions. The Government have supported our world-leading creative and cultural sectors, which have entertained millions worldwide while attracting significant investment into the United Kingdom. Clause 50 and schedule 8 provide further support by introducing a new corporation tax relief for the production of orchestral concerts. The Government recognise the cultural value and artistic importance of Britain's orchestras. The relief is intended to support them in continuing to perform for a range of audiences, and in contributing to British culture.

Clause 51 makes minor consequential amendments to the Taxation of Chargeable Gains Act 1992 and the Corporation Tax Act 2010 as a result of the introduction of video games tax relief in the Finance Bill 2013. The change is not expected to have an impact on businesses that claim the relief.

The UK is home to some exciting, world-famous orchestras. The relief introduced by clause 50 recognises their artistic importance and cultural value. Its objective is to support orchestras so that they can continue to perform for a wide range of audiences. To deliver that support, the Government are building on the success of existing creative sector tax reliefs available for the production of film, high-end television and children's television, video games, animation and theatre. Those reliefs have shown how targeted support can make a real difference, not only by promoting economic activity, but by promoting British culture and the way that the UK is viewed internationally.

Clause 50 will introduce a new corporation tax relief and payable tax credit for the qualifying costs of producing an orchestral performance. It will support a wide variety of ensembles and performances, from chamber orchestras to large brass bands playing music ranging from jazz to blues. It will allow production companies to claim a payable tax credit worth up to 25% of the cost of developing an orchestral concert, with effect from 1 April this year.

In 2013, minor consequential amendments were made to the Corporation Tax Act 2010, as some sections were renumbered following the introduction of video games tax relief in the Finance Bill 2013. Clause 51 makes a further consequential amendment to the Act and the Taxation of Chargeable Gains Act 1992; it is not expected to have an impact on any business claiming that relief.

The Government are grateful for the constructive and positive engagement with the industry since the policy was announced, and during consultation in 2015. That has enabled us to understand better how the orchestra industry operates, and to design a relief that will work across the sector. The director of the Association of British Orchestras, Mark Pemberton, has commented that the relief

"will make a big difference to our members' resilience in these challenging times, helping them to continue to offer the very best in British music-making to audiences both here in the UK and abroad."

The hon. Lady asked whether there was a risk of the relief being abused. Effective anti-avoidance rules are critical to the long-term success and stability of orchestra tax relief. Rules similar to those applied to the creative industry reliefs aim to prevent artificial inflation of claims. In addition, there will be a general anti-avoidance rule based on the GAAR denying relief where there are any tax-avoidance arrangements relating to the production—and, of course, HMRC will monitor for abuse once the regime has been introduced. On HMRC resourcing, I point the Committee in the direction of the £800 million announced in last year's summer Budget, which provided further investment in HMRC to deal with avoidance and evasion measures more generally.

I come back to the point the hon. Lady raised about film tax relief and how that was abused. It is true that an earlier design of film tax relief was brought in by the previous Labour Government and was abused. That relief was abandoned by that Government, and the replacement model has been much more successful. It has provided the support that the film industry needs and benefits from, and that has helped to ensure that we have a thriving film industry without anything like the risks of abuse we saw formerly. In the measures that we have taken, we have learned from the previous approach.

The hon. Lady referred to making use of an EEA definition, and understandably asked what the implications are of the vote to leave the European Union. It is too early to say exactly how that will work. We are not sure what relationship we will have with the European Union, other than that we will be leaving it. It is quite possible that EEA definitions and so on will remain relevant, but we currently remain members of the EU and are considering legislation that takes effect in April, so it is necessary to comply with the rules as they stand. If it is necessary to review definitions, that is something we will have to look at, but that will depend on the future renegotiation.

The hon. Lady expressed the concern that perhaps we have too many tax reliefs. As the Chancellor made clear in the House of Commons yesterday, there is a place for reliefs, but our general and main focus has been on lowering corporation tax rates, and that continues to be the case. There is scope for using tax reliefs to support investment in growth through the tax system, and that is why we provide a range of tax reliefs and allowances. The Government have restricted a number of tax reliefs and allowances; for example, we have introduced a cap on income tax reliefs, restricted relief for buy-to-let landlords and capped the amount of losses through which banks can reduce their tax, so we have taken action on reliefs where we feel that their use is disproportionate to the benefits for the wider economy.

On orchestras, the Government are committed to supporting the arts through both spending programmes and tax reliefs. The orchestra tax relief is intended to complement current funding. It is specifically aimed at supporting orchestras in continuing to produce high-quality music that is enjoyed by a range of audiences. In those circumstances, we think it is justifiable. I hope that the clause has the support of Members in all parts of the Committee.

Question put and agreed to.

Clause 50 accordingly ordered to stand part of the Bill.

Schedule 8 agreed to.

Clause 51 ordered to stand part of the Bill.

Clause 52

BANKING COMPANIES: EXCLUDED ENTITIES

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

The Chair: With this it will be convenient to discuss clause 53 stand part.

Rebecca Long Bailey: Clauses 52 and 53 relate to the taxation of banking companies. Clause 52 amends the excluded entity test that forms part of the definition of a bank for tax purposes, and clause 53 makes provisions to restrict corporation tax loss relief.

Following the financial crash in 2008, specific taxes were imposed on the banking sector, and a definition of "banking companies" was required. The excluded entity test forms part of this definition. Clause 52 revises the legislation so that undertaking a second activity is possible, provided that the entity undertakes one of the specified regulated activities in the excluded entities test, and that the other activity, when considered by itself—that is, without taking into account the regulated activity that is specified in the excluded entities test—would not require the firm to be both an IFPRU 730K investment firm and a full-scope IFPRU firm as defined by reference to the Financial Conduct Authority handbook.

As the British Bankers Association has explained in far more articulate layman's terms,

> "Effectively there is a list of permitted activities which do not cause you to be treated as a bank and brought into the various bank-specific taxes, even if you meet all the other conditions. The change to the rules allows you to carry on more than one of those activities and still be excluded."

This measure clarifies the rules and has been welcomed by industry. We therefore have no issue with agreeing the clause today. We also welcome clause 53, which, to quote the explanatory notes to the Bill,

> "further restricts the proportion of a banking company's annual taxable profit that can be offset by brought forward losses to 25%. The further restriction will apply to accounting periods beginning on or after 1 April 2016."

At autumn statement 2014, it was announced that the amount of taxable profit that could be offset by banks' historical carried-forward losses would be restricted to 50% from April 2015. However, this clause further restricts the proportion of a banking company's annual taxable profit that can be offset by brought-forward losses from 50% to 25%. The restriction will remain subject to a £25 million allowance for building societies, and an exemption for losses incurred by new entrant banks. The Government estimate that this will generate over £2 billion in extra revenue between the current financial year and 2020-21. They also state that the measure should be revenue-neutral in the long run for any one bank, but the timing of the measure may well have negative implications for cash flow.

The British Bankers Association has indicated that further restricting bank losses from the financial crisis to 25% of profits rather than 50% primarily brings about a timing difference; it effectively accelerates payment of £2 billion in tax into this Parliament and out of the next one. Combined with the previous changes, it means £5 billion is being brought forward to this Parliament.

Can the Minister say why the Chancellor needed to accelerate this windfall in tax revenues? Was it part of his desperate attempts to ensure a budget surplus by 2020? I suspect it might have been. However, that argument is now redundant, given the recent suspension of that aim, and I am really glad that the Chancellor is finally listening to the experts and my hon. Friend the shadow Chancellor. Nevertheless, we welcome this new requirement on banking companies to increase their contribution to the Exchequer in the light of their role in causing the current economic situation.

I am glad that the Government are taking steps to address the casino banking sector. However, the policy should be seen in the wider context of the Government's new settlement with financial services, as announced by the Chancellor, which includes the shift in emphasis from the bank levy to the banks' tax surcharge as a result of lobbying by the sector, and watering down promised regulatory provisions in the Bank of England Act 2016.

In the 2016 Budget, the introduction of a general restriction on carried-forward losses was announced. That will come into effect on 1 April 2017, and the Opposition support it. In the meantime, we are more than happy to agree to the further restriction set out in clause 53.

9.45 am

Mr Gauke: I am grateful to the hon. Lady for her support for clauses 52 and 53, which will ensure that the exceptional tax treatment of banks' crisis-related losses is maintained in the light of the wider changes to the UK loss relief regime announced in the Budget. They will also amend the definition of a bank used in tax legislation to ensure that bank-specific tax measures are targeted as intended.

Clause 52 will change the definition of an investment bank to ensure that legislation is appropriately targeted. We have been clear that banks should make a fair contribution to reflect the risks they pose to the UK economy, and we have taken several steps to ensure that they do make that contribution. The Chancellor introduced the bank levy—a tax on banks' balance sheets—in 2011 and removed tax relief for banks' compensation in relation to misconduct and mis-selling from July 2015. We restricted the amount of profit that banks can offset with historical corporation tax losses, and we introduced a new supplementary tax of 8% on banking sector profit from 1 January 2016.

Those policies, which are forecast to raise more than £28 billion between 2015 and 2021, rely on there being an appropriate definition in tax legislation of a bank. That definition is based broadly on the extent to which a company is regulated and the nature of the activities that it undertakes. Concerns have been raised that the existing definition has the potential to go further than intended and bring into scope companies that are not undertaking retail or investment banking activities. We seek to address that through clause 52, which will make a minor technical change that is expected to have a negligible cost to the Exchequer and will ensure that legislation is fair and appropriately targeted. The clause will ensure that banking taxes are targeted appropriately at banks and that legislation remains simple, certain and effective.

Clause 53 will reduce from 50% to 25% the amount of profit that banks can offset with historical losses for corporation tax purposes from 1 April 2016. When a company makes a loss for corporation tax purposes, it is able to offset that loss against the profit of a group member in the same year. If that is not possible, companies are able to carry forward their losses and offset them against future profits. Companies' ability to carry forward losses is an important feature of the corporation tax system. It means that companies with volatile income streams are not subject to higher effective rates of tax on their long-term profits. In the 2014 autumn statement, the Chancellor announced that the proportion of taxable profit that could be offset by banks' pre-April 2015 losses would be limited to 50% from 1 April 2015. That exceptional treatment recognised the significant losses that banks had carried forward from the financial crisis and the subsequent misconduct scandals, and the impact that those losses were having on banks' corporation tax payments. It was forecast to increase corporation tax receipts by £2 billion between 2015 and 2020.

In the March 2016 Budget, fundamental reforms were announced to the treatment of carried-forward losses across all industry groups, to take effect from April 2017. First, there will be greater flexibility regarding the profits against which carried-forward losses can be offset. Secondly, the amount of profit that can be offset by carried-forward losses will be restricted to 50% from April 2017, subject to a £5 million allowance. Those reforms will create a more modern loss relief regime in the UK that is competitive with those in other G7 countries and better aligned with how businesses operate.

The changes made by clause 53 will maintain the exceptional treatment of banks' historical losses by reducing from 50% to 25% the amount of profit that banks can offset with historical carried-forward losses from 1 April 2016. That will increase banks' corporation tax payments by around £2 billion over the next five years. The existing reliefs for losses incurred by new entrant banks and building societies will be maintained; those will continue to be treated in the same way as losses in other industry groups.

On the hon. Lady's question about timing, these measures, taken together, will raise about £5 billion in 2016-17 alone. It is important that the banking sector's tax contribution is made when it is most needed during this period of fiscal consolidation. I take the point about the changed circumstances in the light of the vote to leave the European Union. It is also important that we make progress in reducing the deficit, and that we demonstrate that the Government are fiscally responsible. That is what we are doing. This measure is part of a plan to make progress to reduce our deficit further. Having given the Committee those points of information, I hope that these clauses can stand part of the Bill.

Question put and agreed to.

Clause 52 accordingly ordered to stand part of the Bill.

Clause 53 ordered to stand part of the Bill.

Clause 54

Reduction in rate of supplementary charge

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

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

Clauses 55 to 59 stand part.

Clause 128 stand part.

New clause 3—*Corporation tax treatment of the oil and gas industry*—

'The Chancellor of the Exchequer shall, within six months of the passing of this Act, commission a comprehensive review of the corporation tax rates and investment allowances applicable to companies producing oil and gas in the UK or on the UK continental shelf, and publish the report of the review.'

New clause 6—*Oil and gas: decommissioning contracts*—

'(1) The Chancellor of the Exchequer shall commission a review of the ways in which the tax regime could be changed to increase the competitiveness of UK-registered companies in bidding for supply chain contracts associated with the decommissioning of oil and gas infrastructure.

(2) In undertaking the review, the Chancellor shall consult the Department for Business, Innovation and Skills, the Oil and Gas Authority; Scottish Ministers; and any other stakeholders that the Chancellor thinks appropriate.

(3) The Chancellor shall report to Parliament on the results of his review within six months of the passing of this Act.'

The Exchequer Secretary to the Treasury (Damian Hinds): It is a pleasure to serve under your chairmanship once again, Mr Howarth. These measures bring into statute a £1 billion package of fiscal reforms for the UK's oil and gas sector. These changes will deliver the next stage of the Government's reform plan for the oil and gas fiscal regime, and they will give much-needed support to an industry facing exceptionally challenging conditions. They will provide the right conditions in which to maximise the economic recovery of the UK's oil and gas resources by lowering sector-specific tax rates, updating the current system of allowances and expanding the types of activity that can generate financial relief. The Government are making these changes to protect jobs, encourage investment in new projects and infrastructure, and safeguard the future of one of our most vital national assets.

I will provide hon. Members with some background to the changes. Almost 200 companies are currently in production in the UK oil and gas industry. They support 30,000 jobs directly and 250,000 in the wider supply chain. As hon. Members know, since 2014 the industry has experienced highly challenging conditions. Oil prices have fallen to less than half their 2014 value, putting thousands of jobs at risk. In the 2014 autumn statement, the Government set out our plan to reform the oil and gas fiscal regime in the publication "Driving investment". That document recognised the need to reduce the future oil and gas tax burden in order to maximise economic recovery and keep the UK basin attractive to investors as it further matures. We delivered on that plan by reducing the rate of the supplementary charge and the petroleum revenue tax in 2015. As announced in the March 2016 Budget, we will lower both those rates further.

Between 2013 and 2015 the Government introduced the investment, onshore and cluster area allowances, which replaced the old suite of field allowances with a simplified and expanded relief system to generate greater investor certainty in the sector. The Government intend to include tariff income—income from third-party access to oil and gas infrastructure—in the scope of the investment and cluster area allowances. We will introduce secondary legislation later this year to facilitate that. Clauses 55 to 59 update the investment, onshore and cluster area allowances to align them with that piece of future legislation and ensure that the allowances are not generated twice.

The changes made by clause 54 will halve the rate of the supplementary charge from 20% to 10%. That will make the sector more attractive to future investors,

[Damian Hinds]

thereby providing much-needed support for jobs and supply chain opportunities across the industry. As I said, clauses 55, 57 and 58 update the disqualifying conditions of the investment, onshore and cluster area allowances to prevent allowances being generated twice and to limit opportunities for avoidance. Clause 55 amends the investment allowance to update the conditions that disqualify expenditure incurred before a field is determined. This will protect the Exchequer and ensure the legislation works as intended.

Similarly, clause 57 updates the onshore allowance to introduce certain disqualifying conditions. This will provide parity with the other allowances available to the sector. Clauses 55 and 58 insert leasing into the disqualifying conditions for the investment and cluster area allowances. Together these three clauses will align the investment, cluster area and onshore allowances with future legislation while ensuring the allowance is not open to avoidance opportunities.

Clauses 56 and 59 amend the investment and cluster area allowances and introduce a power to expand the meaning of "relevant income". The Government intend to enable tariff income to activate the investment in cluster area allowances and incentivise owners to maintain investment in the sector's infrastructure, including key pipelines. These measures will encourage further investment in exploration and appraisal projects, which are the lifeblood of the industry.

Finally, clause 128 changes the petroleum revenue tax by reducing its rate from 35% to zero. Our commitment is effectively to abolish this tax by zero-rating it on a permanent basis. This change will simplify the tax regime for investors and level the playing field between investment opportunities in older oil fields and infrastructure and new developments across the North sea. Furthermore, clause 128 will update the Oil Taxation Act 1975 to reflect the new zero-rated nature of the petroleum revenue tax and amend the cap on interest carried on its repayments. The clause will work in tandem with clauses 54 to 59 to deliver the next stage of fiscal reforms to support the oil and gas sector.

New clause 3, tabled by the hon. Member for Kirkcaldy and Cowdenbeath, calls for the Government to review the taxes and allowances that apply to oil and gas-producing companies in the UK within six months of the Bill receiving Royal Assent. However, a further review into oil and gas taxes is not required because the Government already carried out a broad review of the fiscal regime in 2014. The outcome of that review, as I mentioned, was the publication "Driving investment", which sets out our long-term plan to ensure that the fiscal regime continues to support the objective of maximising economic recovery while ensuring a fair return on those resources for the nation.

The principles in "Driving investment" recognise the need for the oil and gas tax burden to fall as the basin matures, and the need to factor wider commercial opportunities when making judgments about future fiscal policy. The March 2015 Budget delivered on many of the reforms set out in that plan by reducing the rate of both the supplementary charge and the petroleum revenue tax. The package announced in the March 2016 Budget delivers the next stage of our plan for reform.

The Government understand now, as we did in 2014, that certainty and stability are crucial to providing the right conditions for companies to continue investing in this vital industry. Another review could create further uncertainty for the industry and delay investment, particularly in the current environment. Therefore, given the volume and range of work that has been done in this area recently, an additional review is unnecessary, so I urge the hon. Gentleman not to press his new clause or, failing that, I urge Members to reject it.

New clause 6, which was also tabled by the hon. Member for Kirkcaldy and Cowdenbeath, calls for a review into how the tax regime could increase the competitiveness of UK-registered companies in bidding for supply chain contracts associated with decommissioning. Decommissioning in the UK continental shelf brings significant opportunities for UK business and we want to maximise those. The Government fully support the vision of Sir Ian Wood to establish the north-east of Scotland as

"a global centre of knowledge and excellence in offshore mature basin technology and decommissioning".

That is why the Government support the creation of an oil and gas technology centre in Aberdeen as part of the Aberdeen city deal. It is also why the Oil and Gas Authority will soon be publishing a decommissioning plan for the continental shelf. This will be focused on enabling the £15 billion service sector in Aberdeen to become the centre of a new global market for decommissioning and will help UK firms to capitalise on the huge opportunities that will become available. It is of course important that we have a tax regime that supports that ambition, and the package being delivered in the Bill will ensure that the UK has one of the most competitive tax regimes in the world for oil and gas. In addition, the Government have cut the rate of corporation tax to 20%—the lowest in the G20—and we are committed to going further.

With a competitive tax system in place and the OGA's focus on realising the opportunities of decommissioning, I firmly believe that UK businesses are in a strong position to benefit. Certainty and stability are vital, and I do not believe that these would be supported by a further review. I therefore urge the hon. Gentleman not to press new clause 6.

The changes brought about by these clauses will deliver the £1 billion package of fiscal reforms announced in the March 2016 Budget by cutting tax rates, encouraging investment in infrastructure and updating the oil and gas allowances. These measures will send a strong signal to the global investment community that the UK's oil and gas sector is open for business and ready for investment.

10 am

Philip Boswell (Coatbridge, Chryston and Bellshill) (SNP): It is a pleasure to serve under your chairmanship once again, Mr Howarth. As the Minister has spoken to both new clause 3 and new clause 6, I seek clarification that I may attend to both at the same time.

The Chair: Yes.

Philip Boswell: Thank you. In relation to new clause 3, the cut to the supplementary charge set out in clause 54 is of course welcome. It will assist in encouraging business investment, and I commend this initiative. However, the UK Government's support for the oil and gas industry, as it pertains to the cut in the supplementary charge and in a more general sense, does not go far enough. The alterations made to the financing of the oil and gas sector fall significantly short of the fiscal and regulatory reforms necessary to ensuring a steady recovery in the ongoing North sea crisis. Despite the oil price continuing to rise—it is currently around $50 for Brent crude—instead of the extensive regulatory changes experienced over the past 15 years, stability and certainty are required to increase and retain investment as well as some incentivisation. I must admit to being further encouraged by the Minister's statements in this respect.

However, the UK Government must consider all possibilities that could facilitate fresh investment in the oil and gas sector. These possibilities need not be restricted to fiscal support. For example, schemes such as Government guarantees ought to be explored. I would welcome such initiatives from the Minister. Has he considered further the following suggestions, made by the Scottish Government to the Chancellor in February 2016: removing fiscal barriers, specifically for exploration and enhanced oil recovery; implementing fiscal reforms to improve access to decommissioning tax relief and encourage late-life asset transfers—that would reduce costs and help prevent premature cessation of production, which is critical if marginal fields are to be garnered in future—and implementing additional non-fiscal support, such as Government loan guarantees, to sustain investment in the sector? I welcome his commitment to future legislation, especially in relation to cluster allowances, and look forward to its introduction. The industry has called for a comprehensive strategic review of tax rates and investment allowances. Based upon my own experience of working in the sector, I believe that this review would be beneficial, hence my support for new clause 3.

In relation to new clause 6, the UK continental shelf is one of the first large fields in the world to reach super-mature status. This poses both a challenge and an enormous amount of opportunity. While no reservoir on the planet has harvested more than 50% of its reserves, and most of the "sweet oil"—the high-quality, easy-to-reach oil found to date, which requires minimum processing—has gone from the sector, we need to look at improving recovery and the technology required to maximise output through enhanced oil recovery, in order to maximise profits from these fields, marginal or otherwise.

Decommissioning is a key part of the life cycle of UKCS assets. Some have now lasted for over three decades, which in many cases considerably exceeds their original design life. It is advances in technology and additional tie-backs—additional nearby fields that can be tied into the existing infrastructure—which would otherwise be unprofitable if they required a bespoke pipeline, that have made our oil and gas industry so successful.

Oil & Gas UK has estimated that between now and 2040 the total decommissioning spend in the North sea on offshore assets is set to rise by £46 billion. That represents a huge opportunity for domestic supply chains, not to mention extensive finds further west of Shetland and off the west coast of Scotland, which as yet have hardly been touched. The companies that operate on the UK continental shelf are respected all over the world, as it is there, in rough seas with heavy swells, that technology has advanced in conjunction with safety measures to ensure that the North sea, and Scotland in particular, are at the forefront of offshore construction and sub-sea technology, which is something I specialised in at BP, Shell and Premier Oil.

Given our well-deserved status in sub-sea technology and the maturity of some of our fields, there is a real opportunity to become world leaders in well plugging and decommissioning. The UK Government need to incentivise and support the oil and gas industry so that UKCS expertise can be further developed in the North sea and exported around the globe. That begins with ensuring that the oil and gas industry is working in a fiscal regime that is appropriate to the maturity of the field, which is what new clause 6 seeks to do. Although there are always new fields being discovered and technological advances rendering previously unprofitable reservoirs profitable, it is in the management of mature assets, via enhanced oil recovery and further tie-backs, that optimise power output and profitability, a strategy adopted by Statoil, our near neighbours, the Norwegian national oil and gas company, where every barrel counts. That has proved very successful and is a strategy we should copy.

The removal of fiscal and regulatory barriers is imperative to the advancement of an internationally competitive tax regime in the North sea, such as Norway's incentive to remove taxation on exploration where the contractor or operator drills a duster. The Minister of State, Department of Energy and Climate Change, the hon. Member for South Northamptonshire (Andrea Leadsom), in response to a question from my hon. Friend the Member for Aberdeen South (Callum McCaig) in September 2015, committed to a proactive policy to encourage the development of a capable and competitive UK supply chain. That proactive approach needs to start sooner rather than later.

I welcome the Minister's announcement on the oil and gas technology centre in Aberdeen, and on the decommissioning focus in Aberdeen and the offshore construction centre in the UK, but what steps have the Government taken to compensate oil and gas companies for exploration in the UKCS where a duster is drilled? For example, in Norway no tax is applied to such exploration. What tax incentives are in place, or are being considered, to encourage or subsidise decommissioning projects by UK companies, where new technologies, techniques or even tried and tested decommissioning methods are utilised on various types of assets?

In September 2015 Wood Mackenzie reported that low oil prices could render marginal fields economically unviable and lead to potential decommissioning of up to 140 fields within the next five years. I reiterate that Brent crude remains at around $50 a barrel. If prices continue to rise to the forecast $70 to $75 dollars a barrel after the summer, what tax incentives has the Minister put in place to identify and retain critical infrastructure across the UKCS?

With that in mind, new clause 6 calls for a review of the ways in which the tax regime could be changed to increase the competitiveness of UK-registered companies in bidding for supply chain contracts associated with

[Philip Boswell]

the decommissioning of oil and gas infrastructure, with the aim of ensuring that we take advantage of this momentous opportunity.

Rebecca Long Bailey: With permission, I will speak to clauses 54 and 128 together before moving on to the remaining clauses and new clauses.

As we have heard, clauses 54 and 128 reduce the rates of the supplementary charge levied on the ring-fenced profits of companies involved in oil and gas production and petroleum revenue tax respectively. Companies involved in the exploration for and production of oil and gas in the UK are charged ring fence corporation tax and a supplementary charge. RFCT is calculated in the same way as corporation tax but with the addition of a ring fence so that losses on the mainland cannot be offset against profits from continental shelf fields. It is important to note that the rates of RFCT differ from those of corporation tax, and that the main rate of RFCT is 30%. The supplementary charge is an additional charge on a company's ring-fenced profits. Clause 54 would reduce the supplementary charge from 20% to 10% from 1 January 2016.

Petroleum revenue tax, which was introduced in 1975, is a tax on the profits from oil and gas production from fields approved before 16 March 1993. The Finance Act 1993 reduced the rate from 75% to 50%, and it was then reduced to 35% from 1 January 2016. Clause 128 reduces the rate to zero, effectively abolishing the tax, as the Chancellor explained in his Budget speech. These two measures, taken together, are expected to cost the Treasury just over £1 billion between this financial year and 2021. The Government expect the reduction in rates to increase the post-tax profits of affected companies. This will make investment in oil and gas projects on the UK continental shelf more attractive, which will lead to additional production of oil and gas.

According to the tax information and impact note, and as the Minister confirmed today, there are around 200 companies extracting oil and gas in the UK. The industry directly supports 30,000 jobs, with another 250,000 in the supply chain. The decrease in the supplementary charge and the petroleum revenue tax will have a positive impact on company post-tax profits and result in lower instalment payments being made. We have already welcomed this support for the UK's oil and gas industry. The industry trade body, Oil & Gas UK, has broadly welcomed this reduction in the headline rate of tax paid on UK oil and gas production, from a rate of 50% to 67.5% to a rate of 40% across all fields.

However, it is important to note that Oil & Gas UK has stated that the reduction in tax will help only those companies that are actually making a profit. It estimates that fewer than half a dozen companies are paying corporation tax this year. Indeed, the 2016 Budget stated that the tax receipts for these companies in 2015-16 were zero. A reduction in those tax rates is therefore welcome, but it is a long-term benefit.

Frankly, I think that more needs to be done in the short term. Stakeholders have said that they are more concerned about the lack of exploration activity. Only one well was drilled in the first quarter of 2016, so more has to be done to stimulate exploration. Can the Minister confirm whether any plans are in the pipeline—excuse the pun, but we have to get our fun somewhere in the Finance Bill—to stimulate exploration on the UK continental shelf in the short term?

I have also heard concerns from the industry about the late-life asset market. As we have heard today from Scottish Members, decommissioning is a normal part of a production cycle, but it is very expensive. I am aware that a tax relief is available, but it depends on a company's tax history. If new companies buy older fields, they cannot access the relief, thus blocking late-life asset trade. Essentially, assets are not being sold on as they should be. The policy paper on the 2016 Budget states that the Government are open to exploring

"whether decommissioning tax relief could better encourage transfers of late-life assets",

if "significant progress" on reducing the cost of decommissioning has been made. I worry that that is rather vague. I would therefore welcome clarification from the Minister on exactly what "significant progress" means.

Clauses 55 to 59 make minor changes to the investment allowance, cluster area allowance and onshore allowance. These three allowances provide relief by reducing the amount of ring-fenced profits on which the supplementary charge is due. Investment and cluster area allowances are given at a rate of 62.5%, and onshore allowance at 75%. Clauses 55 and 58 update the conditions that disqualify expenditure from generating investment allowance and cluster area allowance respectively. They expand the conditions following the extension of the allowance to include some leasing expenditure by secondary legislation not yet enacted. As we have heard from the Minister, this is to ensure that there are no gaps in the legislation that would permit these allowances to be generated twice. This will have effect for expenditure incurred on or after 16 March 2016.

The clauses are technical measures with which I have no issue whatever. However, stakeholders have expressed frustration that it has taken so long to lay before Parliament the regulations extending the allowances. According to Oil & Gas UK, the consultation on the draft statutory instrument concluded in January, and since then things have gone quiet. Could the Minister take this opportunity to confirm exactly when the draft SI will be laid before Parliament?

10.15 am

Clauses 56 and 59 give the Government power to extend the meaning of "relevant income" in relation to both investment allowance and cluster area allowance. The Government intend to allow tariff income to activate the allowances. When these allowances were introduced, they could be activated only by production of income from an oilfield. The allowance did not work well if the investment was in a pipeline that the company owned, but that transported another company's oil and gas, which generated tariff income. In that case, no production income was generated, so the allowance was not activated.

The Government originally intended to include tariff income, but it was not included in the original legislation because of the complexities of identifying and apportioning capital expenditure to infrastructure owners and users. Having taken steps, the Government now intend to allow tariff income to activate the allowance, in order to encourage investment in infrastructure. The clauses give the Government power, through secondary legislation, to expand the meaning of "relevant income" to include tariff income. We are wholly supportive of that extension. Will the Minister assure me that the introduction of secondary legislation to expand the allowances to include leasing expenditure will not be delayed while the Government draft the SI to include tariff income in "relevant income"? Time is of the essence when it comes to supporting investment in the UK continental shelf. The industry simply cannot wait for the legislation to be published while the Government get their act together.

Clause 57 relates to onshore allowances, which reduce the amount of ring-fenced profits subject to the supplementary charge to the equivalent of 75% of capital expenditure on onshore oil and gas fields. When it was introduced, there were no disqualifying conditions and a few loopholes were identified, including the ability to generate the allowance twice on an asset. The clause amends the onshore allowance to mirror disqualifying conditions for the cluster area allowance, essentially tightening up the legislation.

The Opposition had some concerns about the onshore allowance when it was introduced in the Finance Act 2014, and we pressed our amendment to a vote. That amendment called for a review examining the impact on onshore oil and gas exploration and field developments in the next 10 years, and the differential impact on individual shale fields, among other things. We are pleased that the Government are introducing disqualifying conditions to provide parity with other allowances, but are still concerned that the allowance provides an incentive for fracking. Why is this allowance more generous than those for investment in cluster areas? Will the Minister also confirm when the advice from the Committee on Climate Change on how fracking will affect the UK's ability to meet our climate change targets will be published? We will support clause 57, but I hope the Minister will address my concerns.

New clauses 3 and 6 were tabled by the hon. Member for Kirkcaldy and Cowdenbeath. New clause 3, as we have heard, calls for a comprehensive review of the corporation tax rate and the investment allowances applicable to oil and gas companies. New clause 6 calls for a review of how the tax regime could be changed to increase the competitiveness of UK-registered companies bidding for supply chain contracts associated with the decommissioning of oil and gas infrastructure. As I mentioned earlier, the sector has identified significant issues with the late-life asset market. We support the Scottish National party in its calls for a review of decommissioning contracts. Legislation surrounding the UK oil and gas tax regime has been remarkably piecemeal, and a review of the whole regime would not be unhelpful. We support all the clauses in this group. I look forward to the Minister's response.

Damian Hinds: It is a pleasure to respond to the pertinent questions put by the Opposition and SNP Front Benchers. They both asked about exploration, which is the lifeblood of the industry's future. We had a choice: introduce a complex system of reliefs and incentives relating to exploration, or have a simple, straightforward tax cut across the board. We chose the latter. Reducing the tax payable on the economic activity lowers the hurdle point for investments, improves the net present value of projects, and means that more will take place. It is cutting the headline rates of tax, rather than anything else, that provides a clear incentive to invest in the continental shelf. The Government have also twice provided £20 million for seismic surveying to help kick-start those processes.

Allowances came up a number of times. Over the past few years, the Government have been simplifying that system. Allowances mean that projects that are economic, but not commercial at the higher rates of tax, can go ahead. That is good for the Exchequer, as it brings in more income, and good for the companies concerned. The hon. Member for Salford and Eccles, who speaks for the Opposition, asked when the Government would finalise the secondary legislation expanding the definition of qualifying expenditure for the investment cluster area allowances. Draft legislation was published at the end of last year and the technical consultation ended in January. HMRC has been analysing the responses to that and liaising with the Treasury and the OGA to ensure that the legislation works as intended. We plan to lay the new regulation before the House after the summer recess. It will apply to all qualifying expenditure incurred after 8 October 2015.

The hon. Lady also asked about the power to extend the definition of relevant income and the timing. The Treasury will consult with industry shortly, and will ask it to provide information and evidence to inform the design of the inclusion of tariff income in the investment cluster area allowances. It is a complex area, with a range of commercial arrangements that we need to understand if we are to ensure that infrastructure owners and users can benefit from the allowances. The power has been drafted in such a way as to ensure that the inclusion of tariff income can have a retrospective effect. That measure will not delay the introduction of the extension to qualifying expenditure.

The hon. Member for Coatbridge, Chryston and Bellshill rightly asked about the crucial opportunity area of decommissioning. Decommissioning across the shelf is expected to become a multibillion-pound industry, and there are significant export opportunities as other basins around the world become more mature. Decommissioning costs here could be more than £40 billion. As I said earlier, the Government support Sir Ian Wood's vision of establishing north-east Scotland as a real centre of excellence. That is why we support the creation of an oil and gas technology centre in Aberdeen as part of its city deal. As the hon. Gentleman will know, the OGA will soon publish its United Kingdom continental shelf decommissioning plan.

The hon. Gentleman and the hon. Member for Salford and Eccles asked about late-life assets and asset transfers. We are in constant discussion with the OGA and industry to understand what impediments there may be to value-creating deals going ahead, and we retain an absolutely open mind on that. The hon. Gentleman also asked about Government guarantees. Again, that is something on which the Government have an open mind, in recognition of the importance of the sector. The Government are willing to consider proposals for using the UK guarantee scheme for infrastructure where that could help to secure new investment in assets of strategic importance to maximise economic recovery. Any proposals would need to meet the scheme's criteria, including those relating to commerciality and financial credibility.

[Damian Hinds]

The Government have recognised the exceptionally challenging conditions that the industry faces, and in response announced a £1 billion package of fiscal reforms in the March 2016 Budget, which built on the extensive package from the previous year. The package includes halving the rate of the supplementary charge, permanently zero-rating the petroleum revenue tax, and extending the scope of key allowances to incorporate leasing and to encourage investment across the North sea. The Government have also committed £20 million of funding to a second round of seismic surveys to encourage development in under-explored areas.

Despite the extremely challenging conditions, this remains a sector of opportunity for Scotland and the UK; it is estimated that somewhere between 11 billion and 21 billion barrels of oil and oil equivalents are still to be had. More than £11 billion was invested in the sector last year. I am constantly encouraged by the positive attitude of the industry, and all the work that it is doing to get its cost base down and continue to look for new opportunities. I assure you, Mr Howarth, and all hon. Members, of the Government's absolute commitment to the very positive tripartite approach between the industry, the Oil and Gas Authority, which is really more than a regulator, and the Government, who include the Scotland Office, the Department of Energy and Climate Change and the Treasury.

Christian Matheson (City of Chester) (Lab): There is no doubt that the UK offshore oil and gas sector has a world lead, provides huge revenue and technical expertise to the UK, and needs to be protected, but my hon. Friend the Member for Salford and Eccles raised the spectre of onshore fracking. Can the Minister give reassurance that our efforts to support the offshore oil and gas industry will not be used as a back-door way of giving tax breaks to onshore fracking?

Damian Hinds: Mr Howarth, you would not want me to stray on to topics that are not strictly in the scope of the Finance Bill. The Government believe that there is significant potential for unconventional oil and gas—for fracking—and I think that we owe it to future generations, to ourselves and to British industry to make sure that we discover what opportunities are there. Exactly how the regime develops, in fiscal terms, is to be determined, but we know that there will be an absolutely robust safety regime. In the initial phase, the important thing is to find out on how big a scale that opportunity may be.

I had reached the conclusion of my remarks, having reiterated the very firm commitment across Government to supporting this industry. This is a bold package of support in the Budget. We know of no other country in the world that has responded on quite such a scale to the extremely challenging conditions presented by the world oil price. I commend the clause to the Committee.

Question put and agreed to.

Clause 54 accordingly ordered to stand part of the Bill.

Clauses 55 to 59 ordered to stand part of the Bill.

The Chair: I remind the Committee that I will put the question on clause 128—and new clauses 3 and 6, if required—without further debate when we reach them.

Clause 60

Profits from the exploitation of patents etc

Mr Gauke: I beg to move amendment 50, in clause 60, page 94, line 16, at end insert

", or

'(b) the company elects to be treated as a new entrant for the purposes of this Part.'"

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

Government amendments 51 to 115 and 136.

Clause stand part.

Government amendments 116 to 121.

That schedule 9 be the Ninth schedule to the Bill.

Mr Gauke: Clause 60 and schedule 9 make changes to ensure that the UK's patent box operates in line with a newly agreed international framework resulting from the base erosion and profit shifting action plan. The Forum on Harmful Tax Practices—the international group leading work on action 5—focused on harmonising the level of substantive activity required for access to preferential intellectual property regimes such as the patent box. This was linked to the BEPS action plan's overall aim of aligning taxation with economic substance. The framework applies to all patent and innovation box-type regimes that apply preferential tax treatment to IP income in OECD, G20 and EU countries. It ensures that preferential tax treatment cannot be offered for as little as simply registering ownership of IP in a jurisdiction offering such a regime. While the UK's patent box includes adequate safeguards to address these concerns, this framework will ensure that robust standards apply internationally.

The new framework also takes a slightly different approach from the UK patent box, so amendments to the current regime are required. In particular, the international framework links the availability of a lower tax rate offered by a preferential IP regime to the proportion of the development expenditure on the IP that the claimant taxpayer incurred, directly or through a third-party subcontractor. This means that if, for example, a claimant taxpayer directly incurred only half of the expenditure on a patent, with the other half of the expenditure being on acquisition, IP, or outsourcing to a related party, only half the profit derived from that patent will benefit from a lower tax rate.

10.30 am

The patent box was introduced in the Finance Act 2012 following extensive consultation. Once fully phased in, it gives an effective corporation tax rate of 10% on trading profits earned from patents and other similar types of intellectual property. To qualify under current rules, the claimant taxpayer needs either to have had significant involvement in the development of the IP or to actively manage the IP in the UK. That will not change. The patent box provides an incentive for companies to develop, retain and commercialise new and existing patents in the UK. That in turn incentivises companies to bring to the UK high-value jobs and investment associated with the development, manufacturer and exploitation of patents.

The changes made by clause 60 will bring the UK patent box in line with the new international framework. The main change is the introduction of the research and development fraction, which provides the link between the IP profit and the R and D undertaken on that IP, implementing the key principle of the international framework. The fraction is defined as the ratio of the company's direct R and D spend on the IP plus any third-party subcontracting to total spend, which adds in the cost of acquiring the IP and related party subcontracting.

The figures in the ratio are cumulative, building up over time to reflect the development history of the IP asset. The result can be increased by up to 30% when the ratio is less than 1, although the final value cannot exceed 1. The final value is then applied to the relevant IP profits to give the amount of profit that can benefit from the lower patent box tax rate. The qualifying profit will be the same or less than the amount under the current patent box rules. If in exceptional circumstances the ratio is not a true reflection of the claimant's value-creating activities, the company may be able to increase it accordingly to take such circumstances into account. The new rules apply from July 2016.

As the UK already has a patent box, transitional provisions are needed for companies already claiming for existing IP. To allow claimant taxpayers to ensure that they can comply with the requirements of the new patent box, a five-year transitional period begins on 30 June 2016, after which only those taxpayers who would qualify to elect into the patent box for periods prior to that date will be allowed to claim under the current rules. A claimant taxpayer will be able to continue to apply the current patent box rules for existing IP if it qualifies for the transitional period and there are no major changes to its position during that period. An existing IP broadly means patents applied for before 1 July 2016.

If a company has income from a product that relies on existing IP and patents applied for on or after that date, it will continue to be treated according to the current patent box rules, as long as the core technology of that product is protected by patents applied for before 1 July 2016. If that is not the case, the profit from the product will transition to the new rules linked to the proportion of patents that do not qualify as existing IP over total patents. The transitional period will end five years later on 30 June 2021, after which only the new form of the patent box will be available.

The transitional arrangements will not be available where IP has been acquired directly or indirectly from a country without a preferential IP regime after 1 January 2016, and that acquisition was undertaken with a tax avoidance motive. That safeguards the transitional provisions from an abuse whereby a company would aim to acquire IP simply to access the five-year period. That safeguard is part of the international framework and so applies to all preferential IP regimes, including the UK patent box.

Those affected by the changes are UK companies that hold and exploit patents or patent-like rights and that claim relief under the current patent box. We expect that these changes will restrict the overall amount that can be claimed through the patent box, reducing cost to the Exchequer. That reduction is expected to be £120 million over the next five years.

The Government amendments to clause 60 introduce features that ensure that the benefit of the patent box is protected for claimant taxpayers and respond to specific issues raised by interested parties during formal consultation. If some of these amendments were not introduced, a number of interested parties would see their claims significantly reduced under the new patent box rules. The new rules could also potentially be open to manipulation and abuse. These amendments do not cover provisions addressing the issue of how the revised rules will apply in the context of more complex, collaborative R and D arrangements, such as cost share agreements. It is the Government's intention to include such provisions in Finance Bill 2017, to provide an opportunity for consultation with interested parties.

Amendment 50 allows taxpayers to forgo the right to use the transitional provisions, should they prefer to opt straight into the new patent box. Amendments 51 to 56, 60 to 63, 69 to 70, 78 to 79 and 88 to 112 give companies greater flexibility to track IP income and R and D expenditure at product or product family level, by removing the requirement that a product must contain more than one IP asset. We have created rules to account for the implementation of the international framework, which, incidentally, has a double impact on a taxpayer's patent box claims where an acquisition of IP involves staged payments made to the seller, allowing for sharing in the success of further development. We are also extending the definition of an acquisition of IP to cover expenditure on such an acquisition from which the relevant qualifying IP is derived, evolved or enhanced. These features are introduced by amendments 57, 66, 77, 80 and 81, and 121.

Amendments 58 and 59, 64, 67, 82 to 84 and 116 to 120 introduce simplification rules for taxpayers with smaller claims, so that they are not discouraged from claiming the patent box. Amendment 65 addresses the fact that legislation does not currently exclude finance income from the overall income that can benefit from the patent box; the measures would otherwise result in unintentional widening of the patent box.

Amendments 68, 73 and 74 ensure that any relevant R and D expenditure incurred by a foreign branch of a UK claimant company that has opted out of UK taxation under foreign branch exemption rules is treated as related party subcontract expenditure of the UK company for the purposes of calculating the R and D fraction. Under the Bill, only 65% of subcontracted R and D costs are used in the R and D fraction. Amendments 71, 72, 75 and 76 remove the treatment on subcontracted R and D costs, so that the entire amount is counted towards qualifying expenditure amounts.

The safeguard in the transitional provisions requires a determination as to whether an IP asset has been acquired from a country with or without a preferential IP regime in place. Amendments 85 to 87 clarify that the power to designate foreign tax regimes operates properly when it is used after Royal Assent. Amendment 113 widens the existing anti-avoidance provisions to take into account potential abuses of the changing rules. Finally, amendments 114 and 115 ensure that where one company takes over a trade from another, the transferee will be able to step into the shoes of the transferrer, inheriting both the IP and the expenditure history on that IP.

Let me briefly anticipate and respond to amendment 136, which would require the Chancellor of the Exchequer to publish

"within six months of the passing of this Act"

a report on the patent box, giving an

"assessment of the value for money…and…efficacy of, the Patent Box."

This amendment is not needed and would fall short of the plans the Government already have in place. Due to the time periods allowed for electing into the patent box and the impact of the transitional provisions, a one-time publication would not give a substantive picture of how the patent box is operating, or take into account the revisions to the regime. That is why we are proposing to publish annual statistics on the patent box, rather than a one-time publication. The Government intend to make the first publication in September this year and annually thereafter.

To conclude, the changes made by clause 60 will ensure that the patent box complies with the new internationally agreed framework, while the amendments ensure that the benefit of the patent box is protected for claimant taxpayers. I therefore commend clause 60, schedule 9 and amendments 50 to121.

Rebecca Long Bailey: Clause 60 and schedule 9 make substantial changes to the patent box, which provides for a reduced rate of corporation tax on profits from patents and similar intellectual property. The changes in this clause ensure compliance with the new international framework developed by the OECD for preferential IP regimes as part of the base erosion and profit shifting project.

The changes mean that the amount of profit for an IP asset that qualifies for the reduced 10% rate of corporation tax available through the UK patent box will depend on the proportion of the asset's development expenditure incurred by the company. According to the explanatory notes to the Bill, the amended rules will require profit for the purpose of the patent box to be calculated at the level of an IP asset—for example, the patent, product, or product family relying on an IP asset or assets. The profit will be adjusted to reflect the proportion of the development activity on the asset, product, or product category undertaken by the company.

As the Minister confirmed, the measure will have effect for new entrant companies to the patent box on or after 1 July 2016, and also for some IP assets acquired on or after 2 January 2016. The new rules are being phased in, which is welcome; the current patent box rules will apply to some companies and IP throughout a transitional period lasting until 2021. The new rules will apply to all companies and IP after 2021.

By way of background, in December 2009 the Labour Government announced that they would consult on introducing a patent box—a reduced rate of corporation tax applied to income from patents—from April 2013 at a possible annual cost of £1.3 billion. The coalition Government took up our proposals for a patent box in a wider review of corporate taxation launched in November 2010. The consultation document argued that a tax relief would be most effective if it focused on patents, and that it would be proportionate to charge corporation tax at just 10% on profits made from them.

The coalition Government confirmed their plans in the 2011 Budget, and published a further consultation document in June. Draft legislation for the Finance Bill 2012 was published in December, including provisions for the patent box. In Budget 2012, the Government confirmed the introduction of the patent box, which would be phased in over five years from 1 April 2013. They estimated that its cost would rise from £350 million in 2013-14 to £910 million by 2016-17.

The Opposition welcomed the introduction of the relief, while moving an amendment to require the Government to report on

"other opportunities to introduce targeted support for business".

This tax reform was clearly strongly supported by business at the time, but was not uncontroversial. Concerns were raised by several European countries, as well as the European Commission, that reform might represent harmful tax competition, encouraging companies to shift the ownership of patents created in other countries to the UK.

In late 2013, the EU code of conduct group raised concerns about the UK patent box, leading to press speculation that the Government might have to substantively amend the new relief. In November 2014, the Government announced that the UK had agreed with Germany that preferential intellectual property regimes—of which the UK patent box is one—should not encourage harmful tax competition and, as a result, certain changes would be made to the UK regime from June 2016. Subsequently, in October 2015, HMRC launched a consultation on amending the patent box regime to take account of these concerns. In December 2015, draft legislation to give effect to this change was published along with an impact note on the measure.

The 2016 Budget specifically confirmed that

> "The government will modify the operation of the Patent Box to comply with a new set of international rules created by the OECD, making the lower tax rate dependent on, and proportional to, the extent of research and development expenditure incurred by the company claiming the relief. This will come into effect on 1 July 2016."

10.45 am

According to the commentary in the *Tax Journal*,

> "Whilst the majority of the provisions are consistent with the draft clauses released in December 2015, there were a number of important changes and previously omitted items included in the Bill."

Those include flexibility for the grandfathering of products that contain both pre-1 July IP qualifying rights and post-30 June IP qualifying rights, and a provision allowing for an increase in the R and D fraction in exceptional circumstances. Perhaps the Minister could take this opportunity to confirm what would constitute exceptional circumstances.

The *Tax Journal* goes on to say:

> "The default length of the 'relevant period' for tracking and tracing R&D expenditure to the IP has been extended from 15 years to 20 years. In addition, a new provision has been introduced within the relevant period rules to provide clarification on the timing of expenditure for tracking and tracing purposes. Whilst this rule looks to align the timing of expenditure with the time at which it becomes deductible for corporation tax purposes, it should also act as an anti-forestalling measure. Unfortunately, despite representations, it seems that a company is only able to track and trace R&D expenditure at product family level (rather than as individual IP rights) where the product contains more than one item of IP. This remains a significant issue for some taxpayers."

Could the Minister confirm why that is the case?

My hon. Friends and I have tabled amendment 136 because we have heard from stakeholders that the efficacy of the patent box may be somewhat undermined as a result of the changes to ensure that we comply with the OECD recommendations. We support the principle of the patent box—indeed, we brought it in—but we also think that it needs to be reviewed in the light of these changes to make sure that it is the best mechanism to achieve its desired aim of incentivising patents based in the UK. Furthermore, the necessity for clause 60 and schedule 9 is somewhat in question, given the country's decision to leave the EU; I made a similar point about earlier clauses. Has the Minister considered the implications of the vote on the patent box? We are happy to accept Government amendments 50 to 121, which were tabled after consultation with stakeholders.

To conclude, we are very supportive of the patent box, but we have concerns about its efficacy, given all these changes. I hope that the Minister can address some of the concerns I have raised, but I will not push amendment 136 to a vote.

Mr Gauke: I thank the hon. Lady for her broad support for the patent box. What we sought to do with the patent box—both when it was introduced and now—is ensure that we have incentives in our tax system to encourage internationally mobile activity. This is about bringing jobs and investment to the United Kingdom. It is not about artificial profit shifting. On the Government's wider approach to the international tax system, we believe that there should be close alignment between economic activity, the profits that relate to that, and where those profits are taxed. That is why the UK has taken a leading role in the OECD's base erosion and profit shifting process. Of course, any process like BEPS requires compromise, but the direction in which we believe the international tax system should go—towards closer alignment—is the one that BEPS has pursued, and we are pleased with the outcomes.

The changes to the patent box reflect a degree of compromise, but in essence, thanks to the patent box, the UK continues to offer an attractive place in which intellectual property may be developed. That is something that we wish to continue. I have to pick up on three of the points made by the hon. Member for Salford and Eccles. In the context of the EU, I will make a similar point to one I made earlier: we are still in the EU and a negotiation has yet to be undertaken to know where we stand exactly. There is also a wider point: when addressing the challenges of the international tax system, much of the legislation would apply whether we were in the EU or not, because the OECD BEPS process applies to all OECD countries. I do not think that anyone is proposing a referendum on whether we should leave the OECD—it is not one that I would welcome. In these circumstances, we expect to comply with the OECD standard, and that is very much our approach.

The hon. Lady also made a couple of technical points, the first of which was about what constitutes exceptional circumstances. For example, IP might have been purchased but turned out to be worth less, so that its contribution to the fraction is out of line with the cost. Obviously I cannot be exhaustive, but I hope that example is helpful in illustrating the types of things we are talking about. She also asked about tracking and tracing at an individual product level, and why that is not the approach we have taken. Companies will be able to track and trace at IP product level, so I hope that she is reassured, but I will write to her with further information.

Amendment 50 agreed to.

Amendments made: 51, in clause 60, page 94, line 38, leave out "either".

Amendment 52, in clause 60, page 94, line 43, leave out "multi-IP" and insert "IP".

Amendment 53, in clause 60, page 94, line 43, at end insert

", or

(c) a sub-stream consisting of income properly attributable to a particular kind of IP process (a "process sub-stream")".

Amendment 54, in clause 60, page 95, line 1, leave out from "See" to second "and" and insert

"subsection (5) for the meaning of "IP item" and "IP process"".

Amendment 55, in clause 60, page 95, line 2, before "further" insert

"see subsections (5A) and (6) for".

Amendment 56, in clause 60, page 95, line 2, at end insert "and process sub-streams".

Amendment 57, in clause 60, page 95, line 12, at end insert—

"But see section 357BIA (which provides that certain amounts allocated to a relevant IP income sub-stream at Step 3 are not to be deducted from the sub-stream at this Step)."

Amendment 58, in clause 60, page 95, leave out lines 13 to 17.

Amendment 59, in clause 60, page 95, line 19, leave out from beginning to "deduct" in line 20.

Amendment 60, in clause 60, page 95, leave out lines 40 to 47 and insert—

"(5) In this section—

"IP item" means—

(a) an item in respect of which a qualifying IP right held by the company has been granted, or

(b) an item which incorporates one or more items within paragraph (a);

"IP process" means—

(a) a process in respect of which a qualifying IP right held by the company has been granted, or

(b) a process which incorporates one or more processes within paragraph (a).

(5A) For the purposes of this section two or more IP items, or two or more IP processes, may be treated as being of a particular kind if they are intended to be, or are capable of being, used for the same or substantially the same purposes."

Amendment 61, in clause 60, page 95, line 48, leave out

"which is properly attributable to a multi-IP item".

Amendment 62, in clause 60, page 95, line 49, after "sub-stream" insert "or process sub-stream".

Amendment 63, in clause 60, page 96, line 5, at end insert—

'( ) Any reference in this section to a qualifying IP right held by the company includes a reference to a qualifying IP right in respect of which the company holds an exclusive licence."

Amendment 64, in clause 60, page 98, line 2, leave out "357A" and insert "357A(1)".

Amendment 65, in clause 60, page 98, line 21, after first "income" insert ", finance income".

Amendment 66, in clause 60, page 100, line 41, at end insert—

"357BIA Certain amounts not to be deducted from sub-streams at Step 4 of section 357BF

(1) This section applies where a company enters into an arrangement with a person under which—

(a) the person assigns to the company a qualifying IP right or grants or transfers to the company an exclusive licence in respect of a qualifying IP right, and

(b) the company makes to the person an income-related payment.

(2) A payment is an "income-related payment" for the purposes of subsection (1) if—

(a) the obligation to make the payment arises under the arrangement by reason of the amount of income the company has accrued which is properly attributable to the right or licence, or

(b) the amount of the payment is determined under the arrangement by reference to the amount of income the company has accrued which is so attributable.

(3) If the amount of the income-related payment is allocated to a relevant IP income sub-stream at Step 3 of section 357BF(2), the amount is not to be deducted from the sub-stream at Step 4 of section 357BF(2) unless the payment will not affect the R&D fraction for the sub-stream."

Amendment 67, in clause 60, page 104, line 6, leave out from beginning to end of line 31 on page 105.

Amendment 68, in clause 60, page 108, line 13, at end insert—

"(3A) If an election made by the company under section 18A of CTA 2009 (election for exemption for profits or losses of company's foreign permanent establishments) applies to the relevant period, expenditure incurred by the company during the period which meets conditions A and B—

(a) is not "qualifying expenditure on relevant R&D undertaken in-house", but

(b) is "qualifying expenditure on relevant R&D sub-contracted to connected persons",

so far as it is expenditure brought into account in calculating a relevant profits amount, or a relevant losses amount, aggregated at section 18A(4)(a) or (b) of CTA 2009 in calculating the company's foreign permanent establishments amount for the period."

Amendment 69, in clause 60, page 108, line 22, leave out

"incorporated in a multi-IP item"

and insert

"—

(i) to which income in the sub-stream is attributable, or

(ii) which is incorporated in an item".

Amendment 70, in clause 60, page 108, line 23, at end insert

", or

(c) in a case where the sub-stream is a process sub-stream, relates to a qualifying IP right granted in respect of any process—

(i) to which income in the sub-stream is attributable, or

(ii) which is incorporated in a process to which income in the sub-stream is attributable."

Amendment 71, in clause 60, page 109, line 8, leave out "65% of any" and insert "the".

Amendment 72, in clause 60, page 109, leave out lines 10 to 15 and insert

"in making payments within subsection (2).

(2) A payment is within this subsection if—

(a) it is made to a person in respect of relevant research and development contracted out by the company to the person, and

(b) the company and the person are not connected (within the meaning given by section 1122)."

Amendment 73, in clause 60, page 109, line 15, at end insert—

"(3) If an election made by the company under section 18A of CTA 2009 (election for exemption for profits or losses of company's foreign permanent establishments) applies to the relevant period, expenditure incurred by the company during the period in making payments within subsection (2)—

(a) is not "qualifying expenditure on relevant R&D sub-contracted to unconnected persons", but

(b) is "qualifying expenditure on relevant R&D sub-contracted to connected persons",

so far as it is expenditure brought into account in calculating a relevant profits amount, or a relevant losses amount, aggregated at section 18A(4)(a) or (b) of CTA 2009 in calculating the company's foreign permanent establishments amount for the period."

Amendment 74, in clause 60, page 109, line 23, after "means" insert "the total of—

(a) any expenditure which is "qualifying expenditure on relevant R&D sub-contracted to connected persons" as a result of section 357BMB(3A) or 357BMC(3) (certain expenditure attributed to company's foreign permanent establishments), and

(b) ".

Amendment 75, in clause 60, page 109, line 23, leave out "65% of any" and insert "the".

Amendment 76, in clause 60, page 109, leave out lines 25 to 30 and insert

"in making payments within subsection (2).

'(2) A payment is within this subsection if—

(a) it is made to a person in respect of relevant research and development contracted out by the company to the person, and

(b) the company and the person are connected (within the meaning given by section 1122)."

Amendment 77, in clause 60, page 109, line 39, leave out from "company" to end of line 41 and insert

"in making during the relevant period payments within any of subsections (1A), (1B) and (1C).

(1A) A payment is within this subsection if it is made to a person in respect of the assignment by that person to the company of a relevant qualifying IP right.

(1B) A payment is within this subsection if it is made to a person in respect of the grant or transfer by that person to the company of an exclusive licence in respect of a relevant qualifying IP right.

(1C) A payment is within this subsection if—

(a) it is made to a person in respect of the disclosure by that person to the company of any item or process, and

(b) the company applies for and is granted a relevant qualifying IP right in respect of that item or process (or any item or process derived from it).

(1D) Where the company has incurred expenditure in making a series of payments to a person in respect of a single assignment, grant, transfer or disclosure, each of the payments in the series is to be treated for the purposes of this section as having been made on the date on which the first payment in the series was made."

Amendment 78, in clause 60, page 110, line 2, leave out

"incorporated in a multi-IP item" and insert "—

(i) to which income in the sub-stream is attributable, or

(ii) which is incorporated in an item".

Amendment 79, in clause 60, page 110, line 4, at end insert

", or

(c) in a case where the sub-stream is a process sub-stream, a qualifying IP right granted in respect of a process—

(i) to which income in the sub-stream is attributable, or

(ii) which is incorporated in a process to which income in the sub-stream is attributable."

Amendment 80, in clause 60, page 110, line 22, leave out "357BME" and insert "357BMD".

Amendment 81, in clause 60, page 111, leave out from beginning of line 8 to ", and" in line 11 and insert

"in each of subsections (1A), (1B) and (1C) the word "relevant" were omitted".

Amendment 82, in clause 60, page 112, line 25, leave out "357A" and insert "357A(1)".

Amendment 83, in clause 60, page 112, line 46, at end insert—

"Small claims treatment

357BNA Small claims treatment

(1) This section applies where—

(a) a company carries on only one trade during an accounting period,

(b) section 357BF applies for the purposes of determining the relevant IP profits of the trade for the accounting period, and

(c) the qualifying residual profit of the trade for the accounting period does not exceed whichever is the greater of—

(i) £1,000,000, and

(ii) the relevant maximum for the accounting period.

(2) The company may make any of the following elections for the accounting period—

(a) a notional royalty election (see section 357BNB),

(b) a small claims figure election (see section 357BNC), and

(c) a global streaming election (see section 357BND).

This is subject to subsections (3) and (4).

(3) The company may not make a notional royalty election, a small claims figure election or a global streaming election for the accounting period if—

(a) the qualifying residual profit of the trade for the accounting period exceeds £1,000,000,

(b) section 357BF applied for the purposes of determining the relevant IP profits of the trade for any previous accounting period beginning within the relevant 4-year period, and

(c) the company did not make a notional royalty election, a small claims figure election or (as the case may be) a global streaming election for that previous accounting period.

(4) The company may not make a small claims figure election for the accounting period if—

(a) the qualifying residual profit of the trade for the accounting period exceeds £1,000,000,

(b) section 357C or 357DA applied for the purposes of determining the relevant IP profits of the trade for any previous accounting period beginning within the relevant 4-year period, and

(c) the company did not make an election under section 357CL for small claims treatment for that previous accounting period.

(5) In subsections (3) and (4) "the relevant 4-year period" means the period of 4 years ending with the beginning of the accounting period mentioned in subsection (1)(a).

(6) For the purposes of this section, the "qualifying residual profit" of a trade of a company for an accounting period is the amount which (assuming the company did not make an election under this section) would be equal to the aggregate of the relevant IP income sub-streams established at Step 2 in section 357BF(2) in determining the relevant IP profits of the trade for the accounting period, following the deductions from those sub-streams required by Step 4 in section 357BF(2) (ignoring the amount of any sub-stream which is not greater than nil following those deductions).

(7) For the purposes of this section, the "relevant maximum" for an accounting period of a company is—

(a) in a case where no company is a related 51% group company of the company in the accounting period, £3,000,000;

(b) in a case where one or more companies are related 51% group companies of the company in the accounting period, the amount given by the formula—

$$\frac{£3{,}000{,}000}{1+N}$$

where N is the number of those related 51% group companies in relation to which an election under section 357A(1) has effect for the accounting period.

(8) For an accounting period of less than 12 months, the relevant maximum is proportionally reduced.

357BNB Notional royalty election

(1) Subsection (2) applies where a company has made a notional royalty election for an accounting period under section 357BNA(2)(a).

(2) In its application for the purposes of determining the relevant IP profits of the trade of the company for the accounting period, section 357BHA (notional royalty) has effect as if—

(a) in subsection (2) for "the appropriate percentage" there were substituted "75%", and

(b) subsections (3) to (6) were omitted."

357BNC Small claims figure election

(1) Subsection (2) applies where a company has made a small claims figure election for an accounting period under section 357BNA(2)(b).

(2) In its application for the purposes of determining the relevant IP profits of the trade of the company for the accounting period, section 357BF(2) (steps for calculating relevant IP profits) has effect as if in Step 6—

(a) for "marketing assets return figure" there was substituted "small claims figure", and

(b) for "(see section 357BL)" there was substituted "(see section 357BNC(3))".

(3) Subsections (4) to (9) apply for the purpose of calculating the small claims figure for a relevant IP income sub-stream established at Step 2 in section 357BF(2) in determining the relevant IP profits of a trade of a company for an accounting period.

(4) If 75% of the qualifying residual profit of the trade for the accounting period is lower than the small claims threshold, the small claims figure for the sub-stream is 25% of the amount of the sub-stream following Step 4 in section 357BF(2).

(5) If 75% of the qualifying residual profit of the trade for the accounting period is higher than the small claims threshold, the small claims figure for the sub-stream is the amount given by—

$$A - \left(\frac{A}{QRP} \times SCT\right)$$

where—

A is the amount of the sub-stream following the deductions required by Step 4 in section 357BF(2),

QRP is the qualifying residual profit of the trade of the company for the accounting period, and

SCT is the small claims threshold.

(6) If no company is a related 51% group company of the company in the accounting period, the small claims threshold is £1,000,000.

(7) If one or more companies are related 51% group companies of the company in the accounting period, the small claims threshold is—

$$\frac{£1,000,000}{1 + N}$$

where N is the number of those related 51% group companies in relation to which an election under section 357A(1) has effect for the accounting period.

(8) For an accounting period of less than 12 months, the small claims threshold is proportionately reduced.

(9) Subsection (6) of section 357BNA (meaning of "qualifying residual profit") applies for the purposes of subsection (4) and (5) of this section.

357BND Global streaming election

(1) Subsection (2) applies where a company has made a global streaming election for an accounting period under section 357BNA(2)(c).

(2) In its application for the purpose of determining the relevant IP profits of the trade of the company for the accounting period, this Chapter has effect with the following modifications.

(3) In subsection (2) of section 357BF (relevant IP profits)—

(a) omit Step 2,

(b) in Step 3 for "each of the relevant IP income sub-streams" substitute "the relevant IP income stream",

(c) in Step 4—

(i) in the words before paragraph (a), for "each" substitute "the",

(ii) for "sub-stream", in each place it occurs, substitute "stream",

(d) in Step 6—

(i) at the beginning insert "If the relevant IP income stream is greater than nil following Step 4,",

(ii) for the words from "each" to "Step 4" substitute "the stream",

(iii) for "sub-stream", in the second place it occurs, substitute "stream",

(e) in Step 7—

(i) for "each relevant IP income sub-stream" substitute "the relevant IP income stream",

(ii) for "sub-stream", in the second place it occurs, substitute "stream",

(f) omit Step 8, and

(g) in Step 9 for "given by Step 8" substitute "of the relevant IP income stream following Step 7".

(4) In subsection (3) of that section for "given by" substitute "of the relevant IP income stream following the Steps in".

(5) In subsection (4) of that section for "given by" substitute "of the relevant IP income stream following the Steps in".

(6) Omit subsections (5), (5A) and (6) of that section.

(7) In section 357BIA(3) (certain amounts not to be deducted from sub-streams at Step 4 of section 357BF)—

(a) for "a relevant IP income sub-stream" substitute "the relevant IP income stream";

(b) for "sub-stream", in the second and third places it occurs, substitute "stream".

(8) In section 357BJ (routine return figure)—

(a) for "sub-stream", in each place it occurs, substitute "stream", and

(b) in subsection (1) for "Step 2" substitute "Step 1".

(9) In section 357BL (marketing asset return figure) for "sub-stream", in each place it occurs, substitute "stream".

(10) In section 357BLA (notional marketing royalty)—

(a) for "sub-stream", in each place it occurs, substitute "stream", and

(b) in subsection (1) for "Step 2" substitute "Step 1".

(11) In section 357BLB (actual marketing royalty) for "sub-stream", in each place it occurs, substitute "stream".

(12) In section 357BM (R&D fraction: introduction)—

(a) for "sub-stream" (in each place it occurs) substitute "stream", and

(b) in subsection (1) for "Step 2" substitute "Step 1".

(13) In section 357BMA(1) (R&D fraction) for "sub-stream" substitute "stream".

(14) In section 357BMB(4) (qualifying expenditure on relevant R&D undertaken in-house) for the words after "1138)" substitute "which relates to a qualifying IP right to which income in the stream is attributable".

(15) In section 357BME(2) (qualifying expenditure on acquisition of relevant qualifying IP rights) for the words from "means" to the end substitute "means a qualifying IP right to which income in the stream is attributable".

(16) In section 357BMG (cases where the company is a new entrant with insufficient information about pre-enactment expenditure) for "sub-stream", in each place it occurs, substitute "stream".

(17) In section 357BMH (R&D fraction: increase for exceptional circumstances) for "sub-stream", in each place it occurs, substitute "stream".

(18) In section 357BNC (small claims figure election)—

(a) for "sub-stream", in each place it occurs, substitute "stream";

(b) in subsection (3) for "Step 2" substitute "Step 1"."

Amendment 84, in clause 60, page 113, line 17, at end insert—

"( ) Where section 357BF applies by reason of this section for the purposes of determining the relevant IP profits of a trade of a company for an accounting period, the company may not make a global streaming election for the accounting period under section 357BNA(2)(c)."

Amendment 85, in clause 60, page 113, leave out lines 34 to 44 and insert—

"(a) the company and the person who assigned the right or granted the licence were connected at the time of the assignment or grant,

(b) the main purpose, or one of the main purposes, of the assignment of the right or the grant of the licence was the avoidance of a foreign tax,

(c) the person who assigned the right or granted the licence was not within the charge to corporation tax at the time of the assignment or grant, and

(d) the person who assigned the right or granted the licence was not liable at the time of the assignment or grant to a foreign tax which is designated for the purposes of this section by regulations made by the Treasury."

Amendment 86, in clause 60, page 114, line 1, leave out "(9)(b)" and insert "(8)(d)".

Amendment 87, in clause 60, page 114, line 4, at end insert—

"( ) Regulations may not be made under subsection (8)(d) after 31 December 2016."

Amendment 88, in clause 60, page 114, line 21, leave out "(b)" and insert "(c)".

Amendment 89, in clause 60, page 114, line 24, leave out

"and each product sub-stream"

and insert

", each product sub-stream and each process sub-stream".

Amendment 90, in clause 60, page 114, line 32, leave out

"and product sub-streams"

and insert

", each of the product sub-streams and each of the process sub-streams".

Amendment 91, in clause 60, page 114, line 42, leave out "a multi-IP item" and insert

"an IP item or IP process".

Amendment 92, in clause 60, page 114, line 44, after "sub-stream" insert "or process sub-stream".

Amendment 93, in clause 60, page 114, line 45, leave out "multi-IP item" and insert

"IP item or IP process".

Amendment 94, in clause 60, page 115, line 1, after "item" insert "or process".

Amendment 95, in clause 60, page 115, line 4, after "item" insert "or process".

Amendment 96, in clause 60, page 115, line 8, leave out "multi-IP item" and insert

"IP item or IP process".

Amendment 97, in clause 60, page 115, line 9, leave out "item or items" and insert "items or processes".

Amendment 98, in clause 60, page 115, line 11, leave out "multi-IP item" and insert

"IP item or IP process".

Amendment 99, in clause 60, page 115, line 13, leave out "multi-IP item" and insert

"IP item or IP process".

Amendment 100, in clause 60, page 115, line 17, after "sub-stream" insert "or process sub-stream".

Amendment 101, in clause 60, page 115, line 18, leave out "multi-IP item" and insert

"IP item or IP process".

Amendment 102, in clause 60, page 115, line 20, leave out "multi-IP item" and insert

"IP item or IP process".

Amendment 103, in clause 60, page 115, line 24, after "sub-stream" insert "or process sub-stream".

Amendment 104, in clause 60, page 115, line 26, leave out "multi-IP item" and insert

"IP item or IP process".

Amendment 105, in clause 60, page 115, line 27, after "sub-stream" insert "or process sub-stream".

Amendment 106, in clause 60, page 115, line 27, leave out "multi-IP item" and insert

"IP item or IP process".

Amendment 107, in clause 60, page 115, line 29, after "items" insert "or processes".

Amendment 108, in clause 60, page 115, line 31, leave out "a multi-IP" and insert

"an IP item or IP process".

Amendment 109, in clause 60, page 115, line 35, after "items" insert "or processes"

Amendment 110, in clause 60, page 115, line 35, leave out "multi-IP item" and insert

"IP item or IP process".

Amendment 111, in clause 60, page 115, line 38, after "items" insert "or processes".

Amendment 112, in clause 60, page 115, line 38, leave out "multi-IP item" and insert

"IP item or IP process".

Amendment 113, in clause 60, page 115, line 40, at end insert—

"( ) In section 357FB (tax advantage schemes)—

(a) in subsection (2)(b) (list of ways by which deductions can be inflated)—

(i) omit "or" at the end of sub-paragraph (ii), and

(ii) after sub-paragraph (iii) insert ", or

(iv) an R&D fraction (see subsection (4A)) being greater than it would be but for the scheme.", and

(b) after subsection (4) insert—

"(4A) The reference in subsection (2)(b)(iv) to an R&D fraction is a reference to such a fraction as is mentioned at Step 7 of section 357BF(2).""

Amendment 114, in clause 60, page 115, line 40, at end insert—

"( ) After section 357GC insert—

"Transferred trades

357GCA Application of this Part in relation to transferred trades

(1) Where—

(a) a company ("the transferor") ceases to carry on a trade which involves the exploitation of a qualifying IP right ("the relevant qualifying IP right"),

(b) the transferor assigns the relevant qualifying IP right, or grants or transfers an exclusive licence in respect of it, to another company ("the transferee"), and

(c) the transferee begins to carry on the trade,

the following provisions apply in determining under this Part the relevant IP profits of the trade carried on by the transferee.

(2) The transferee is to be treated as not being a new entrant if—

(a) an election under section 357A(1) has effect in relation to the transferor on the date of the assignment, grant or transfer mentioned in subsection (1)(b) ("the transfer date"), and

(b) the first accounting period of the transferor for which that election had effect began before 1 July 2016.

(3) The relevant qualifying IP right is to be treated as being an old qualifying IP right in relation to the transferee if by reason of section 357BP it is an old qualifying IP right in relation to the transferor.

(4) Expenditure incurred prior to the transfer date by the transferor which is attributable to relevant research and development undertaken by the transferor is to be treated for the purposes of section 357BMB as if it is expenditure incurred by the transferee which is attributable to relevant research and development undertaken by the transferee.

(5) Expenditure incurred prior to the transfer date by the transferor in making a payment to a person in respect of relevant research and development contracted out by the transferor to that person is to be treated for the purposes of sections 357BMC and 357BMD as if it is expenditure incurred by the transferee in making a payment to that person in respect of relevant research and development contracted out by the transferee to that person.

(6) Expenditure incurred prior to the transfer date by the transferor in making a payment in connection with the relevant qualifying IP right which is within subsection (1A), (1B) or (1C) of section 357BME is to be treated for the purposes of that section as if it is expenditure incurred by the transferee in making a payment in connection with that right which is within one of those subsections.

(7) Expenditure incurred by the transferee in making a payment to the transferor in respect of the assignment, grant or transfer mentioned in subsection (1)(b) is to be ignored for the purposes of section 357BME.

(8) In this section—

"trade" includes part of a trade, and

"relevant research and development" means research and development which relates to the relevant qualifying IP right.

(9) For the purposes of this section research and development "relates" to the relevant qualifying IP right if—

(a) it creates, or contributes to the creation of the invention,

(b) it is undertaken for the purpose of developing the invention,

(c) it is undertaken for the purpose of developing ways in which the invention may be used or applied, or

(d) it is undertaken for the purpose of developing any item or process incorporating the invention.""

Amendment 115, in clause 60, page 116, line 9, for "357A" substitute "357A(1)".—*(Mr Gauke.)*

Clause 60, as amended, ordered to stand part of the Bill.

Schedule 9

PROFITS FROM THE EXPLOITATION OF PATENTS ETC: CONSEQUENTIAL

Amendments made: 116, in schedule 9, page 330, line 30, at end insert—

"1A In section 357B (meaning of "qualifying company"), in subsection (3)(b)(ii), for "section 357A" substitute "section 357A(1)"."

Amendment 117, in schedule 9, page 331, line 20, at end insert—

"( ) In subsection (6), in paragraph (a)(ii) of the definition of "relevant accounting period", for "section 357A" substitute "section 357A(1)"."

Amendment 118, in schedule 9, page 331, line 24, leave out paragraph 9 and insert—

"9 (1) Section 357CL (companies eligible to elect for small claims treatment) is amended as follows.

(2) In subsection (1) for "elect" substitute "make an election under this section".

(3) In subsection (6) for "section 357A" substitute "section 357A(1)"."

Amendment 119, in schedule 9, page 332, line 16, at end insert—

"13A In section 357EB (allocation of set-off amount within a group) in subsection (3)(a) for "section 357A" substitute "section 357A(1)".

13B In section 357ED (company ceasing to carry on trade etc) in subsection (2)(c) for "section 357A" substitute "section 357A(1)"."

Amendment 120, in schedule 9, page 332, line 18, at end insert—

"14A In section 357FB (tax advantage schemes) in subsection (4)(b) for "section 357A" substitute "section 357A(1)".

14B (1) Section 357G (making an election under section 357A) is amended as follows.

(2) In the heading, for "section 357A" substitute "section 357A(1) or (11)(b)".

(3) In subsection (1) for "section 357A" substitute "section 357A(1) or (11)(b)".

14C (1) Section 357GA (revocation of election made under section 357A) is amended as follows.

(2) In the heading, for "section 357A" substitute "section 357A(1)".

(3) In subsection (1) for "section 357A" substitute "section 357A(1)".

(4) In subsection (5) for "section 357A" substitute "section 357A(1)"."

Amendment 121, in schedule 9, page 332, line 28, at end insert—

"16A In section 357GE (other interpretation), in subsection (1), at the appropriate place insert—

"payment" includes payment in money's worth,"."—*(Mr Gauke.)*

Schedule 9, as amended, agreed to.

Clause 61

POWER TO MAKE REGULATIONS ABOUT THE TAXATION OF SECURITISATION COMPANIES

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

Rebecca Long Bailey: I want to say a few words about the clause; although it might not seem exciting at first glance, it really is, so listen carefully to what I am about to say.

Three principal themes underpin the Labour party's approach to the provisions in clauses 61 and 64, which we will come to later—in particular, those relating to the taxation of financial products. First, we need to ensure that, when the UK leaves the EU, its arrangements for regulating taxation and financial activity serve the country best and protect it from abusive practices such as tax avoidance and financial crime. Those arrangements must demonstrate the highest levels of transparency and probity.

Secondly, we need to ensure that the infrastructure supporting the UK economy accords with international standards on taxation and regulation, including the relevant OECD and International Accounting Standards Board models, which are applicable to this Bill. Finally, we need to secure Britain's place in the world by ensuring that it maintains the highest international standards.

The Bill's proposals on the taxation of financial instruments may appear on the surface to be merely technical, but they raise a number of significant questions about the organisation of our economy and infrastructure in the near future. Clause 61 appears to be a simple extension of the corporation tax treatment of securitisation companies to the taxes Acts generally. However, in 2008 the non-existent regulation of securitisation structures amplified a medium-sized storm in the US real estate market, and it became a fully-fledged banking crisis. I would like to ask the Minister how closely HMRC and the Treasury have considered the risks that the provision will be used for tax avoidance purposes.

Experience suggests that, if we alter the basis on which tax is levied, financial institutions will attempt to create derivative products that generate losses for tax purposes on, before and after the transition between the two tax codes, as we saw in the case of Inland Revenue Commissioners *v.* Scottish Provident Institution 2003 and many other cases in Hudson's "The Law on Financial Derivatives".

Just in the reported cases, there are several examples of financial institutions using slippery derivative products, for want of a better phrase, to avoid tax liability, such as Prudential plc *v.* Revenue and Customs Commissioners

2008. In that case, Chancellor Morritt held that banks should not be entitled to dictate the tax consequences of their transactions by attributing particular descriptions to them. That sort of tax avoidance, using changes in the tax treatment of products, has been criticised by Professor Alastair Hudson as

"a veritable industry in off-the-peg tax avoidance schemes"

in his book "The Law on Financial Derivatives". Has the Minister considered the misdescriptions that might be possible under this provision?

To return to the particulars of clause 61, securitisation structures operate by transferring assets—whether subprime mortgages, credit card receivables or similar cash flows—into off balance sheet special purpose vehicles. Ordinarily, the profits, or cash flows, received from those assets pass through the special purpose vehicle to the investors who have acquired bonds in the special purpose vehicle. Usually, the residual amounts—the focus of clause 61—that are left in the special purpose vehicle are small, compared with the sums paid to the investors. However, as with all such artificial financial structures, it is possible to manipulate those amounts.

If the residual amounts held by special purpose vehicles are to be saved from withholding tax, as clause 61 proposes, and are to be treated in a different manner for tax purposes—although the provision does not make plain exactly what the different tax treatment will be—that makes it possible for the payment flows through a special purpose vehicle to be raised artificially so that larger sums could benefit from this different tax treatment.

Will the Minister confirm what is stopping an unscrupulous financial institution involved in the off-the-peg industry of tax avoidance derivatives from passing large sums—otherwise subject to withholding tax as payments of interest, for example—through special purpose vehicles? Have the Government considered in detail how such cash flows should be treated to prevent artificial or abusive tax avoidance?

Furthermore, securitisation products, in the form of collateralised debt obligations, use complex derivatives as part of their structure—namely, credit default swaps. The purpose of credit default swaps has always been to permit two things: first, speculation on the creditworthiness of companies and Governments issuing bonds; and secondly, a form of artificial insurance. A feature of credit default swaps and all other credit derivatives is that they are flexible tools—so flexible, in fact, that they are ideal for manipulating tax statutes for tax avoidance purposes.

Professor Alastair Hudson has described the inherent flexibility of financial derivatives in his book "The Law on Financial Derivatives", which I recommend to the Minister for his summer holidays. Professor Hudson states that

"different legal structures and different pricing structures can generate different commercial and structural results out of substantially similar subject matter".

As he shows, it is possible for options contracts to be reorganised as swaps, and vice versa, so the possibilities for tax avoidance are endless. Consequently, it would be simple for financial institutions to repackage their payment obligations to achieve whatever characteristics are most helpful for tax purposes. I fear that clause 61 is really only the tip of the iceberg. There is a serious general point behind the specificity of my concerns about the clause.

11 am

As we debate the Bill, the country finds itself in new territory. In theory, without the strictures of EU legislation, it will be open to us to create our own regulations to govern derivatives as well as the rest of the financial markets. There are many critics of the way in which the EU has chosen to regulate derivatives for the first time. For example, the use of private businesses as central clearing counterparties and trade repositories, which gather information about transactions that have been conducted, has created a new set of risks concerned with the solvency and performance of those private businesses. What if they go insolvent themselves during a future financial crisis? As private businesses, they will necessarily invest their own money, and it is perfectly possible that in the midst of a crisis they will fail to liquidate their investments in time to meet their obligations to their members. In such a situation, it will be the taxpayer—again—who will have to bail out the markets.

Moves are being made in the US Congress to dismantle many of the Dodd-Frank Act protections surrounding derivatives. The UK finds itself at a crossroads. We either ensure that our financial markets are properly regulated, for the protection of the financial institutions themselves as well as the country at large, or we run the risk of the City of London—alongside the first-class business currently conducted there—becoming the drain through which the world launders its dirty transactions.

Although clause 61 appears to be mainly technical, it conceals some important issues. In that spirit, I ask what work the Treasury and HMRC have done in proposing this change. The proper regulation of securitisation products and all derivatives will be an important issue in the establishment of the new British economy. In a paper published on 16 March 2016, HMRC makes explicit reference to the international accounting standards that were created in 2005 in relation to securitisation companies and suggests that this change in the taxation of securitisation

"is not expected to have any significant macroeconomic impacts."

Those accounting standards were created by the International Accounting Standards Board after careful consultation with experts around the world, but all those minds together failed to anticipate the financial crisis that we experienced in 2008. That is a clear lesson for us all about the unintended consequences that can flow from too little care being expended on such reforms. I hope that the Minister can alleviate the concerns that I have raised in relation to clause 61.

The Chair: It may help all Committee members if I point out that if you want to take part in the debate—and everyone is encouraged to take part in the debate—it is usually a good idea to signify that by some means: a nod, a smile or even, more obviously, by rising to your feet. Otherwise, I am as much in the dark as everyone else.

Mr Gauke: Clause 61 will make a simple technical change to widen the scope of the power to make regulations about the taxation of securitisation companies included in the Corporation Tax Act 2010. It will enable the Government to make changes in regulations to remove uncertainty over the tax treatment of what are referred to as residual payments in the securitisation sector. That

[Mr Gauke]

uncertainty generates a large number of requests to HMRC for clearances, which creates an administrative burden on both businesses and HMRC. Making the tax position clear will improve the customer experience. It has been welcomed by the securitisation sector and will improve the UK's competitiveness as a financial centre.

Securitisation companies are a particular type of financial entity in which financial assets such as loans are transferred to a special purpose vehicle as security for debt issued to investors in the capital markets. Securitisation is an important way of getting more credit or liquidity flowing into the economy and of keeping down the costs of UK businesses' borrowing and finance. The securitisation regime has worked well since its introduction, but the current rules have been in place since 2006. They need updating, to reflect recent changes to accounting standards and market developments.

One area of uncertainty that has grown as the securitisation sector has developed over recent years involves residual payments. Residual payments arise because securitisation companies typically contain more financial assets than are likely to be required in order to repay investors, meet transactions costs and retain a small profit. That excess protects against possible poor performance of the assets and allows the securitisation company to obtain an attractive credit rating. The uncertainty that arises is that residual payments may, in limited circumstances, be treated as annual payments for tax purposes and therefore be subject to withholding tax under the Income Tax Act 2007. Whether or not residual payments are treated as annual payments will depend on the facts of each case.

Uncertainty over the withholding tax rules affects the ability of law firms to issue a legal opinion on which ratings agencies can base the credit rating of the securitisation. That has a negative impact on the competitiveness of the UK securitisation sector. Currently, the uncertainty is addressed by companies writing to HMRC to seek clearance that residual payments will not be annual payments and so can be paid without withholding tax. That is an administrative burden for businesses. We would like to clarify the position by removing the potential withholding obligation in regulations, but the existing power is not wide enough to do so.

The changes made by the clause will amend the existing power to make regulations concerning the application of the Corporation Tax Acts to securitisation companies. The clause will extend the power to cover the wider taxes Acts, including the income tax Acts. That will permit changes to be made in regulations to ensure that the requirement to deduct income tax from annual payments will, as intended, not apply to residual payments made by securitisation companies. It will have a negligible cost to the Exchequer. Updated regulations under the amended power will be developed in consultation with interested parties.

The hon. Member for Salford and Eccles raised the role of securitisation in the financial crisis, which we could have spent plenty of time debating. However, while there were significant problems and faults in the US securitisation market, the UK and EU securitisation markets remained relatively robust. The global regulatory framework for securitisation has been completely overhauled since the crisis, including through increased capital requirements, reform of the oversight of credit ratings agencies and improved transparency rules.

The clause will not mean that securitisation companies pay less tax or face less scrutiny from HMRC. There is no statutory definition determining whether a payment is an annual payment. That must be decided based on characteristics established in case law. HMRC's view is that the overwhelming majority of residual payments will never be annual payments. The change will clarify the position by placing the tax treatment on a statutory footing, removing uncertainty for taxpayers. There is no policy change here.

In terms of what is to stop large sums from being artificially passed through these vehicles, the notes have to be issued wholly or mainly to external investors. The SPVs are conduits and do not retain the profits. On how we treat such cash flows to prevent avoidance, under the payment rules an SPV is taxed on a small retained profit that has to be paid out to investors within 18 months.

This simple change to primary legislation has been welcomed by the industry. It will allow changes to be made in regulations to make the tax rules applying to securitisation companies work as intended. It will also make it easier for UK businesses to raise finance through securitisations, making those businesses and the UK securitisation sector more competitive. It will remove uncertainty over the appropriate tax treatment and need for businesses to consult HMRC on this issue before entering into securitisation transactions and it will ensure that the tax treatment of residual payments will be treated consistently. I therefore hope that the clause will stand part of the Bill.

Question put and agreed to.

Clause 61 accordingly ordered to stand part of the Bill.

Clause 62

HYBRID AND OTHER MISMATCHES

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

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

Rebecca Long Bailey: The same general points that I made about clause 61 broadly apply to this clause. The United Kingdom finds itself occupying a new place in the world and the provisions in the clause relate to the difficult business of double tax treaties. Such treaties currently need to be negotiated on a bilateral basis with countries that are outside large trading blocs such as the EU. They are therefore a model for the sort of issues that will be vital for the UK outside the EU.

There are model double tax treaties created by the OECD, which will guide our work. A future Labour Government would be outward looking in forging alliances of the sort possible under the OECD umbrella to create viable tax regulation and financial regulation internationally. However, there are some contexts in which the provisions in schedule 10, which the clause introduces, appear to be a little vague. For example, proposed new section 259BD(8) prevents a company from being "under taxed", by identifying the highest rate at which tax is charged and asking whether that is lower than the company's full marginal rate of tax should have been.

That is to be done by taking into account, on a "just and reasonable basis", any credit for underlying tax. The reference to just and reasonable appears somewhat vague when contrasted with, for example, provisions governing international accounting standards in earlier clauses. As a survivor of the legal world, will the Minister confirm what "just and reasonable" is intended to mean and how HMRC will use that broad measuring stick in practice? Does he think that is a sufficiently clear mechanism for identifying whether sufficient tax has been paid, or do the Government simply seek to grant HMRC as much slack as they can?

Mr Gauke: Clause 62 and schedule 10 make changes to tackle multinationals that avoid UK corporation tax through cross-border business structures known as hybrid mismatch arrangements. We are building on the new rules announced at autumn statement 2014 and extending them, not least so that they also cover overseas branches, leading the way on implementing international best practice in this area.

The changes will neutralise the tax effect of hybrid mismatch arrangements and effect the recommendations of action 2 of the G20-OECD base erosion and profit-shifting project. In addition, they will neutralise the tax effect of hybrid mismatch arrangements involving permanent establishments. That means that the measure will tackle aggressive tax planning where, within a multinational group, either one party gets a tax deduction for a payment while the other party does not have a taxable receipt or there is more than one tax deduction for the same expense. The aim is to eliminate the unfair tax advantages that arise from the use of hybrid entities, hybrid instruments, dual resident companies and permanent establishments. That will encourage businesses to adopt less complicated cross-border investment structures.

In 2013 the OECD and the G20 countries adopted a 15-point action plan to address base erosion and profit shifting. BEPS refers to tax-planning strategies that exploit gaps and mismatches in the tax rules of different countries to make profits disappear for tax purposes or to shift profits to locations where there is little or no real activity but where the tax rates are low, resulting in little or no overall corporate tax being paid. The BEPS action plan is aimed at ensuring that profits are taxed where the economic activities generating the profits are performed, and where value is created.

11.15 am

Clause 62 and schedule 10 implement the recommendations on neutralising the effects of hybrid mismatch arrangements. The rules are designed to ensure that multinationals can no longer derive tax benefit from mismatch arrangements using hybrid entities, hybrid financial instruments or dual resident companies.

Clause 62 and schedule 10 also include rules to tackle hybrid mismatch arrangements that involve permanent establishments. Permanent establishments of companies are often used as an alternative to hybrid entities in tax planning arrangements, as they provide for similar mismatch opportunities. The clause covers such arrangements to ensure that groups cannot simply sidestep the OECD recommendations by using permanent establishments. Failing to tackle such permanent establishment arrangements would present an obvious opportunity for further avoidance, which would undermine the measure's policy objective.

The Government announced their intention to introduce domestic legislation in October 2014. They consulted at autumn statement 2014 and later published draft legislation for technical consultation in December 2015. As a result, clause 62 and schedule 10 have been informed by consideration of responses to the consultation, by further engagement with interested parties, and by publication of the final OECD report.

The changes made by clause 62 and schedule 10 will address hybrid mismatch arrangements by changing the tax treatment of either the payment or the receipt, depending on circumstances. The rules are designed to work whether both countries affected by a cross-border arrangement, or just one of them, have introduced the OECD rules. The changes will affect large multinational groups with UK parent or subsidiary companies that are involved in transactions that result in a mismatch in tax treatment in the UK, or between the UK and another jurisdiction. The rules will take effect from 1 January 2017. In taking the action, and particularly in providing for the rules to cover permanent establishments, the UK will not only fully implement the agreed OECD recommendations; it will go beyond them. That will bring in more than £900 million over the next five years.

The hon. Member for Salford and Eccles raised a point about the definition of the expression "just and reasonable". There is no definition; it takes account of the facts and circumstances of specific cases and does not give advantage to the tax Administration. It is a well used expression, which is understandably used in the circumstances in question.

The Government are stopping multinationals avoiding paying their fair share of UK tax through the use of cross-border business structures. We are building on the rules that we announced at autumn statement 2014 and extending them so that they also cover overseas branches, leading the way on implementing international best practice in the area.

Question put and agreed to.

Clause 62 accordingly ordered to stand part of the Bill.

Schedule 10 agreed to.

Clause 63

INSURANCE COMPANIES CARRYING ON LONG-TERM BUSINESS

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

Rebecca Long Bailey: I will be brief. The provision raises some seemingly technical questions on the taxation of loan relationships and derivatives—concepts that are closely linked in tax law. As with the other clauses, it requires deeper thought as the UK prepares to leave the EU. What precise changes, which HMRC has presumably observed in the financial markets, have prompted the reforms proposed in clause 63?

The role of insurance companies, particularly naive participants such as AIG before 2008, in derivatives markets must give us all pause for thought when considering how to regulate and tax them in the future. Those

[Rebecca Long Bailey]

enormous insurance companies are involved in vital financial services for our citizens as well as extraordinarily complex financial instruments, such as credit default swaps. We must therefore be concerned that the reforms to the treatment of insurance companies are considered necessary. Will the Minister confirm what work the Treasury has done on assessing the future treatment of derivatives and similar markets and their impact on the UK economy? It is important for the future health of the UK economy that careful analysis of those markets is conducted as we prepare to leave the EU.

Mr Gauke: Clause 63 makes changes to ensure that corporation tax rules applying to insurance companies carrying on long-term business produce the appropriate policy results. A new regime for the taxation of life insurance companies was introduced in the Finance Act 2012 and was widely welcomed. However, putting that into practice has uncovered some specific issues that must be resolved for the regime to operate smoothly and effectively. HMRC has worked with industry to identify those issues, which relate to three main areas: intangible fixed assets, deemed income and trading losses.

Clause 63 will make minor technical changes to that legislation to ensure that it operates as intended. The cost to the Exchequer is negligible. For intangible fixed assets, clause 63 will allow debits to be set against the income for the accounting period in which they are incurred. That will bring the rules into line with those for companies that are not life insurers. For deemed income, clause 63 will prevent unused interest expenses from being set against the minimum profits charge in any circumstances. That will mean that any such charge is always fully taxed. For trading losses, clause 63 will mean that their use is no longer restricted to a company's net position on its derivative contracts in the same period, which will bring stability into that calculation. The changes are relatively minor in nature and will have a small impact on insurers' profits. However, they are important as they will ensure that the legislation delivers the intended policy objectives.

As I said, the Finance Act 2012 introduced a fundamental rewrite of life insurance company taxation. Such major reforms are always likely to necessitate some minor adjustments when put into practice and HMRC has worked with the industry to identify a handful of issues where the legislation does not work as intended. The changes will simply ensure the legislation operates as initially intended, which is why we are making them. Of course, all these matters are kept under review. Again, the hon. Lady raises the point about EU membership and so on. I am not sure I have much to add to what I previously said on that matter. I hope that the clause stands part of the Bill.

Question put and agreed to.

Clause 63 accordingly ordered to stand part of the Bill.

Ordered, That further consideration be now adjourned.—*(Mel Stride.)*

11.23 am

Adjourned till this day at Two o'clock.

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

FINANCE BILL

(Except clauses 7 to 18, 41 to 44, 65 to 81, 129, 132 to 136 and 144 to 154 and schedules 2, 3, 11 to 14 and 18 to 22)

Fourth Sitting

Tuesday 5 July 2016

(Afternoon)

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PBC (Bill 001) 2016 - 2017

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor's Room, House of Commons,

not later than

Saturday 9 July 2016

The Committee consisted of the following Members:

Chairs: Sir Roger Gale, † Mr George Howarth

† Argar, Edward *(Charnwood)* (Con)
† Atkins, Victoria *(Louth and Horncastle)* (Con)
† Blackman, Kirsty *(Aberdeen North)* (SNP)
† Boswell, Philip *(Coatbridge, Chryston and Bellshill)* (SNP)
† Burns, Conor *(Bournemouth West)* (Con)
† Cadbury, Ruth *(Brentford and Isleworth)* (Lab)
† Cooper, Julie *(Burnley)* (Lab)
Donelan, Michelle *(Chippenham)* (Con)
† Dowd, Peter *(Bootle)* (Lab)
† Frazer, Lucy *(South East Cambridgeshire)* (Con)
† Gauke, Mr David *(Financial Secretary to the Treasury)*
† Hall, Luke *(Thornbury and Yate)* (Con)
† Hinds, Damian *(Exchequer Secretary to the Treasury)*
† Long Bailey, Rebecca *(Salford and Eccles)* (Lab)
† McGinn, Conor *(St Helens North)* (Lab)
McDonnell, John *(Hayes and Harlington)* (Lab)
† Mak, Mr Alan *(Havant)* (Con)
† Matheson, Christian *(City of Chester)* (Lab)
† Merriman, Huw *(Bexhill and Battle)* (Con)
† Mullin, Roger *(Kirkcaldy and Cowdenbeath)* (SNP)
† Quin, Jeremy *(Horsham)* (Con)
Streeting, Wes *(Ilford North)* (Lab)
† Stride, Mel *(Lord Commissioner of Her Majesty's Treasury)*
Tolhurst, Kelly *(Rochester and Strood)* (Con)

Matthew Hamlyn, Marek Kubala, *Committee Clerks*

† attended the Committee

Public Bill Committee

Tuesday 5 July 2016

(Afternoon)

[Mr George Howarth *in the Chair*]

Finance Bill

(Except clauses 7 to 18, 41 to 44, 65 to 81, 129, 132 to 136 and 144 to 154 and schedules 2, 3, 11 to 14 and 18 to 22)

Clause 64

Taking over payment obligations as lessee of plant or machinery

2 pm

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

Rebecca Long Bailey (Salford and Eccles) (Lab): I covered most of the points relating to this clause when discussing previous clauses. I am concerned that it is another example of complex arrangements being created for the purpose of, among other things, avoiding liability to pay corporation tax. Will the Minister confirm what specific activity has prompted these proposals?

The Financial Secretary to the Treasury (Mr David Gauke): It is a pleasure to welcome you back to the Chair, Mr Howarth. Let me say a word or two about the clause in response to the hon. Lady's question.

Clause 64 makes changes to prevent tax avoidance by ensuring that tax is chargeable upon any consideration received in return for agreeing to take over tax-deductible lease payments. Leasing of plant and machinery plays an important role in UK business by providing a means of access to assets for use in commercial activities. There may be a number of different reasons for choosing to lease plant and machinery—for example, where the assets are required for only a relatively short period, where a lease meets the requirements of the business's cash flows, where the business does not have the funds to buy the asset outright or where the asset is of a type typically leased rather than bought.

The person who leases plant and machinery—the lessee—for use in their business is entitled to tax deductions for the rents payable under the lease. Her Majesty's Revenue and Customs has become aware of arrangements relating to the transfer of a lessee position in an existing lease. In those arrangements, the existing lessee transfers its right to use the leased plant or machinery, together with the obligation to make the lease payments, to another person. The new lessee will use the plant or machinery in its business and claim tax deductions for the lease rental payments.

However, the arrangements for transfer also involve the new lessee or a connected person receiving a consideration in return for the new lessee agreeing to take over from the existing lessee. That is done in such a way that there is no charge for tax on that consideration. The new lessee is able to get tax deductions for rental payments, some or all of which are funded by the non-taxable consideration received. That is an unfair outcome, and in a number of examples seen by HMRC it is clearly part of a tax avoidance scheme.

It is right that where a person meets tax-deductible payments not from their own resources but out of an otherwise non-taxable consideration received for agreeing to take over those payments, that consideration should be taxed in full. The changes made by the clause will ensure that where a person takes over a lessee under an existing lease, obtains tax deductions for payments under that lease and, in return, receives a consideration, such consideration is chargeable for tax as income.

The changes proposed will ensure a fair outcome for tax purposes for such arrangements. No longer will it be possible for tax-deductible lease payments to be funded by untaxed considerations received for the transfer of responsibility to make those payments. The expected yield to the Exchequer over the scorecard period from the changes is £120 million. I therefore hope the clause will stand part of the Bill as a way of preventing businesses from gaining an unwarranted tax advantage.

Question put and agreed to.

Clause 64 accordingly ordered to stand part of the Bill.

Clause 82

Inheritance tax: increased nil-rate band

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

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

Government amendments 13 to 19.

That schedule 15 be the Fifteenth schedule to the Bill.

Mr Gauke: Clause 82 and schedule 15 ensure that the residence nil-rate band for inheritance tax will continue to be available when an individual downsizes or ceases to own a home. The clause builds on the provisions in the Finance Act 2015, which introduced a new residence nil-rate band, by creating an effective inheritance tax threshold of up to £1 million for many married couples and civil partners by the end of the Parliament, making it easier for most families to pass on the family home to their children and grandchildren without the burden of inheritance tax.

The combined effect of this package will almost halve the number of estates expected to face an inheritance tax bill in future. The Office for Budget Responsibility now forecasts that 33,000 estates will be liable for inheritance tax in 2020-21. As a result of this package, 26,000 estates will be taken out of inheritance tax altogether and 18,000 will pay less.

We recognise that people's circumstances change as they get older and that they may want to downsize or may have to sell their property. We do not want the residence nil-rate band to act as a disincentive for people thinking about making such changes. That is why we announced in the summer Budget that anyone who downsizes or ceases to own a home on or after

8 July 2015 will still be able to benefit from the new residence allowance. Clause 82 and schedule 15 allow an estate to qualify for all or part of the residence nil-rate band that would otherwise be lost as a result of the downsizing move or disposal of the residence.

The extra residence nil-rate band or downsizing edition will only be available for one former residence that the deceased lived in. Where more than one property might qualify, executors of an estate will be able to nominate which former residence should qualify. The approach reduces complexity and ensures flexibility in the system.

The Government have tabled seven amendments to schedule 15 to ensure that the legislation works as intended in certain situations that are not currently covered by the downsizing provisions. Amendment 15 caters for situations in which an individual had more than one interest in a former residence, to ensure that they are not disadvantaged compared with those who owned the entire former residence outright. Amendment 16 clarifies the meaning of disposal in situations where an individual gave away a former residence but continued to live in it. Amendment 19 ensures that where an estate is held in a trust for the benefit of a person during their lifetime, a disposal of that former residence by the trustees would also qualify for the residence nil-rate band.

Amendments 13, 14, 17 and 18 make minor consequential changes to take into account the other amendments. Clause 82 and schedule 15 will help to deliver the Government's commitment to take the ordinary family home out of inheritance tax by ensuring that people are not disadvantaged if they move into smaller homes or into care. That commitment was made in our manifesto and I am pleased to deliver it fully with this clause.

Rebecca Long Bailey: As we have heard from the Minister, clause 82 and schedule 15 provide that the inheritance tax transferrable main residence nil-rate band will apply to an estate even when somebody downsizes. As the *Tax Journal*'s commentary on the Bill concisely explains, schedule 15 in particular contains provisions to ensure that

"estates will continue to benefit from the new residence nil rate band even where individuals have downsized or sold their property, subject to certain conditions. The residence nil-rate band is an additional transferable nil rate band which is available for transfers of residential property to direct descendants on death. The additional relief will be available from 6 April 2017 and the relief for downsizing or disposals will apply for deaths after that date where the disposal occurred on or after 8 July 2015."

My hon. Friend the Member for Hayes and Harlington and I tabled amendments to leave out clause 82 and schedule 15 today—we will therefore oppose the clause—although they were not selected for debate.

The Government's objective seems to be that

"individuals may wish to downsize to a smaller and often less valuable property later in life. Others may have to sell their home for a variety of reasons, for example, because they need to go into residential care. This may mean that they would lose some, or all, of the benefit of the available RNRB. However, the government intends that the new RNRB should not be introduced in such a way as to disincentivise an individual from downsizing or selling their property."

If we go back a couple of steps, at summer Budget 2015 the Government announced that there would be an additional nil-rate band for transfers on death of the main resident to a direct descendant set at £100,000 and subject to a taper for an estate with a net value of more than £2 million. The band will be withdrawn by £1 for every £2 over the threshold. During the passage of the Finance Act 2015, which introduced the additional nil-rate band, the Opposition spokesperson, my hon. Friend the Member for Worsley and Eccles South (Barbara Keeley), stated:

"We have been clear that we believe that the focus of tax cuts should be on helping working people on middle and low incomes and on tackling tax avoidance…the Treasury has admitted that 90% of households will not benefit from the Government's inheritance tax policy, so we should be clear about the part of society we are talking about."

She went on:

"The priority for the Government, we believe, should be helping the majority of families and first-time buyers struggling to get a home of their own. That is why Labour voted against the Government's inheritance tax proposals in the July Budget debate. The Treasury estimates that the changes to inheritance tax will cost the Exchequer £940 million by 2020-21—nearly £1 billion."–-[*Official Report, Finance Public Bill Committee,* 17 September 2015; c. 56.]

I echo those comments in the light of the measure today. We simply do not believe that expanding the conditions in which inheritance tax is not payable should be a priority for the Government. As my hon. Friend said at that time, this measure will cost nearly £1 billion by 2020-21. That is a vast amount of money that could be better spent supporting those on middle and low incomes who are struggling to get by.

As with so many measures in the Bill, the Government are prioritising the wrong people, with tax giveaways for the wealthy, such as this measure, and cuts to capital gains tax, at a time when they were considering taking billions away from working people through cuts to tax credits and disability payments. Not only do we disagree with the principle of this tax giveaway; we are also concerned that the legislation is badly drafted. A similar outcome could be achieved through a simpler mechanism. The Chartered Institute of Taxation has said:

"It appears to us that the legislation in Schedule 15 as currently drafted is deficient in one particular respect in that no provision has been made for downsizing when the home is held as a trust interest (for example, and especially, an Immediate Post-Death Interest ("IPDI")). The typical scenario would be that the home (solely owned by husband) was left on a life interest basis to his widow, with remainder over to his children. The widow goes into care and the trustees wish to sell the property. An IPDI is becoming increasingly common to safeguard the interests of children from a first marriage when their parent enters into a second."

Will the Minister clarify what will happen in that instance?

I will touch briefly on Government amendments 13 to 19, which according to the Minister's helpful letter of 30 June make a number of technical amendments to ensure that the legislation operates as intended in a limited number of specific circumstances that are not currently covered by the downsizing provisions. I am glad that the Government are taking steps to improve the legislation, but I cannot see how the amendments address the concerns outlined by the Chartered Institute of Taxation.

The Opposition do not feel that these measures, which expand the number of situations in which inheritance tax is not due, are a priority, given the apparent funding constraints we often hear about from the Government. We will therefore oppose clause 82 and schedule 15.

Roger Mullin (Kirkcaldy and Cowdenbeath) (SNP): It is a pleasure to serve under your chairmanship yet again, Mr Howarth. I congratulate the hon. Lady on the clear case she has made. We shall also oppose this measure.

I have one question for the Minister. He mentioned that 26,000 would be taken out of the tax altogether and 18,000 would pay less because of this change. Will he clarify how many of those are in Scotland and the north of England, compared with some of the richer parts of the country? I think that would be informative. Secondly, this is the wrong initiative at the wrong time, and it is targeted at the wrong people. That is why we will oppose it.

2.15 pm

Mr Gauke: I am disappointed that this clause and the approach that the Government are taking do not have cross-party support, but I am sure that my hon. Friends on the Government side will support the measures.

The first point I have to make in response to the criticism of the clause is that, of course, the Government were elected and one of our manifesto pledges was to take forward measures to take the family home out of inheritance tax. We also have to bear it in mind that not doing anything on inheritance tax is not a neutral option, because the consequence of leaving inheritance tax alone is that, in a period in which property prices increase, more and more households and estates fall within inheritance tax and inheritance tax receipts will go up. It is worth pointing out that inheritance tax receipts in cash terms will continue to be higher under this Government than at any time since the introduction of inheritance tax in 1986, including the period of the last Labour Government between 1997 and 2010, when receipts peaked at £3.8 billion in 2007-08. Let us remember that.

Regarding the impact of not doing anything, do remember that relatively modest properties have increased in value. In 2015, the average house price in London was £552,000 and in the south-east it was £375,000. That means that relatively modest households were potentially finding themselves with an inheritance tax bill, which had not previously been the case under Governments of different colours.

Some technical points were made by Opposition Members. I was asked whether the downsizing rules will apply when the former house was held in a trust. Amendment 19 caters for such situations. The measure will apply only where the former home was held in a type of trust that was set up for the benefit of a person during their lifetime and that person had a right to the trust assets. It does not apply to former homes held in discretionary trusts because they would not qualify for the residence nil-rate band in those circumstances.

I was asked whether the estate would qualify for the allowance if the home is left in trust for a spouse and on their death passes to the children. The answer to that is no. If the home is transferred on death to a life interest trust to the benefit of the surviving spouse, the deceased's estate will not qualify for the residence nil-rate band because the home is not inherited by a direct descendant at that time. However, the unused portion of the residence nil-rate band can be transferred to the surviving spouse's estate to be used on their death. If the home subsequently passes to a direct descendant on the death of the surviving spouse or life tenant, their estate will be eligible for the residence nil-rate band.

In terms of exact numbers for the United Kingdom, I do not have those numbers; I will have to write to the hon. Member for Kirkcaldy and Cowdenbeath. However, it is the case that there are beneficiaries of this policy throughout the United Kingdom.

Kirsty Blackman (Aberdeen North) (SNP): We are not denying that there will be people who will benefit from not paying tax or from paying less tax, but in places in Scotland you can get a castle for £1 million—albeit a small castle—and that is in no way, shape or form a family home, and it should not be classed as such.

Mr Gauke: I come back to what I was saying earlier, namely, that doing nothing will mean that many properties, often relatively modest properties, will fall within the inheritance tax bands. Doing nothing will mean that a tax that I think most people in this country would support, on the basis that it is designed for the very wealthy, would apply to people who would not necessarily have had high incomes in their lifetimes. That creates a sense of unfairness. There are certainly parts of Edinburgh where relatively modest properties are of such a value as to create concerns about inheritance tax.

Christian Matheson (City of Chester) (Lab): If the Minister is concerned about rising property prices and an overheating housing market driving more people into inheritance tax bands, perhaps he should do something about the housing market—rather than fiddling around with the tax bands—for example, by building more houses for rent and cooling the housing market in that way.

Mr Gauke: I very much support the idea that we need to build more homes. As a Government, we have done so. We are a Government who have changed many of the planning rules. We are a Government who announced a substantial housing package in the autumn statement. This Government are doing much to improve house building in this country. Indeed, the number of building starts last year was high, which is encouraging.

To conclude, the measures before us are a sensible further step to meeting our objective of taking the family home out of inheritance tax. They will also ensure that there is no impediment to people downsizing, creating difficulties in the housing market. I hope, notwithstanding the objections from the Opposition, that clause 82 and schedule 15 will stand part of the Bill.

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

The Committee divided: Ayes 11, Noes 9.

Division No. 2]

AYES

Argar, Edward
Atkins, Victoria
Burns, Conor
Frazer, Lucy
Gauke, Mr David
Hall, Luke
Hinds, Damian
Mak, Mr Alan
Merriman, Huw
Quin, Jeremy
Stride, Mel

NOES

Blackman, Kirsty	Long Bailey, Rebecca
Boswell, Philip	McGinn, Conor
Cadbury, Ruth	Matheson, Christian
Cooper, Julie	Mullin, Roger
Dowd, Peter	

Question accordingly agreed to.

Clause 82 ordered to stand part of the Bill.

Schedule 15

INHERITANCE TAX: INCREASED NIL-RATE BAND

Amendments made: 13, page 440, line 45, leave out "section 8H(4A) to (4F)" and insert "sections 8H(4A) to (4F) and 8HA".

Amendment 14, page 441, line 39, leave out "section 8H(4A) to (4F)" and insert "sections 8H(4A) to (4F) and 8HA".

Amendment 15, page 445, leave out lines 26 to 37 and insert—

'(4B) Where—

(a) the person—

(i) disposes of a residential property interest in the nominated dwelling-house at a post-occupation time, or

(ii) disposes of two or more residential property interests in the nominated dwelling-house at the same post-occupation time or at post-occupation times on the same day, and

(b) the person does not otherwise dispose of residential property interests in the nominated dwelling-house at post-occupation times,

the interest disposed of is, or the interests disposed of are, a qualifying former residential interest in relation to the person.

(4C) Where—

(a) the person disposes of residential property interests in the nominated dwelling-house at post-occupation times on two or more days, and

(b) the person's personal representatives nominate one (and only one) of those days,

the interest or interests disposed of at post-occupation times on the nominated day is or are a qualifying former residential interest in relation to the person."

Amendment 16, page 445, line 37, at end insert—

'( ) For the purposes of subsections (4A) to (4C)—

(a) a person is to be treated as not disposing of a residential property interest in a dwelling-house where the person disposes of an interest in the dwelling-house by way of gift and the interest is, in relation to the gift and the donor, property subject to a reservation within the meaning of section 102 of the Finance Act 1986 (gifts with reservation), and

(b) a person is to be treated as disposing of a residential property interest in a dwelling-house if the person is treated as making a potentially exempt transfer of the interest as a result of the operation of section 102(4) of that Act (property ceasing to be subject to a reservation)."

Amendment 17, page 445, line 43, after "be" insert ", or be included in,".

Amendment 18, page 446, line 3, at end insert

", and

(c) before the person dies."

Amendment 19, page 446, line 6, at end insert—

"8HA "Qualifying former residential interest": interests in possession

(1) This section applies for the purposes of determining whether certain interests may be, or be included in, a qualifying former residential interest in relation to a person (see section 8H(4A) to (4C)).

(2) This section applies where—

(a) a person ("P") is beneficially entitled to an interest in possession in settled property, and

(b) the settled property consists of, or includes, an interest in a dwelling-house.

(3) Subsection (4) applies where—

(a) the trustees of the settlement dispose of the interest in the dwelling-house to a person other than P,

(b) P's interest in possession in the settled property subsists immediately before the disposal, and

(c) P's interest in possession—

(i) falls within subsection (7) throughout the period beginning with P becoming beneficially entitled to it and ending with the disposal, or

(ii) falls within subsection (8).

(4) The disposal is to be treated as a disposal by P of the interest in the dwelling-house to which P is beneficially entitled as a result of the operation of section 49(1).

(5) Subsection (6) applies where—

(a) P disposes of the interest in possession in the settled property, or P's interest in possession in the settled property comes to an end in P's lifetime,

(b) the interest in the dwelling-house is, or is part of, the settled property immediately before the time when that happens, and

(c) P's interest in possession—

(i) falls within subsection (7) throughout the period beginning with P becoming beneficially entitled to it and ending with the time mentioned in paragraph (b), or

(ii) falls within subsection (8).

(6) The disposal, or (as the case may be) the coming to an end of P's interest in possession, is to be treated as a disposal by P of the interest in the dwelling-house to which h P is beneficially entitled as a result of the operation of section 49(1).

(7) An interest in possession falls within this subsection if—

(a) P became beneficially entitled to it before 22 March 2006 and section 71A does not apply to the settled property; or

(b) P becomes beneficially entitled to it on or after 22 March 2006 and the interest is—

(i) an immediate post-death interest,

(ii) a disabled person's interest, or

(iii) a transitional serial interest.

(8) An interest in possession falls within this subsection if P becomes beneficially entitled to it on or after 22 March 2006 and it falls within section 5(1B)."—*(Mr Gauke.)*

Schedule 15, as amended, agreed to.

Clause 83

INHERITANCE TAX: PENSION DRAWDOWN FUNDS

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

Rebecca Long Bailey: The Minister will be pleased to hear that I do not have many comments on this clause, which provides that inheritance tax will not be charged if a person leaves unused funds in a pension drawdown

[Rebecca Long Bailey]

fund when they die. In April 2015, the Government introduced changes to pension tax rules allowing people to access their pension funds flexibly from the age of 55. That flexibility, and an increase in drawdown arrangements, means that the inheritance tax charge will potentially apply to more people. The changes, which the Opposition supported at the time, meant that pensioners could access as much of their pension pots as they wanted, without having to buy an annuity. That meant, however, that if people became entitled to the funds but did not actually draw on them before death, the money would be subject to inheritance tax at the usual rate. According to the explanatory notes, that was not the original policy intention, so the clause has been introduced to correct things. The Opposition supported the changes to pension tax rules so will not be opposing the clause.

Mr Gauke: As we have heard, clause 83 makes changes to ensure that when an individual dies, unused funds in a drawdown pension are not treated as part of their estate for inheritance tax purposes. Without the clause, a small number of pensions would be liable for inheritance tax in some circumstances, which was not our intention.

As the Committee will be aware, funds that remain in a pension scheme do not traditionally form part of a deceased's estate and are generally exempt from inheritance tax. Nevertheless, under the current tax rules, in a small number of circumstances undrawn pension funds are unintentionally caught. For example, if an individual has designated funds for pension drawdown and then passes away without having drawn down all those funds, an inheritance tax charge may arise.

The Government introduced changes to the pensions tax rules from April 2015 that allowed more people to flexibly access their pension funds from age 55. That flexibility means that the inheritance tax charge might apply to more people who pass away leaving undrawn funds in their pension scheme. It was not intended that an IHT charge should arise in such circumstances; the clause ensures that it will not do so. It changes the existing rules so that an inheritance tax charge will not arise when a person has unused funds remaining in their drawdown pension when they die.

The changes will be backdated and will apply for deaths on or after 6 April 2011, so that they include any charges that could arise from the time when the general rule ceased to apply. The minor changes made by the clause will help to maintain the integrity and consistency of the pensions system while supporting those who have worked hard and saved responsibly throughout their lives. I commend the clause to the Committee.

Question put and agreed to.

Clause 83 accordingly ordered to stand part of the Bill.

Clause 84

INHERITANCE TAX: VICTIMS OF PERSECUTION DURING SECOND WORLD WAR ERA

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

Kirsty Blackman: I am pleased that this clause has been included in the Bill. It seems to be a sensible measure, and I am pleased to note that there will be the ability to tidy up afterwards if anything else needs mopping up. The Scottish National party welcomes the clause.

Mr Gauke: I thank the hon. Lady for her support. I would expect such a measure to have the support of the whole Committee. As the Prime Minister said on National Holocaust Day,

"whatever our faith, whatever our creed, whatever our politics"

it is right that the whole country should stand together to remember the

"darkest hour of human history."

To that end, the Government have committed to building a national memorial in London to show the importance that Britain places on preserving the memory of the holocaust.

The clause provides further reassurance and certainty to holocaust victims by placing on a statutory footing their right not to pay inheritance tax on the compensation they receive as a result of their persecution. I am proud that the Government have extended the inheritance tax exemption even further to include a one-off compensation payment for the victims who endured such an unimaginable trauma in their childhood. I am delighted that the clause has cross-party support.

Question put and agreed to.

Clause 84 accordingly ordered to stand part of the Bill.

Clause 85

INHERITANCE TAX: GIFTS FOR NATIONAL PURPOSES ETC

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

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

Government amendments 122 to 126.

Clause 86 stand part.

Mr Gauke: Clauses 85 and 86 make a number of changes to ensure that certain tax reliefs available for objects of national heritage continue to be appropriately targeted and that those objects remain accessible for the nation to enjoy. The first change, clause 85, ensures that legislation keeps pace with the way museums are structured. Clause 86 will regulate the interaction of estate duty and inheritance tax for many objects of national, historic and cultural value and will enable HMRC to take appropriate action in the event of such an object being lost.

2.30 pm

It might be helpful if I explain briefly how the current exemption works for museums and galleries. To encourage gifts and bequests to public collections, those gifts and bequests are currently exempt from inheritance and capital gains tax if they are accepted by the receiving public institution. In addition, existing rules allow private owners to sell their heritage chattels to public institutions in the UK rather than on the open market, where there is a real risk that the chattel will go abroad. The acquiring UK institution maintains and preserves the chattel and displays it for the ongoing benefit of the UK public. In 2015-16, heritage property with a total value of more than £33 million was sold tax free to such bodies. Without that support, magnificent items such as the Wolsey Angels, which were recently acquired by the Victoria and Albert Museum, would have been lost to the nation.

The criteria for deciding whether a museum or gallery is eligible for the reliefs have changed little since the introduction of inheritance tax in 1984. However, recent changes in the way local authorities administer their cultural services have caused many museums and galleries to fall outside the advantageous tax provisions currently provided by the legislation. That has happened at a time when those advantages are needed to encourage individuals to donate or sell to such bodies in order for their collections to grow for the public's enjoyment. Devolving a museum from direct local authority control allows it more independence in pursuit of preserving and displaying its collection, freeing the museum from the wider corporate and political issues. However, without changes to the legislation, sales of assets to those entities that would previously have qualified for relief will no longer qualify. It is therefore essential to ensure that the legislation is updated to reflect the way the sector operates.

Clause 85 amends schedule 3 to the Inheritance Tax Act 1984 to include collections that have in the past been maintained by local authorities but now operate under, for example, independent charitable trust status. The clause will also transfer from HMRC to the Treasury the power to approve other national institutions. That change is being made to reflect the fact that the Treasury is directly accountable to Parliament and has responsibility for allocating the culture budget to the Department for Culture, Media and Sport.

I will turn now to clause 86. Inheritance tax was introduced in 1984 and replaced capital transfer tax, which in turn had replaced estate duty in 1975. The current inheritance tax legislation provides a conditional exemption where an item is of pre-eminent quality. The exemption is available for either inheritance tax or capital gains tax and allows the charge to be deferred, provided that certain conditions are met. If any of the conditions are breached or the asset is sold, tax becomes payable. The exemption applies to lifetime transfers and gifts and exists to prevent certain assets that are considered to be of national importance from being sold off and potentially leaving the country.

HMRC has been aware of a growing number of cases in which conditional exemption from an IHT charge is sought solely in order to substitute a lower rate of IHT for a higher rate of duty. That practice allows individuals to benefit from a lower rate of tax, at 40%, under the inheritance tax regime, rather than the estate duty, which would have been up to 80%. It therefore seems that in some circumstances the current legislation is used merely as a tax planning tool and not to ensure the preservation of objects of national heritage importance. In addition, there is currently no legislation in place in a majority of cases to allow HMRC to raise a charge when the owner of an estate-duty-exempt object loses or misplaces it as a result of their negligent actions. I am sure that all members of the Committee will agree that such practices should no longer continue and the Government need to take action now.

Clause 86 amends existing legislation on estate duty to stop individuals from using the provisions to pay inheritance tax at a lower rate than estate duty would be payable. That will ensure that the exemption is used as intended: to preserve objects of national heritage rather than as a tax-planning tool. The change will also bring legislation in line with provisions for lifetime transfers, where HMRC can elect for either an inheritance tax or estate duty charge. The second change will bring in a charge on objects that were exempted from estate duty but have subsequently been lost. The definition of loss will include theft and destruction by fire, although HMRC will have the discretion not to impose a charge when such a loss is not attributable to the negligence of the owner.

I turn now to the five amendments that the Government have tabled to clause 86. They are being made in response to comments we received following publication of the Finance Bill in 2016 and will ensure that the legislation works as intended. Amendment 122 clarifies that when an item is lost, HMRC will raise only a single charge for duty on the loss of the item, rather than a dual charge for the loss and breach of the conditions under which the item was originally exempt from duty.

Amendment 123 provides that clause 86 will apply to objects granted exemptions under the terms of the Finance Act 1975. That is necessary because the subsequent Finance Act 1976 failed to bring a discrete subset of material granted conditional exemption between March 1975 and April 1976 within the auspices of the new Act. If the legislation is not amended, such objects will be treated inconsistently with those exempted under the post-Finance Act 1976 regime. There are no good reasons to treat these exempted objects differently.

Amendment 124 ensures that in identifying the last death on which an object was passed, any death on or after 6 April 1976 is to be disregarded. That will ensure that the appropriate rate of estate duty is used. Amendments 125 and 126 make minor consequential changes to take into account the other amendments.

It goes without saying that the value of our culture and heritage to society is immeasurable. The changes that I have outlined will mean that our museums and galleries can continue to benefit from tax exemptions that will allow them to purchase more works of art for the enjoyment of the British public. The changes will also provide much needed consistency in the way that conditionally exempt objects are treated. I therefore hope that the clauses can stand part of the Bill.

Rebecca Long Bailey: The Minister has given us an articulate and detailed summary of how the clauses work in practice, so I will not go over too much of that again. I briefly note that the provisions make technical changes to the tax treatment of gifts or sales of property to public museums and galleries and objects of national scientific, historic or artistic interest respectively.

Clause 85 makes technical changes to support the exemption from inheritance tax of gifts or sales of property to public museums and galleries. It is necessary, as the Minister said, because recent changes in local authorities have led museum collections to be placed in charitable trusts. Those trusts do not presently fall within schedule 3 to the Inheritance Tax Act 1984, which describes the bodies that attract inheritance tax and capital gains tax relief. The clause simply rectifies that and moves the power to designate schedule 3 bodies from HMRC to HM Treasury. We have no issue

[Rebecca Long Bailey]

with this technical clause, but I am interested to know what the justification was for moving the power to add bodies to schedule 3 from HMRC to HM Treasury. As a general question, what assessment was made in the long term of the efficacy of local authorities in managing museums and galleries? The Minister might want to refer that question to another Department and get back to me in writing.

Clause 86 puts a stop to using existing law to pay inheritance tax at a lower rate than estate duty. Estate duty was replaced in 1975 by capital transfer tax, which was replaced by inheritance tax in 1984. However, legacy estate duty legislative provisions still remain in force in relation to exemptions given pre-March 1975. Estate duty can be levied at up to 80%, whereas inheritance tax is currently at 40%. The clause stops individuals using a gap in legislation to claim conditional exemption solely to facilitate a later sale of 40% instead of up to 80%.

There is also provision for HMRC to be able to raise a charge when the owner loses an estate duty exempt object. That leads me nicely on to Government amendments 122 to 126, which make technical changes to ensure that the legislation operates as intended. Amendment 122 clarifies the rules around HMRC's ability to raise a charge for duty on the loss of an item, so that it will raise only a single charge rather than a dual one. Amendments 123 and 124 ensure that the legislation works in specific circumstances, as intended, and amendments 125 and 126 simply make minor consequential changes. We are more than happy to support these clauses and Government amendments.

Question put and agreed to.

Clause 85 accordingly ordered to stand part of the Bill.

Clause 86

Estate duty: objects of national, scientific, historic or artistic interest

Amendments made: 122, in clause 86, page 143, line 6, after "as if", insert

"—

(a) after subsection (3) there were inserted—

"(3A) But where the value of any objects is chargeable with estate duty under subsection (2A) of the said section forty (loss of objects), no estate duty shall be chargeable under this section on that value."; and

(b) " .

Amendment 123, in clause 86, page 144, line 2, at end insert—

'(5A) In section 35 of IHTA 1984 (conditional exemption on death before 7th April 1976), in subsection (2), for paragraphs (a) and (b) substitute—

"(a) tax shall be chargeable under section 32 or 32A (as the case may be), or

(b) tax shall be chargeable under Schedule 5,

as the Board may elect.""

Amendment 124, in clause 86, page 144, line 9, at end insert

", and

(b) in sub-paragraph (4), after "40(2)" insert "or (2A)"."

Amendment 125, in clause 86, page 144, line 10, leave out "Subsection (6) has" and insert "Subsections (5A) and (6) have".

Amendment 126, in clause 86, page 144, line 11, after "referred to in", insert "section 35(2) of or"—*(Mr Gauke.)*

Clause 86, as amended, ordered to stand part of the Bill.

Clause 87

Apprenticeship levy

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

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

Government amendments 22 to 24.

Clauses 88 and 89 stand part.

Government amendments 25 and 26.

Clause 90 stand part.

Government amendment 27.

Clauses 91 to 108 stand part.

Government amendment 28.

Clauses 109 and 110 stand part.

New clause 2—*Review of the Apprenticeship Levy*—

'The provisions of this Act relating to the Apprenticeship Levy shall not come into force until the Chancellor of the Exchequer has laid before Parliament a report on how the levy will be implemented, including but not limited to information on how equitable treatment of the different parts of the UK will be assured in its implementation.'

Mr Gauke: I hope hon. Members will forgive me if I go through the various clauses and amendments. I hope they will take some consolation from the fact that this group will advance us some way down the amendment paper—I get the feeling that is the most popular thing I have said for some time.

2.42 pm

Sitting suspended for Divisions in the House.

3.6 pm

On resuming—

Mr Gauke: I was just warning the Committee that I had quite a bit to say on this group, and I am afraid we can no longer put back the moment when I have to say it.

The Government believe in apprenticeships because they are one of the most powerful motors of social mobility and productivity growth. There has been a rapid decline in the amount and quality of training undertaken by employers over the past 20 years. We must reverse that trend of under-investment in training, and that is what the apprenticeship levy seeks to achieve. The apprenticeship levy will be paid by larger employers across all sectors to fund the step change needed to improve the quality of apprenticeships and achieve 3 million starts by 2020. My remarks will cover clauses 87 to 110. I appreciate that they may be quite lengthy, but I hope that hon. Members will bear with me.

Clauses 87 to 89 cover the basic provisions. Clause 87 provides that the commissioners of Her Majesty's Revenue and Customs will be

"responsible for the collection and management of apprenticeship levy."

Clause 88 sets out the conditions under which the apprenticeship levy will be charged. Where an employer has a pay bill for a tax year, the levy will be charged at a rate of 0.5% of the total pay bill. Employers will have a £15,000 annual levy allowance, which means that in practice only employers with an annual pay bill that exceeds £3 million will pay the levy. However, as hon. Members will be aware, the Government's amendments to allow companies and charities to share the levy allowance within a group, which I will turn to later, make consequential amendments to clause 88 that allow the annual levy allowance to be less than £15,000 where a group of companies or charities decides to split the allowance across the group.

Clause 89 sets out which earnings will make up an employer's pay bill for the purposes of the apprenticeship levy. Pay bill comprises earnings that are subject to secondary class 1 national insurance contributions—NICs—including earnings below the NICs secondary threshold. That effectively means that pay bill is comprised of the gross cash earnings of all employees and will exclude any employer-provided benefits. Clauses 88 and 89 provide that the person liable to pay the apprenticeship levy is the secondary contributor; that is, the person who incurs the secondary class 1 NICs liability on an individual's earnings.

Clauses 90 and 91 provide rules for connected companies and connected charities respectively. The rules will determine whether two or more companies or charities are considered to be connected for the purposes of the apprenticeship levy at the start of each tax year. The rules will prevent connected companies from claiming multiple levy allowances. The Finance Bill, as introduced, provides that, where companies or charities are deemed to be connected with one another, only one company or charity in the group will be entitled to the annual levy allowance. However, the Government have tabled amendments to allow connected companies and connected charities to share the allowance within their group as they choose. I will outline the effects of the amendments after addressing the remaining clauses.

The rules for determining whether companies are connected for the purposes of the apprenticeship levy will be the same as the rules set out in part 1 of schedule 1 to the National Insurance Contributions Act 2014 for determining whether companies are connected for the purposes of the employment allowance—the employment allowance allows employers to reduce their total national insurance liability by up to £3,000 a year. The connection rules for the apprenticeship levy have been adapted from provisions in existing tax legislation. The employment allowance connected companies rules are similar to the associated companies rules in sections 25 and 27 to 30 of the Corporation Tax Act 2010.

The meaning of "connected charities" for the purposes of the apprenticeship levy allowance is set out in clauses 107 and 108. The rules for determining whether charities are connected will be the same as the rules set out in part 2 of schedule 1 to the NICs Act. The employment allowance connected charities rules are similar to the connected charities provisions in section 5 of the Small Charitable Donations Act 2012. The advantage of following the employment allowance rules is that where companies and charities know that they are connected for the purposes of the employment allowance, they will also know that they are connected for the purposes of the apprenticeship levy.

The anti-avoidance provisions for the levy are addressed by clauses 92 and 93. Clause 92 sets out that where an employer stands to gain a tax advantage as a result of avoidance arrangements relating to the levy allowance, it will not be entitled to the allowance for the tax year in question. That includes any attempt to bring forward or delay an employee's earnings to alter the tax year in which those earnings are paid. The term "avoidance arrangements" is given a wide meaning and includes any arrangements where the main purpose, or one of the main purposes, is to secure a benefit in relation to liability for the levy.

Clause 93 extends the existing anti-avoidance legislation applying to PAYE and NICs so that it can be applied to the apprenticeship levy. That includes HMRC's rules on the disclosure of tax-avoidance schemes, the general anti-abuse rule, HMRC's system of accelerated payments in relation to avoidance schemes and HMRC's rules on the formation of tax avoidance schemes.

Clauses 94 to 99 relate to the administration of the apprenticeship levy. Clause 94 gives HMRC powers to provide, through regulations, for the assessment, payment, collection and recovery of the levy. Employers will be required to pay the levy with their PAYE and class 1 NICs, which will allow us to apply the £15,000 levy allowance on a monthly and cumulative basis. Applying the allowance on such a basis will ensure an even flow of payments into employers' digital apprenticeship accounts, which levy-paying employers will be able to use to pay for training and assessment of apprenticeships, thereby enabling them to start employing apprentices. The clause also provides the power to make regulations to provide for reporting the levy and making returns as part of HMRC's real-time information system.

There are also regulation-making powers to prescribe how HMRC may make assessments where employers have failed to make an apprenticeship levy return or where there is an underpayment. Regulations may also provide for the repayment of the apprenticeship levy in circumstances where the levy is paid in error or where there needs to be repayment or remission of interest. The clause also provides that regulations may set out the appeal process for any matters arising under the assessment, payment and collection regulations.

3.15 pm

In keeping with the collection and recovery of the levy, clause 95 gives HMRC the power, through regulations, to provide for the transfer of the apprenticeship levy liability to others if the employer liable for paying the levy does not do so and the funds are irrecoverable. The power will enable regulations to allow treatment of apprenticeship levy debt to be in line with the treatment of debt relating to income tax and national insurance.

Clause 96 provides the power to make regulations for the apprenticeship levy, which mirror those for PAYE and NICs, for supplying information to HMRC from relevant service providers, such as payroll administrators.

Clause 97 sets out the time limits for assessment to be made on an employer's apprenticeship levy payments, and provides that no assessment may be made on an employer's apprenticeship levy payments more than four years after the end of the tax year in question. There are, however, two exceptions to that rule. The limit can be extended to six years when the loss of payment has been brought about through the carelessness of the employer. The limit can be extended to 20 years when the employer has deliberately arranged that. Again, the intention is to align the apprenticeship levy position with that of PAYE as far as possible.

It is important to protect the earnings of individuals so that employers do not pass the direct costs of the levy on to employees. Clause 98 addresses that, meaning that it will not be possible for employers to make deductions from the earnings of their employees or seek to recover some or all of the levy's cost through the earnings of their employees.

Philip Boswell (Coatbridge, Chryston and Bellshill) (SNP): Although the Scottish National party supports clause 98, we feel that its definition is a little loose. We have concerns that it might not prohibit employers from recouping the cost of the apprenticeship levy as intended. The lowering of salaries for any new positions advertised is an example. Does the Minister agree?

Mr Gauke: Clause 98 goes as far as is practical. It seeks to address the matter. No doubt the hon. Gentleman will raise that point during the debate, and I will be happy to respond with further details, but we believe that clause 98 strikes the right balance.

Clause 99 makes provision for HMRC to recover underpayment of the apprenticeship levy. HMRC will be able to recover unpaid apprenticeship levy from employers and may undertake court proceedings to facilitate that. That will work in the same way that it does for income tax under the relevant section of the Taxes Management Act 1970.

Moving on to the information and penalties clauses, clause 100 gives HMRC the power to prescribe in regulations which records need to be retained by employers in connection with the apprenticeship levy. Clause 101 extends HMRC's information and inspection powers under schedule 36 of the Finance Act 2008 to the apprenticeship levy. Clause 102 gives HMRC permission to charge penalties for errors on returns, late payments and failures to return payments in relation to the apprenticeship levy. The intention is to ensure, as far as possible, that the apprenticeship levy position is aligned with that of PAYE and NICs. Clause 103 sets out that an employer may appeal against an HMRC assessment of the apprenticeship levy or other amounts. It specifies the notice period and process for dealing with such appeals, which follows part 5 of the Taxes Management Act 1970.

The final group of clauses deals with more general matters. Clause 104 applies HMRC's information and inspection powers for tax agents who engage in dishonest conduct to the apprenticeship levy, as set out under schedule 38 to the Finance Act 2012. Clause 105 amend the Provisional Collection of Taxes Act 1968 to facilitate future changes to the apprenticeship levy. Clause 106 sets out that:

"This Part binds the Crown."

Clauses 107 and 108, which relate to clause 91, respectively set out the rules for determining whether two or more charities are connected. Those rules are the same as those set out for the employment allowance, so they will be familiar to employers. Clause 109 defines expressions used in relation to the apprenticeship levy.

Finally, clause 110 sets out the process for making regulations relating to the apprenticeship levy. Regulations will be by statutory instrument and subject to the negative procedure in the House of Commons, with the exception of the Treasury commencement order to bring into force penalties for errors in relation to the levy.

I now turn to the apprenticeship levy amendments. Amendments 22 to 25 and amendment 27 all concern the rules relating to connected companies and charities and the levy allowance of £15,000. As I mentioned earlier when outlining clauses 88, 90 and 91, the Government have tabled amendments to enable groups of connected companies or charities to share the £15,000 levy allowance. The original proposal was that, if a group of companies or charities were connected, any one of them could apply the allowance. That followed the approach of the employment allowance, which has worked well. However, in response to representations, we have considered the matter further and have concluded that that would lead to a significant increase in the employer population subject to the levy, which was never the intention.

The amendments to clauses 90 and 91 and the consequential amendment to clause 88 will, therefore, allow a group of connected employers to decide what proportion of the levy allowance each of them will apply. The group must decide the allowance split at the beginning of the tax year and it will be fixed for that year unless a correction is necessary because the total amount of the levy allowance exceeds £15,000. Connected employers must notify HMRC of the amount of allowance to be applied for their PAYE schemes, and where that does not occur, or where the total notified does not equal £15,000, the amendments allow for the levy allowance to be determined by HMRC if the employer fails to take corrective action. Employers and their representatives have welcomed our decision to bring forward the amendments and I hope that Committee members will join in supporting the change.

Amendments 26 and 28 are technical amendments that seek to clarify the definition of "company" in clauses 90 and 109 to avoid any uncertainty and to ensure that the provisions are clear. I will also address new clause 2, tabled by SNP Members. The new clause seeks to delay the implementation of the apprenticeship levy until a report has been laid before Parliament on how different parts of the UK are equitably treated when the levy is eventually implemented.

I acknowledge that it is in everyone's interest to ensure that the levy works for employers wherever they may operate. However, SNP Members will be pleased to know that we have already published employer guidance, which explains how the levy will work for employers right across the UK. Publishing another report will not, therefore, reveal new information to help employers, and delaying implementation of the levy would be unfair on employers who have been working hard to prepare for it as well as on potential apprentices who will benefit. I am sure that Members on both sides of the Committee will agree that the vocational skills system urgently needs investment and it is only fair that employers play their part if they want better-quality apprenticeships, which I believe they do. I also believe that they will engage with the levy to make it work for them.

The clauses on the apprenticeship levy will enable the Government to deliver their objective of increasing the quality and quantity of apprenticeships and to meet their target to deliver 3 million apprenticeship starts by 2020.

Ruth Cadbury (Brentford and Isleworth) (Lab): The Minister mentioned the quality of the apprenticeship scheme and I want to put down a marker that some employers, such as Brompton Bikes, which employs many people in my constituency—it was, until a few weeks ago, based there—have to pay into the levy, by the looks of it, because of the size of their operation, but are not able to benefit from the national apprenticeship scheme for the key subsection of their young staff who will be skilled braziers. That is because brazing is a specialist skill and there are too few people doing it for there to be national accreditation. However, brazing is an essential part of building Brompton bikes and giving them the quality they have. Such employers have to pay the levy without getting the benefit for at least half of their eligible workforce. They have to fund that training themselves, on top of the levy. Will the Minister take that point back to his Department?

Mr Gauke: I am grateful to the hon. Lady for raising that issue. Our discussions this afternoon are focused on the raising of expenditure, and the Department for Business, Innovation and Skills is leading on how that money can be spent. However, it is perfectly reasonable for her to make that point. I encourage businesses to engage with BIS on how the apprenticeship levy can be spent to ensure that it goes to the right places and creates a more highly skilled workforce. The Minister for Skills, my hon. Friend the Member for Grantham and Stamford (Nick Boles), is engaging with businesses in many sectors up and down the country to ensure that we have the right set of rules in place. I hope that hon. Members will recognise that the Government amendments are sensible revisions, and that they will accept that the SNP amendment is not needed, as we have already published detailed guidance on how the levy will operate for employers across the UK.

I want to reiterate the importance of investing in apprenticeships, which are a powerful tool for enabling social mobility and driving productivity growth. They equip people with the skills they need to compete in the labour market, and enable employers to grow their businesses. The apprenticeship levy will put employers in control and give them an even greater say in the quality, value for money and relevance of the training that their apprentices receive.

Roger Mullin: I rise to speak to new clause 2. I commend the Minister for mentioning the importance of productivity and of generating much more investment. I am sure everyone in the Committee agrees wholeheartedly. However, the problem of productivity relates to particular strata of apprenticeships—for example, higher-skilled apprentices are needed. Fundamental questions are being asked in the different jurisdictions of the UK about how best to address that. Although one levy system is being imposed in the UK, different forms of apprenticeships are being created. There is some anxiety among employers and different Government agencies about whether the Government should be moving at this pace before these matters are clarified.

This is a probing new clause. I simply ask the Minister to address a few short questions to assist our further thinking. First, in the designing of the levy system, was account taken of the fact that different apprenticeship systems operate with different funding levels in different parts of the United Kingdom?

Secondly, we know that some of the systems and administrative arrangements that are being put in place vary considerably from one part of the UK to another. To what extent does the Minister accept that the levy may be top-sliced to fund some of those systems? For example, as he is aware, the digital voucher system that is planned for England will not operate in Scotland. Is it to be funded separately, or will the funding come out of the levy costs?

Thirdly, who has to pay this levy? It makes a lot of sense, and the Minister talked eloquently about businesses, but it is not merely traditional businesses that are expected to pay the levy. In Scotland, further education colleges are the biggest provider of the education that supports the apprenticeship system. On the latest calculation, they will collectively have to pay approximately £1.9 million for the apprenticeship levy, when we expect them to be the main providers of education training. I would like to hear the Government explain why colleges and some large training providers are expected to pay the levy. Will that not dilute their resources for investment in quality apprenticeships?

With those questions, I would like to hear some of the Government's further reasoning. I think that there is a case, which has been made to us by many employers and agencies, for the Government to take their time and be careful about implementing the levy.

Philip Boswell: I fully support the comments of my hon. Friend the Member for Kirkcaldy and Cowdenbeath. I rise to speak to a different issue relating to the clause. I have concerns about the apprenticeship levy and its application and implementation in the devolved Administrations. Skills policy is devolved, so the design and implementation of the apprenticeship programme in Scotland are devolved to Holyrood. Such programmes are also devolved to the Welsh and Northern Irish Assemblies.

3.30 pm

The UK Government stated previously that £500 million will be allocated to the devolved Administrations from the receipts related to the apprenticeship levy. I understand that there have been discussions between the UK and Scottish Governments about how much money will be allocated to Scotland from those receipts, through Barnett consequentials. Nevertheless, I am concerned that if the Bill goes through as drafted, the Scottish Government will not get back what Scottish businesses pay into the levy, which will not be the case in England.

Just last week I received an answer to written question 41015, in which I asked what assessment had been made of how much Scottish businesses would pay under the apprenticeship levy. The Government responded:

"Regional level estimates of those likely to pay the Apprenticeship Levy are not available."

That answer is insufficient. Prior to implementation of the apprenticeship levy, will the Minister consult on determining how much businesses in devolved regions will pay under the levy? Furthermore, the Scottish Government's Employability Minister, Jamie Hepburn, stated that the UK Government's apprenticeship levy

"undermines our uniquely Scottish approach"

to modern apprenticeships. Given that skills policy is devolved, does the Minister intend to do further work with the Scottish Government to ensure that the implementation of the levy does not impede the Scottish approach to apprenticeships? I commend new clause 2 to the Committee.

Kirsty Blackman: I understand that guidance on the apprenticeship levy has been released. The information I was able to find online said that further guidance on things such as provisional bands would be released in June 2016, but I cannot find any. Perhaps it is just that I have been unable to find it, but it would be useful if that guidance was provided.

I draw attention to the issue with employee-owned companies. I was approached by such a company that pays its employees their share of the profits through PAYE, so that share of the profits will be subject to the apprenticeship levy. Had the company been set up to pay dividends to shareholders, it would not have to pay the levy. The staff there have come to me with a specific issue that is unique to them, because they would not have to pay the levy if their company was structured differently. Will the Minister comment on such employee-owned companies?

Rebecca Long Bailey: As we have heard, this substantial group of clauses introduces the apprenticeship levy that was announced in the summer Budget and autumn statement in 2015. I shall address my remarks to clauses 87 to 110 as a group, touching on new clause 2, tabled by the hon. Member for Kirkcaldy and Cowdenbeath, and Government amendments 22 to 28.

The apprenticeship levy was announced in 2015 and will come into force in April 2017 as part of the Government's commitment to reaching 3 million apprenticeships by 2020. The levy will be charged on large employers with annual pay bills in excess of £3 million. According to the HMRC policy paper, that means that less than 2% of employers will pay the levy. It will be charged at 0.5% of an employer's pay bill through PAYE. Each employer will receive one annual allowance of £15,000 to offset against its levy payment. Employers operating multiple payrolls will be able to claim only one allowance. As we have heard, levy funds will be retained as electronic vouchers in a digital apprenticeship service account. The employer can spend these vouchers on training and end-point assessment from accredited apprenticeship providers, but not on associated costs such as administration of apprenticeships, pay or allowances.

According to the Government's costings, the levy is expected to raise £2.7 billion in its first financial year, rising to just over £3 billion by 2020-21. HMRC's policy paper states specifically:

"It is expected that the levy will support productivity growth through the increase in training. It may have a near-term impact in reducing earnings growth, although by supporting increased productivity, it is expected that the levy will lead to increased profitability for businesses, and increased wages over the long-term."

The paper also assesses the impact on business, stating:

"For employers paying the levy, the measure is expected to have some impact on administration costs and the impact will vary by employer, depending on the size of their pay bill. The policy intention is that they will calculate and pay the levy on a monthly basis. HM Revenue and Customs (HMRC) will engage with employers to discuss and assess the impacts on them."

Opposition Members are certainly happy to support the introduction of the apprenticeship levy, but we have some concerns that we would like the Minister to provide some reassurances on.

Business representatives have broadly welcomed the levy as a commitment to delivering increased apprenticeship places. However, they have widely expressed concern at the short timeframe for implementation, the lack of guidance to date ahead of the introduction and the limitations that the proposals place on expenditure. Indeed, the Confederation of British Industry has called for a "realistic lead-in time" and for

"taking the time to get this right",

while EEF, the Manufacturers Organisation, has specifically called for a delay to the levy's introduction full stop.

In addition, the high target of 3 million apprenticeship starters by 2020 has caused concern that there could be a race to the bottom in terms of the quality of apprenticeships. Mark Beatson, chief economist at the Chartered Institute of Personnel and Development, has said:

"We'd argue that the three million target should not be sacrosanct, and that quantity should not trump quality."

Can the Minister therefore outline what regulatory framework or safeguards are in place to ensure that the quality of apprenticeships is up to scratch?

The Charity Finance Group is particularly concerned that the charitable sector does not have highly developed human resources departments or accredited apprenticeship training schemes. The sector remains reliant on volunteers whose expenses cannot be remunerated via the apprenticeship levy. The CFG is also concerned that significant charity resources are tied up in public sector contracts or that charitable donors will seek confirmation that their donations will fund a charity's specific cause.

Indeed, public sector employers themselves have expressed concern that, first, the levy is being introduced at a time of severe funding cuts and, secondly, that it is accompanied by a new requirement in the sector to ensure that 2.3% of workers are apprentices. The Local Government Association has urged that local authorities be exempted from payment but given authority to oversee administration of levy funds locally. Can the Minister confirm that the Government have considered that approach?

There may be scope for local authorities to co-ordinate. For instance, councils could take up a commissioning role in the Digital Apprenticeship Service, or unallocated levy funding could be reallocated to contributing areas and commissioned locally rather than being retained centrally.

Another issue that I would like the Minister to shine some light on today is agency workers and large recruitment agencies. In particular, the largest recruitment agencies have expressed concern to me that they will be liable to make large levy payments for placing employees in other companies, including for periods that would not qualify for a quality apprenticeship—over 12 months.

The Recruitment and Employment Confederation has raised concerns that large recruitment agencies will have to pay the levy on their pay bill when they place employees in temporary employment in different workplaces, so that those employees are paid by the agency but not working for it. Indeed, the TUC has expressed concern that agency contracts may be used by employers to lower their PAYE bill and reduce their levy requirement. Opposition Members are really concerned about that, so can the Minister say what steps are in place to ensure that it does not happen?

Finally, I have some concerns about how the levy will work under a devolved Administration, and I think that the hon. Member for Kirkcaldy and Cowdenbeath shares those concerns, as do his colleagues. That is reflected in new clause 2, where they have requested a review addressing how equitable treatment of the different parts of the UK will be assured in its implementation. Throughout their submissions they have asked some very pertinent questions, and I look forward to hearing the Minister's responses to them.

The levy will be UK-wide, so employers operating across the devolved nations will pay their contribution based on all their UK employees, irrespective of where they live or work. However, the vouchers that levy-paying employers will be allocated—they can spend them on apprenticeship training—will be based only on the portion of the levy that they pay on the pay bill for their English employees. Funds available for training in devolved Administrations are provided through the block grant, and allocation will be decided upon by the Administration.

There appears to be very little guidance on how the apprenticeship levy will work in the devolved Administrations, so I would be grateful if the Minister could provide more detail today. For example, will the funds levied from a company's UK operations based in devolved nations be identifiable in the grants made to devolved Administrations? We will support new clause 2 if it is pushed to a vote today.

I turn now to Government amendments 22 to 28, which relate to clauses 88, 90, 91 and 109. Clause 90, as drafted, states that where there is an aggregate pay bill of a group of connected companies that will qualify to pay the apprenticeship levy and each would be entitled to a levy allowance, only one will in fact be entitled to the allowance. The connected companies must nominate which company will qualify. Similarly, clause 91 sets out that at the beginning of the tax year, where two or more qualified charities are connected with one another, only one will be entitled to the levy allowance to be offset against the apprenticeship levy.

Government amendments to those two clauses allow companies and charities that are connected for the purposes of the apprenticeship levy to share their annual levy allowance of £15,000 between them, instead of only one company or charity being entitled to the allowance. There is also a consequential amendment to clause 88, which, according to the Minister's letter,

"allows for the levy allowance not being the full £15,000, if a group of connected employers choose to split it under sections 90 or 91."

The Government have stated that these changes are in response to representations they have received, and the Opposition are also aware of concerns from stakeholders about the legislation as currently drafted. We therefore fully support these amendments.

Amendments 26 and 28 are technical amendments that clarify that the definition of a company in clause 90 applies to the whole of part 6 of the Bill relating to the apprenticeship levy. Again, we are happy to support these Government amendments.

In conclusion, the Opposition have long called for Government action to drive growth in productivity. That is the underlying problem that the Chancellor has failed to deal with time and again. Supporting apprenticeships is certainly an important factor in doing so, and we are therefore supportive of these measures in the Bill. However, we have some serious concerns about the machinery of the specific clauses, as I have outlined, and I hope that the Minister can address them in his response.

Mr Gauke: Let me see if I can address the points that have been raised in the debate. It has been argued that business organisations are calling for a delay in implementation. We recognise that employers have concerns about the development and planned implementation of the levy, but we urgently need to address the skills shortage in our economy and improve the quality of vocational training, which employers are calling for. We are holding regular working groups with various employers and employer groups in order to keep them updated on progress and the timing of announcements, and we will shortly be publishing draft funding rates and rules to provide further information to help them plan for the introduction of the levy. The hon. Member for Aberdeen North is not wrong: there is still further information that needs to be published. That information will be published shortly.

Our focus is on ensuring that the levy works for businesses of all sizes as they adapt and seize opportunities in the coming months. In April we set out how the operational model for the apprenticeship levy and the new digital apprenticeship service will work, and how the funding of apprenticeship training will change. We continue to work with employers to design the apprenticeship levy around their needs, and we will publish further details of the draft rates and rules shortly.

Picking up on the point raised by the hon. Member for Brentford and Isleworth about Brompton Bikes and the particular concern about niche areas such as braziers, a key part of reform to apprenticeships is the trailblazer programme, which invites employers to create their own standards. It needs 10 employers, but in exceptional cases the Department for Business, Innovation and Skills is happy to accept smaller, more niche specialisms, such as braziers. I encourage all employers in such circumstances to enter into dialogue with BIS.

3.45 pm

Points have been made about the devolution aspects and how the measures will work in Scotland in particular. Skills policy is of course devolved, and it is right that the devolved nations should get their fair share of the levy. For that reason, it is fair that the UK Government should allocate only the levy paid in respect of employees in England. We know that some employers have cross-border operations and training activity. We are working with the devolved Administrations to make the measures work while ensuring that they continue to have complete flexibility in how they support employers through training and by taking on apprentices.

We are committed to doing all we can to make the system work for employers wherever they are in the UK. As part of that, the Government are helping employers across the UK by abolishing employers' NICs for apprentices under the age of 25, making it about £1,000 cheaper to employ an apprentice under 25 on a salary of £16,000. We are also abolishing employer NICs for employees under the age of 21. We will continue to work with the devolved authorities on this matter.

On the point raised by the hon. Member for Kirkcaldy and Cowdenbeath about the application to FE establishments, there will be no carve-outs from the levy. It is a charge across all employees in all sectors—public, private and charitable. We have tried to be as fair as possible in coming to a decision. Given the number and range of apprenticeship standards and frameworks, there is no reason why employers across all sectors should not be able to take advantage of the funds that they pay in levy and take on apprentices. We ask employers to think about opportunities or develop a new apprenticeship standard to meet their needs.

Similar arguments apply to charities. It is sometimes argued that charities are not well placed to use the levy funds that they may have to pay. Of course, any charities with annual pay bills greater than £3 million will have to pay the levy. Like any other employer, charities can use the levy payment to fund apprenticeships. The Government strongly encourage the charity sector to engage with the levy and consider where it might benefit from apprenticeships or be able to turn in-house training into a formal apprenticeship scheme. A range of apprenticeships are available in areas such as business administration, finance and legal work. If there are currently no apprenticeships available in occupations in which employers would like to employ apprentices, employers should consider applying to develop apprenticeship standards for those occupations.

The hon. Member for Aberdeen North raised the issue of bonus payments and the fact that they will incur the apprenticeship levy. We wanted to ensure that the levy would be as simple and fair as possible for employers. The Government have therefore decided to use the existing definition of "earnings" used for employer NICs, which includes bonus payments. This avoids adding unnecessary complexity to the system, as there is already a suitable definition with which employers are already familiar. This point was repeatedly made to us when consulting on the design of the levy last summer. We recognise the significant contribution that employee ownerships make to the economy, which is why we introduced tax reliefs around employee ownership trusts.

Kirsty Blackman: A number of people have got in touch on this point. I would appreciate it if the Government could keep it in mind going forward, and consider making changes. Employee ownership is really important, and going forward we will have more and more employee-owned companies. I do not want people to be discouraged from taking that route because they will have to structure their pay bills differently as a result of the apprenticeship levy.

Mr Gauke: I note the point the hon. Lady makes. The difficulty is that carving out bonuses that are distributed to employees of owner-managed businesses from the definition of earnings would increase the incentive to remunerate employees via bonuses rather than regular salary. That could create adverse incentives, and would also have a damaging impact on public finances. I understand why the hon. Lady raises this point, but I hope that she appreciates why we have not gone down that particular route.

On the point made by the hon. Member for Salford and Eccles about employment agencies, the apprenticeship levy will be payable by employers who pay earnings subject to class 1 secondary NICs. Where an employment agency supplies labour to a client and is the NICs secondary contributor for those workers, the agency will, like any other employer, be liable to pay the apprenticeship levy, provided that its annual pay bill is in excess of £3 million.

Apprenticeships are now the cornerstone of the skills system and provide opportunities for all sectors and all levels. Everyone stands to benefit from the better-skilled workforce that the apprenticeship levy will help to deliver. It is right that everyone plays their part and contributes to that. There is no reason why an agency could not take advantage of the drawdown from its levy account, if it satisfied the relevant criteria. We are introducing a number of flexibilities in funding for apprenticeships, such as the ability to use funding for equivalent and lower-level apprenticeships where the training is materially different from the learner's existing qualification or leads to training in a new profession.

On the point raised by the hon. Member for Kirkcaldy and Cowdenbeath about top-slicing for England-only programmes, let me reassure him that we will not top-slice levy accounts to fund administration costs. To answer his question about what regulatory framework will ensure appropriate quality, the levy is just part of the Government's reforms designed to improve the quality of apprenticeships. We are creating a new institute for apprenticeships to monitor quality standards, and employer-led trailblazer groups, which I touched upon a moment ago, and which allow employers to design new training standards. There are also funding rules; they require 20% off-the-job training and that apprenticeships must last one year. The Ofsted inspection regime applies to English training providers in order to guarantee quality, and there is the levy itself, which fosters employee ownership.

On the devolved authority funding mechanism, we are committed to doing all we can to make the system work for employers, wherever they are in the UK. I am pleased to see that the Scottish Government will shortly consult on how the apprenticeship levy could enhance productivity and growth in Scotland, and I would encourage other devolved nations to do the same. It will not be possible to identify individual employer contributions in the block grant; I wanted to provide that point of clarity. On the wider issue of productivity, the Government remain committed to improving productivity by increasing the quantity and quality of apprenticeships. The apprenticeship levy will enable us to do that. That is why I am pleased that we have these clauses in front of us, and I hope that they will have the support of the Committee.

Question put and agreed to.

Clause 87 accordingly ordered to stand part of the Bill.

Clause 88

CHARGE TO APPRENTICESHIP LEVY

Amendments made: 22, in clause 88, page 144, line 32, leave out

"any of sections 90 to"

and insert "section".

Amendment 23, in clause 88, page 144, line 33, leave out "of £15,000".

Amendment 24, in clause 88, page 144, line 33, at end insert—

'( ) The amount of the levy allowance is £15,000 (except where section 90 or 91 provides otherwise)."—*(Mr Gauke.)*

Clause 88, as amended, ordered to stand part of the Bill.

Clause 89 ordered to stand part of the Bill.

Clause 90

CONNECTED COMPANIES

Amendments made: 25, in clause 90, page 145, line 33, leave out subsections (1) to (3) and insert—

'(1) Two or more companies which are not charities form a "company unit" for a tax year (and are the "members" of that unit) if—

(a) they are connected with one another at the beginning of the tax year, and

(b) each of them is entitled to a levy allowance for the tax year.

(2) The members of a company unit must determine what amount of levy allowance each of them is to be entitled to for the tax year (and the determination must comply with subsections (3) and (3A)).

But see subsections (3C) and (3H).

(3) A member's levy allowance for a tax year may be zero (but not a negative amount).

(3A) The total amount of the levy allowances to which the members of a company unit are entitled for a tax year must equal £15,000.

(3B) A determination made under subsection (2) (with respect to a tax year) cannot afterwards be altered by the members concerned (but this does not prevent the correction of a failure to comply with subsection (3A)).

(3C) If subsection (3E) applies—

(a) HMRC must determine in accordance with subsection (3D) what amount of levy allowance each of the relevant members (see subsection (3E)(a)) of the unit concerned is to be entitled to for the tax year, and

(b) accordingly subsection (2) is treated as never having applied in relation to that company unit and that tax year.

(3D) The determination is to be made by multiplying the amount of levy allowance set out in each relevant return (see subsection (3E)(a)) by—

$$\frac{15{,}000}{T}$$

where T is the total of the amounts of levy allowance set out in the relevant returns.

The result is, in each case, the amount of the levy allowance to which the relevant member in question is entitled for the tax year (but amounts may be rounded up or down where appropriate provided that subsection (3A) is complied with).

(3E) This subsection applies if—

(a) HMRC is aware—

(i) that two or more members of a company unit ("the relevant members") have made apprenticeship levy returns ("the relevant returns") on the basis mentioned in subsection (3F), and

(ii) that those returns, together, imply that the total mentioned in subsection (3A) is greater than £15,000,

(b) HMRC has notified the relevant members in writing that HMRC is considering taking action under subsection (3C), and

(c) the remedial action specified in the notice has not been taken within the period specified in the notice.

(3F) The basis in question is that the member making the return is entitled to a levy allowance (whether or not of zero) for the tax year concerned.

(3G) If any member of the company unit mentioned in subsection (3E)(a) is not a relevant member, that member is entitled to a levy allowance of zero for the tax year.

(3H) If subsection (3J) applies—

(a) HMRC must determine in accordance with subsection (3I) what amount of levy allowance each of the members of the unit concerned is to be entitled to for the tax year, and

(b) accordingly subsection (2) is treated as never having applied in relation to that company unit and that tax year.

(3I) Each member of the unit is to be entitled to a levy allowance for the tax year equal to—

$$\frac{£15{,}000}{N}$$

where N is the number of the members of the company unit for the tax year.

Amounts determined in accordance with the formula in this subsection may be rounded up or down where appropriate provided that subsection (3A) is complied with.

(3J) This subsection applies if—

(a) the total amount paid by the members of a company unit in respect of apprenticeship levy for a tax year or any period in a tax year is less than the total of the amounts due and payable by them for the tax year or other period concerned,

(b) either the members of the unit have made no apprenticeship levy returns for any period in the tax year concerned or the returns that have been made do not contain sufficient information to enable HMRC to determine how the whole of the £15,000 mentioned in subsection (3A) is to be used by the members of the unit for the tax year,

(c) HMRC has notified all the members of the unit in writing that HMRC is considering taking action under subsection (3H), and

(d) the remedial action specified in the notice has not been taken within the period specified in the notice.

(3K) Subsection (3A) is to be taken into account in calculating the total of the amounts due and payable as mentioned in subsection (3J)(a).

(3L) The Commissioners may by regulations provide that in circumstances specified in the regulations the members of a company unit may alter a determination made under subsection (2) (despite subsection (3B)).

(3M) In this section "apprenticeship levy return" means a return under regulations under section 94(4)."

Amendment 26, in clause 90, page 146, line 1, leave out "section" and insert "Part"—*(Mr Gauke.)*

Clause 90, as amended, ordered to stand part of the Bill.

Clause 91

CONNECTED CHARITIES

Amendment made: 27, in clause 91, page 146, line 5, leave out subsections (1) to (3) and insert—

'(1) Two or more charities form a "charities unit" for a tax year (and are the "members" of that unit) if—

(a) they are connected with one another at the beginning of the tax year, and

(b) each of them is entitled to a levy allowance for the tax year.

(2) The members of a charities unit must determine what amount of levy allowance each of them is to be entitled to for the tax year (and the determination must comply with subsections (3) and (3A)).

But see subsections (3C) and (3H).

(3) A member's levy allowance for a tax year may be zero (but not a negative amount).

(3A) The total amount of the levy allowances to which the members of a charities unit are entitled for a tax year must equal £15,000.

(3B) A determination made under subsection (2) (with respect to a tax year) cannot afterwards be altered by the members concerned (but this does not prevent the correction of a failure to comply with subsection (3A)).

(3C) If subsection (3E) applies—

(a) HMRC must determine in accordance with subsection (3D) what amount of levy allowance each of the relevant members (see subsection (3E)(a)) of the unit concerned is to be entitled to for the tax year, and

(b) accordingly subsection (2) is treated as never having applied in relation to that charities unit and that tax year.

(3D) The determination is to be made by multiplying the amount of levy allowance set out in each relevant return (see subsection (3E)(a)) by—

$$\frac{15,000}{T}$$

where T is the total of the amounts of levy allowance set out in the relevant returns.

The result is, in each case, the amount of the levy allowance to which the relevant member in question is entitled for the tax year (but amounts may be rounded up or down where appropriate provided that subsection (3A) is complied with).

(3E) This subsection applies if—

(a) HMRC is aware—

(i) that two or more members of a charities unit ("the relevant members") have made apprenticeship levy returns ("the relevant returns") on the basis mentioned in subsection (3F), and

(ii) that those returns, together, imply that the total mentioned in subsection (3A) is greater than £15,000,

(b) HMRC has notified the relevant members in writing that HMRC is considering taking action under subsection (3C), and

(c) the remedial action specified in the notice has not been taken within the period specified in the notice.

(3F) The basis in question is that the member making the return is entitled to a levy allowance (whether or not of zero) for the tax year concerned.

(3G) If any member of the charities unit mentioned in subsection (3E)(a) is not a relevant member, that member is entitled to a levy allowance of zero for the tax year.

(3H) If subsection (3J) applies—

(a) HMRC must determine in accordance with subsection (3I) what amount of levy allowance each of the members of the unit concerned is to be entitled to for the tax year, and

(b) accordingly subsection (2) is treated as never having applied in relation to that charities unit and that tax year.

(3I) Each member of the unit is to be entitled to a levy allowance for the tax year equal to—

$$\frac{£15,000}{N}$$

where N is the number of the members of the charities unit for the tax year.

Amounts determined in accordance with the formula in this subsection may be rounded up or down where appropriate provided that subsection (3A) is complied with.

(3J) This subsection applies if—

(a) the total amount paid by the members of a charities unit in respect of apprenticeship levy for a tax year or any period in a tax year is less than the total of the amounts due and payable by them for the tax year or other period concerned,

(b) either the members of the unit have made no apprenticeship levy returns for any period in the tax year concerned or the returns that have been made do not contain sufficient information to enable HMRC to determine how the whole of the £15,000 mentioned in subsection (3A) is to be used by the members of the unit for the tax year,

(c) HMRC has notified all the members of the unit in writing that HMRC is considering taking action under subsection (3H), and

(d) the remedial action specified in the notice has not been taken within the period specified in the notice.

(3K) Subsection (3A) is to be taken into account in calculating the total of the amounts due and payable as mentioned in subsection (3J)(a).

(3L) The Commissioners may by regulations provide that in circumstances specified in the regulations the members of a charities unit may alter a determination made under subsection (2) (despite subsection (3B)).

(3M) In this section "apprenticeship levy return" means a return under regulations under section 94(4)."—*(Mr Gauke.)*

Clause 91, as amended, ordered to stand part of the Bill.

Clauses 92 to 108 ordered to stand part of the Bill.

Clause 109

GENERAL INTERPRETATION

Amendment made: 28, in clause 109, page 155, line 35, at end insert—

""company" has the meaning given by section90(5);"
—*(Mr Gauke.)*

Clause 109, as amended, ordered to stand part of the Bill.

Clause 110 ordered to stand part of the Bill.

The Chair: I remind the Committee that we will decide the question on new clause 2, if that is required, without further debate, when we reach it later on.

Ordered, That further consideration be now adjourned.—(*Mel Stride.*)

3.58 pm

Adjourned till Thursday 7 July at half-past Eleven o'clock.

Written evidence reported to the House

FB 01 Association of Taxation Technicians (clause 24)

FB 02 Association of Taxation Technicians (clause 32)

FB 03 Association of Taxation Technicians (clause 35)

FB 04 Low Incomes Tax Reform Group of the Chartered Institute of Taxation (clauses 87 to 110)

FB 05 Low Incomes Tax Reform Group of the Chartered Institute of Taxation (clause 155 and schedule 23)

FB 06 Electronic Money Association (calause 164)

FB 07 Chartered Institute of Taxation (clause 62)

FB 08 Chartered Institute of Taxation (clauses 87 to 110)

FB 09 Chartered Institute of Taxation (clause 117)

FB 10 Chartered Institute of Taxation (clauses 172 to 177)

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

FINANCE BILL

(Except clauses 7 to 18, 41 to 44, 65 to 81, 129, 132 to 136 and 144 to 154 and schedules 2, 3, 11 to 14 and 18 to 22)

Fifth Sitting

Thursday 7 July 2016

(Morning)

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PBC (Bill 001) 2016 - 2017

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor's Room, House of Commons,

not later than

Monday 11 July 2016

The Committee consisted of the following Members:

Chairs: † Sir Roger Gale, Mr George Howarth

† Argar, Edward *(Charnwood)* (Con)
† Atkins, Victoria *(Louth and Horncastle)* (Con)
† Blackman, Kirsty *(Aberdeen North)* (SNP)
† Boswell, Philip *(Coatbridge, Chryston and Bellshill)* (SNP)
† Burns, Conor *(Bournemouth West)* (Con)
Cadbury, Ruth *(Brentford and Isleworth)* (Lab)
Cooper, Julie *(Burnley)* (Lab)
Donelan, Michelle *(Chippenham)* (Con)
† Dowd, Peter *(Bootle)* (Lab)
† Frazer, Lucy *(South East Cambridgeshire)* (Con)
† Gauke, Mr David *(Financial Secretary to the Treasury)*
† Hall, Luke *(Thornbury and Yate)* (Con)
† Hinds, Damian *(Exchequer Secretary to the Treasury)*
† Long Bailey, Rebecca *(Salford and Eccles)* (Lab)
† McGinn, Conor *(St Helens North)* (Lab)
McDonnell, John *(Hayes and Harlington)* (Lab)
† Mak, Mr Alan *(Havant)* (Con)
Matheson, Christian *(City of Chester)* (Lab)
† Merriman, Huw *(Bexhill and Battle)* (Con)
† Mullin, Roger *(Kirkcaldy and Cowdenbeath)* (SNP)
† Quin, Jeremy *(Horsham)* (Con)
† Streeting, Wes *(Ilford North)* (Lab)
† Stride, Mel *(Lord Commissioner of Her Majesty's Treasury)*
† Tolhurst, Kelly *(Rochester and Strood)* (Con)

Matthew Hamlyn, Marek Kubala, *Committee Clerks*

† attended the Committee

Public Bill Committee

Thursday 7 July 2016

(Morning)

[Sir Roger Gale *in the Chair*]

Finance Bill

(Except clauses 7 to 18, 41 to 44, 65 to 81, 129, 132 to 136 and 144 to 154 and schedules 2, 3, 11 to 14 and 18 to 22)

Clause 111

VAT: power to provide for persons to be eligible for refunds

11.30 am

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

Rebecca Long Bailey (Salford and Eccles) (Lab): I will keep my comments brief on this clause, which amends the Value Added Tax Act 1994 to enable public bodies to get VAT refunds when they enter into cost-sharing arrangements. I hope that the Minister can address a few points. First, the explanatory note indicates that some bodies will lose some of their existing funding as a result of the clause. It would be helpful if he could explain the criteria that the Government will apply. Secondly, can he give us more detail on the areas where the Government are encouraging shared services specifically? The tax information and impact note states:

"To date these services have mainly been in the fields of HR, recruitment and training, and IT services."

Will the Minister confirm whether the Government plan to encourage shared services in other areas?

The Financial Secretary to the Treasury (Mr David Gauke): It is a great pleasure to welcome you back to the Chair, Sir Roger. As we have heard, the clause will allow named non-departmental public bodies and similar bodies to claim a refund on VAT they incur as part of a shared service arrangement. That will encourage public bodies to share back-office services where doing so results in greater efficiencies of scale. Non-departmental public bodies such as the research councils and some NHS bodies cannot always recover the VAT they pay on the purchase of goods and supplies because they do not always undertake business activities—for example, those activities where an onward charge is made. That includes VAT charged when one such body supplies services to others under a shared services arrangement.

Current UK VAT legislation allows Government Departments and NHS bodies to recover the VAT they pay on outsourced or shared services, and we are now extending that scheme to non-departmental public bodies and similar arm's length bodies. That will ensure VAT does not act as a barrier to those organisations outsourcing and sharing services, which will encourage efficiency savings and deliver better value for taxpayers' money.

Tax liabilities, including VAT, are catered for in departmental spending settlements. To ensure that there is no double counting, it will be necessary for the Treasury to be satisfied that public funding of those bodies is adjusted where VAT has already been compensated for. Otherwise, the Exchequer could be paying twice. We will also require eligible bodies to claim VAT in the same financial year in which the purchase was made, and not in a later year. The change will affect around 124 departmental bodies.

The hon. Member for Salford and Eccles asked whether some bodies will lose funding. If a non-departmental public body gets its VAT back, the Department's spending profile will be adjusted accordingly, making it revenue-neutral. Bodies are therefore not losing out as a consequence of the clause. She also asked for more details on how the Government are encouraging shared services. We will accept bids and make decisions on a case-by-case basis. It is difficult for me to say much more at this point, but if efficiencies can be found, any sensible Government would want to find them, and we would not want the VAT system to get in the way.

The clause will allow named non-departmental and similar bodies to claim a refund of the VAT they incur as part of a shared service arrangement used to support their non-business activities, which will ensure that VAT is not a disincentive for public bodies to share back-office services and will encourage better value for money.

Question put and agreed to.

Clause 111 accordingly ordered to stand part of the Bill.

Clause 112

VAT: representatives and security

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

The Chair: With this it will be convenient to discuss clause 113 stand part.

Rebecca Long Bailey: These clauses are part of a package of anti-fraud measures announced at Budget 2016 to address online VAT fraud, of which I have direct experience. A business in my constituency has suffered from overseas sellers on platforms such as Amazon and eBay undercutting its prices by avoiding payment of VAT. Indeed, I have corresponded directly with the Minister on that issue, so I am pleased that the Government have decided to take note of my concerns.

Clause 112 will allow Her Majesty's Revenue and Customs to require a person established in a country outside the EU to appoint a representative to account for VAT on sales to consumers and non-taxable persons in the UK. It will also permit HMRC to require security from the seller for payment of the tax. The appointment of a representative to account for VAT is used in other circumstances, so the change simply extends the circumstances in which HMRC can exercise that power.

The Opposition have long called on the Government to go faster and further in cracking down on tax evasion, so we welcome the intention. However, we are concerned that the measure might not be fully effective because HMRC first has to identify that a person is not accounting for VAT on sales into the UK and then it has to direct them to appoint a representative who is prepared to act. That may be difficult because the representative will then be responsible for accounting for VAT if the supplier does not do so and may be liable for the tax. It would be helpful if the Minister could specifically address that point. Furthermore, it seems possible for a determined fraudster to use different companies or aliases to avoid the impact of an HMRC direction. Will the Minister tell us today how the Government intend HMRC to take effective enforcement action on that?

Clause 113 will impose joint and several liability on the operators of online marketplaces to account for VAT on sales by overseas sellers to UK consumers and non-taxable persons. As with clause 112, the clause suffers from the defect that HMRC's powers take effect only if the overseas seller has failed to comply with VAT rules and if HMRC issues a direction, which essentially means that VAT is likely to be lost, and may continue to be lost for some time, before HMRC acts. Will the Minister tell us today how he intends to address that problem?

Also of note is that clause 113 applies to any overseas business—in other words, other EU and non-EU businesses—but the measures are meant to be targeted at non-EU businesses only. HMRC states that, in practice, it will use the power only

"where overseas businesses do not have a genuine business establishment in the EU."

However, there is a view that the legislation should reflect what is intended in practice and that the current drafting raises the question of whether the measure is actually compatible with EU law. EU-established businesses could be caught by the legislation despite there already being local rules for them to comply with and mutual assistance procedures for the UK to use. Can the Minister assure us that such businesses will not be affected? One way to address the situation would be to amend clause 113 to mirror clause 112 to cover only non-EU established businesses. What is the Minister's view on that suggestion? Are the Government considering any further amendments?

A consultation was launched alongside these two clauses at Budget 2016 as part of a package of measures to address the issue. It was a live consultation on what due diligence should be undertaken by online marketplaces to ensure that overseas sellers are registered for VAT and account for it on their sales. We support HMRC taking action to target abuse and non-compliance in this area, but business groups have expressed concern that the primary target should be those who seek to evade the tax, rather than legitimate businesses that unwittingly deal with them. Can the Minister reassure those businesses on that point?

Her Majesty's Treasury estimates the VAT loss attributable to sales by overseas businesses via online marketplaces to have been as much as £1 billion to £1.5 billion in 2015-16. Acknowledging that the amounts involved are only estimated, but still significant, it would be helpful if the Government could expand on how that estimate has been reached.

The Labour party is prepared to offer support for a crackdown on VAT fraud but, given the understandable concerns of business about the administrative burdens, the Government need to be very clear about the amounts involved and the benefits to the taxpayer. Similarly, we hope that Ministers will report back to Parliament on the success of the scheme as well as on wider action to narrow the tax gap so that we can measure such success. Although the Government have estimated that they will receive an additional £365 million in revenue as a result of the measures by the end of the Parliament, that figure is obviously some way short of £1 billion. Will the Minister tell us why such a gap will remain and what further action the Government are considering?

On the detail of the proposed due diligence scheme, the primary concern that businesses expressed to us is that the scheme targets intermediaries in the supply chain, not those failing to comply. That places an additional burden on legitimate business and, although that may be justifiable to collect tax owed, there is a danger that it gives a message to potential tax evaders that they will not be pursued by HMRC. We support HMRC's aim of minimising the burdens on legitimate business arising from the scheme and limiting them to only those that are necessary and proportionate, but HMRC should also take account of the resources available to different businesses to meet the compliance burden. For example, small and medium-sized enterprises might struggle with compliance and need special protection to avoid an adverse impact on cross-border trade.

It is clear that enforcement is a fundamental issue for HMRC. Although there is a risk of missing trader fraud and misdeclarations in any VAT system, there can be no substitute for HMRC providing effective monitoring and enforcement. For the measures to be effective, HMRC must retain the role of primary enforcer, and it needs to be sufficiently resourced to monitor, investigate and administer trade in the area. With that in mind, does the Minister believe that HMRC currently has adequate resources to do that, given the cuts it has borne?

The Minister will be aware that in some EU member states the problem is avoided by making the online marketplace responsible for accounting for VAT. That is likely to be effective where the marketplace actually collects the selling price for the seller. Of course, it may not be effective if all the marketplace does is act as an intermediary.

Finally, there may be anomalies, for example when an overseas individual sells personal goods, which are not subject to VAT, to UK purchasers, as VAT should not be charged in such circumstances. Any thoughts that the Minister has on lessons from elsewhere and the Government's evaluation of other systems for collecting VAT would be helpful for us to consider.

Opposition Members are pleased that the Government are taking action to tackle online VAT fraud, and we are fully supportive of the clauses in principle. However, I would be grateful if the Minister addressed some of the many issues I have raised with the legislation and the wider strategy for tackling online fraud generally.

Mr Gauke: As we have heard from the hon. Member for Salford and Eccles, the clauses make changes to ensure that the high street and online businesses that pay UK VAT can compete on a level playing field with overseas sellers that, on occasion, do not. The clauses will ensure that more VAT is paid by overseas sellers who store their goods in UK fulfilment houses and sell

[Mr Gauke]

those goods via online marketplaces, will give HMRC stronger powers to make overseas business appoint a UK tax representative, and will ensure that online marketplaces are part of the solution to the problem. The measures are forecast to reduce VAT evasion and raise £875 million in extra tax over the next five years, as certified by the independent Office for Budget Responsibility.

A recent survey by the British Retail Consortium shows that more than 20% of non-food retail spending now occurs online, which means that the UK public can now buy goods faster and cheaper than ever before. British businesses also have an online platform to enter markets they could normally never have imagined. A small village business can now supply high-quality local goods across the United Kingdom and even the world. However, that small business is competing with thousands of online sellers overseas, some of which are evading VAT. That abuse has grown significantly and now costs the UK taxpayer between £1 billion and £1.5 billion per year. Those overseas sellers are competing with all businesses trading in the UK, abusing the trust of UK consumers and depriving the Exchequer of significant revenue.

11.45 am

The Government are responding to that problem. An HMRC national taskforce is carrying out operational activity jointly with law enforcement agencies, which is actively disrupting the supply chains used by overseas businesses to evade VAT and has resulted in the seizure of more than £750,000-worth of illegal goods over the past year. However, HMRC's traditional powers are difficult to apply against those businesses, which is why the Government are acting to strengthen HMRC's powers in that area. Our first legislative step in the Bill focuses on those non-compliant overseas businesses themselves and the online marketplaces they trade through. We are strengthening HMRC's ability to require non-compliant overseas sellers to appoint a UK VAT representative to provide support. We are also introducing a new joint and several liability provision that will allow HMRC to make those online marketplaces ultimately responsible for any unpaid VAT.

Our second legislative step is a new due diligence scheme for fulfilment houses. Those are often large warehouses in which overseas businesses store goods in the UK before sale. The Government will ensure fulfilment houses perform proper due diligence on the overseas businesses using them and on the goods handled on their behalf. HMRC is currently consulting on the detail in preparation for legislation in next year's Finance Bill.

Turning back to the measures we are legislating for in the Bill, I will explain the changes made by these clauses. Clause 112 makes changes to the existing rules that allow HMRC to direct an overseas business to appoint a VAT representative with joint and several liability. The changes will ensure that the VAT representative is actually in the UK and is accessible to HMRC for operational activity. That will make it much easier for HMRC to pursue the debts of non-compliant overseas businesses. The clause also gives HMRC greater flexibility to seek a security.

The changes introduced by clause 113 will ensure that if overseas businesses fail to appoint a UK VAT representative or continue to evade VAT, the online marketplace that they trade in can be made liable for that VAT. In such circumstances, HMRC will put an online marketplace on notice that it will be held jointly and severally liable for an overseas business's VAT. That notice will set a period of time during which the online marketplace can avoid being liable for the VAT, either by securing compliance from the overseas business or by preventing that business from trading through its platform. If the online marketplace does neither, it will become liable for that VAT and will become accountable for the overseas businesses it hosts on its site. The new measures are aimed at the overseas businesses themselves but will also bring the online marketplaces into play. Those sites have an important role in that market and will bolster HMRC's ability to tackle that evasion.

In closing—I will come to the hon. Lady's questions in a moment—I thank my hon. Friend the Member for Daventry (Chris Heaton-Harris), whose campaigning on this issue rightly held the Government to account; the small businessmen and women of the UK have a worthy champion in this place. The hon. Member for Salford and Eccles reasonably requested that we do not target legitimate companies. I assure her that HMRC will take a risk-based approach to implementing the measures on a case-by-case basis. She also raised the concern that VAT may be lost before HMRC is able to take action. Let me reassure her that HMRC will act swiftly, taking a risk-based, case-by-case approach. From Royal Assent, action will be taken. For the purposes of yield, these measures score from 2017-18, but HMRC is keen to take action.

The hon. Lady asked how HMRC will enforce the VAT due from online marketplaces. HMRC is working with relevant interested parties to ensure that these clauses are effective. If online marketplaces do not pay up, they will be subject to HMRC's debt collection and enforcement processes.

On timing, it is important to remember that the suppliers, not the online marketplaces, have the primary responsibility to account for VAT. This package of measures will make it much more difficult for overseas businesses to avoid paying the tax they are liable for in the UK. If sellers continue to evade their liability and the online marketplaces do not act to prevent that, they will be held jointly and severally liable.

On the yield from these measures and how it was calculated, the costings were certified by the independent Office for Budget Responsibility. As I said earlier, £875 million has been scored over the next five years. On the issue of HMRC's resources and its ability to deal with tax avoidance and evasion more widely, we have already announced that in this Parliament we will legislate for more than 25 measures on avoidance, evasion and aggressive tax planning, and they are forecast to raise £16 billion by 2021. We have also given HMRC an extra £800 million to fund additional work to tackle tax evasion and non-compliance by 2020-21.

We have to remember that the UK's percentage tax gap is one of the lowest in the world; in 2009-10 it was 7.3%, and in the first four years of the previous Parliament it fell to 6.4%. That is not to say that there is not more to do. This measure is evidence of the need for further action. We have provided HMRC with the support it needs—powers and resources—and that will continue to be the case.

This type of tax evasion by overseas businesses is a major risk to the Exchequer, so it is right that we take action. This action will protect millions of UK businesses from unfair competition and protect the Exchequer. I welcome the cross-party support for clauses 112 and 113.

Question put and agreed to.

Clause 112 accordingly ordered to stand part of the Bill.

Clause 113 ordered to stand part of the Bill.

Clause 114

VAT: Isle of Man charities

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

Rebecca Long Bailey: Committee members will be pleased to know that my comments on this clause will be very brief. The clause simply puts it beyond doubt that charities in the Isle of Man jurisdiction may qualify for the VAT release available to other charities in the UK. This provision gives effect to the principal VAT directive and the 1979 customs and excise agreement with the Isle of Man. It would be helpful if the Minister could confirm whether he has yet had any discussions with the Government that suggest that, following Brexit, the principal VAT directive will not—subject, of course, to the terms of any subsequent trade deal—apply to the UK.

The Minister may also like to clarify any early thinking about how Brexit may affect general trade relations, such as those with the Isle of Man, which is not a member of the EU or the European economic area. It has access to the single market in goods only, and only through its relationship with the UK. Presumably, the Government have no plans to alter the customs and excise agreement, but it would be helpful if the Minister could briefly expand on that point in relation to matters within the scope of the Bill.

The clause is largely a technical provision designed to clarify rather than change the law, and we take no issue with it.

Mr Gauke: Clause 114 makes changes to ensure that charities subject to the jurisdiction of the High Court of the Isle of Man are able to obtain the same VAT release as charities in the United Kingdom. As the hon. Lady says, it is a largely technical clause, and I am not surprised that it is uncontroversial.

The hon. Lady raises the perfectly fair issue of the future of VAT in the light of the Brexit vote. That is indeed one of the issues that we will have to wrestle with. All I can say at the moment is that it is something that we will have to consider. It will depend very much on the nature of the relationship that we have with the European Union, and of course that will be a matter for negotiation, and for decision by the next Prime Minister. Although the hon. Lady raises a fair question, and her point is well made, I fear at this point I am not able to provide any clarity for her.

Question put and agreed to.

Clause 114 accordingly ordered to stand part of the Bill.

Clause 115

VAT: women's sanitary products

Kirsty Blackman (Aberdeen North) (SNP): I beg to move amendment 1, in clause 115, page 162, line 8, leave out from "liners" to end of line 9.

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

Amendment 2, in clause 115, page 162, line 10, at end insert—

"(d) products that are designed, and marketed, as being solely for use for absorbing breastmilk".

Amendment 5, in clause 115, page 162, line 14, after "after" insert

"1 April 2017, or on any prior".

Clause stand part.

Kirsty Blackman: I want to start by thanking the Government. I am pleased that it is hoped that clause 115 will stand part of the Bill; it is a good move by the Government. I welcome the huge amount of hard work done last year by my hon. Friend the Member for Glasgow Central (Alison Thewliss) and by Members across the House on raising this matter. I appreciate the work that was done, and the fact that the Government have included this clause in the Bill.

I want to talk about our intention. In amendment 1 we are looking at the removal of the exemption from the zero rate for incontinence products. I understand that the Government's proposal does not include incontinence products. There is some technical language in VAT legislation relating to people with disabilities and their ability to claim zero-rate VAT on incontinence products. However, that does not apply across the board to everybody who has incontinence problems; it applies only to those who meet the specific criteria that were drafted.

We have real concerns about that. Just because somebody is not registered disabled does not mean that they do not need to use incontinence products. That is a serious issue and the Government should not charge VAT in that case. If somebody has problems with incontinence, these products are necessary for their wellbeing and in their everyday life. The Government need to look again at the earlier legislation.

If we could have broadened the clause to include men's incontinence products as well as women's, we would have done that. However, because the clause was titled "VAT: women's sanitary products", we could not. That is why we are broadening it to include only women's incontinence products. For clarity, we are talking about incontinence products that women are required to use but that do not fall into the exemption categories in the original VAT legislation.

Amendment 2 concerns products for the absorption of breast milk. I assume neither of the Ministers here has breastfed, so they may not know all the ins and outs

[Kirsty Blackman]

of how this works. I breastfed both my children for about three years in total, so I have some experience. The amendment proposes that

"products that are designed, and marketed, as being solely for use for absorbing breastmilk"

be zero-rated for VAT.

Breastfeeding is incredibly important and has huge health benefits for mother and child. It is completely and totally natural and is what a woman's body expects to happen after she has had a child. When breastfeeding a child, it takes a while for the milk supply and the child's feeding to balance. There is a period where the mother has too much or too little milk—usually too much, so there is an awful lot of leaking of milk. People do not usually talk about this in public, but there are stories about it all over the internet. In one case, a woman was at a job interview, at which somebody mentioned children, and suddenly there was a let-down, which means milk coming out at speed. Absorption products are absolutely necessary. It is vital for women to have breast pads that go inside the bra and absorb breast milk when that let-down happens. That happens not to all women, but to a huge number.

These products are required; they are not in any way a luxury. They are not something that women could do without, unless they were willing to bring several changes of clothes with them, which is not particularly practical when they are already doing absolute heaps of washing because they have a new baby.

12 noon

We tabled the amendment to highlight the fact that this is another anomaly where something that women need is not zero-rated for VAT. I am unsure whether we will press the amendment to a vote, but I would appreciate it if the Minister indicated whether he is willing to consider moving on this matter. If he is, we will consider withdrawing the amendment; if not, we will seriously consider pressing it to a Division. I stress the importance of breastfeeding, because women might be put off by the cost of these products. Anything we can do to make breastfeeding cheaper, easier and more convenient for women is a very good thing, so I would appreciate it if the Government considered the amendment.

Rebecca Long Bailey: Clause 115 is designed to implement the Government's pledge to abolish the so-called tampon tax, following a long-standing campaign by women's groups, as well as by my hon. Friend the Member for Dewsbury (Paula Sherriff) and other Members from all parties. As we have heard, among those other Members was the hon. Member for Glasgow Central, who represented the Scottish National party on last year's Finance Bill Committee, and whom I will describe as "the hon. sister" for today's purposes.

It has taken us some time to get where we are. The EU rules have allowed countries to keep VAT exemptions and reduced rates—including zero rates—where those rates and exemptions were negotiated at the point of their joining the EU. However, there were significant restrictions on removing goods and services from VAT, which meant that under existing rules the UK had been able to reduce VAT to 5% but not remove it altogether. That is what the previous Labour Government chose to do for women's sanitary products; following a campaign by women Labour MPs, the then Paymaster General, Dawn Primarolo, reduced the rate to the 5% minimum—but that 5% rate was left in force.

More recently, there was a grassroots campaign to remove the VAT. Prominent in that campaign was a petition, started by feminist campaigner Laura Coryton, that attracted hundreds of thousands of signatures. Similar campaigns have been run in other countries. The issue was raised in this place by the hon. Member for Glasgow Central in the Finance Bill Committee last year, and by my hon. Friend the Member for Dewsbury, who then tabled an amendment to the Bill on Report. That amendment attracted considerable cross-party support, including from several Conservative Members.

The Government announced some concessions, which included finally starting negotiations on the issue at European level. Nevertheless, the matter was largely ignored during the Prime Minister's EU renegotiation, as the Government focused on issues such as defending the interests of the City of London. The issue was finally addressed only when Ministers were staring into the face of defeat over the ultra-shambles Budget. I know that the Minister will appreciate my saying that the Chancellor became the first in history to accept not one but two amendments to his own Budget resolution: one was in my name, on green energy VAT, and the other was, of course, in the name of my hon. Friend the Member for Dewsbury. Do not worry, I have more to say on green energy VAT later in Committee.

The amendment to the Budget resolution led to the Minister raising the issue at the European Council and it being addressed in the Council communiqué. In April, the European Commission published an action plan on VAT. That was a move further towards a single European VAT system based on the destination principle—the principle that goods and services are taxed in the country where they are consumed. The European Commission also announced a consultation with member states on proposals to allow countries to vary their reduced VAT rates on items including women's sanitary products. One option would see the establishment of a list of goods and services on which reduced—including zero—rates could be introduced by any country. Another option would simply give member states complete freedom to select any goods they favour for reduced rates.

Of course, those steps at European level have been somewhat overtaken by the vote to leave the EU, although, as we know, European law may remain in force for some years to come. None the less, the EU VAT action plan anticipated concluding the reforms by 2018, even if we had not completed the process of leaving by that stage, so it would be helpful if the Minister could say whether the UK will now have a say on the options put forward in the EU VAT action plan and, if so, what option is favoured. I hope that he can confirm that in either case, the tampon tax would be abolished, full stop.

A pledge to abolish the tampon tax was made by the Vote Leave campaign during the referendum campaigning season. It was even suggested that that would be included in a mini-Queen's Speech following a Brexit vote. However, as we have the Bill before us today, we can take steps without that being strictly necessary; I am sure that the Minister understands the clear, basic point.

The explanatory notes, which were of course written before the referendum vote, state :

"This clause reduces the VAT rate on the supply of women's sanitary products from 5% to zero %."

However, I hope that the Minister will acknowledge that that is not really the case. The clause does not zero-rate women's sanitary products; it merely provides the Treasury with enabling powers to do so, if it chooses to, at a time of its choosing. The clause leaves open the question of not only when it will do so, but whether it will so so.

That is the issue dealt with in amendment 5, which my hon. Friend the Member for Dewsbury tabled and which I have signed. There is no reason to leave the matter open-ended, given the possibility that Ministers will simply never get round to abolishing the tampon tax once the heat is off. The amendment would impose a hard deadline. If for any reason it could not be met—if we were still negotiating Brexit and the EU VAT action plan had not been concluded with the necessary reform—the Government would have to return the matter to the House by way of an amendment to a future Finance Bill, and explain why they had failed to follow through at that stage. A firm date will hold the Government's feet to the fire and set a clear objective and a legislative backdrop, to prevent sliding.

Sadly, my hon. Friend the Member for Dewsbury was of course not chosen for this Committee. I will not press the amendment to a vote if the Minister does not accept it, but I think my hon. Friend will want to raise the issue later, depending on the Minister's response. It is only fair to add that I suspect that the whole House will not provide the Government with a majority as solid as the one that the Minister has in Committee. I hope that he will give some sort of positive answer today, because the change was a key pledge of the Vote Leave campaign. Other pledges seem to be unravelling fast. I hope that Conservative Members who supported Brexit will at the very least feel an obligation to follow through on the pledge. Otherwise they will be judged very badly by constituents who voted in the referendum.

It would be helpful if the Minister would address another issue, although we have not at this stage tabled an amendment on it. It is about the women's charities that received funding from the tampon tax fund. It is understandable that many people criticised the use of a tax on women to pay for support that they often needed as a result of male violence. None the less, that money was still better than nothing while the tax continued. Now that it will be abolished, what consideration has the Treasury given to ensuring that there will in the future be stable funding for the vital work of the organisations in question?

My hon. Friend the Member for Dewsbury previously raised another issue with the Minister, and I want to press him on that again today. That is the fact that the benefit of zero rates is not always passed on to consumers in full. It depends largely on the market. There is evidence, for example, that in France a similar tax cut was not passed on to women, but simply bolstered the profits of retailers and manufacturers. When the rate of VAT on sanitary products was reduced to 5%, the Government said they would monitor whether the benefits were passed on to consumers here. It would be interesting, if possible, to compare the margins at that time with the margins now, to see whether that happened. Can the Minister give any information about that today, or by way of a written response later, and provide the full data from any assessment?

My hon. Friend the Member for Dewsbury, in her usual hands-on manner, has grasped the issue directly, and has herself negotiated a deal with leading retailers: they will pass on the cut in full. I understand, however, that some smaller retailers have yet to make that commitment, and there are others in the supply chain who could also benefit, theoretically. Will the Minister join me in urging these businesses to pass on the tax cut in full and to sign up to the arrangement that my hon. Friend has reached? Will the Minister also outline what he intends to do where companies do not pass on the benefits to women? Will he speak out against them and make it clear that the Government anticipate that this tax cut will benefit female customers, not big business shareholders, and will he consider tougher sanctions if they do not pass on the benefits? For example, is there an argument for including an enabling provision for a windfall tax in this Bill? Even if there is no current intention to use such a power, it might have a useful effect if companies know that the option to use it is in the Bill. It is sometimes easier for politicians to talk quietly if they carry a big stick. The Minister is a very effective talker, even though he does not have his stick with him this week. His thoughts on this issue would be very welcome.

We note that the Scottish National party has tabled two amendments, and the arguments for them were put forward articulately today. The amendments seek to expand the definition of "women's sanitary products" for VAT purposes. We start from a position of sympathy, and we will support any amendments on these matters that the SNP Members choose to push to a vote.

In conclusion, we will support the clause, which has come about largely as a consequence of the campaigning of Labour Members and other Members in this House. The Government are not right to say, "job done." On the contrary, this is a case of, "We now have the tools, and we may do the job later if we feel like it", and that really is not good enough to meet the promises made by European leaders, the Prime Minister, his Government and the winning side in the recent referendum. It is not good enough for women. I hope that the Minister will accept the amendment tabled by my hon. Friend the Member for Dewsbury. I look forward to hearing what he has to say on the other issues that I have raised.

Mr Gauke: Clause 115 makes provision to ensure that women's sanitary products will be zero-rated for VAT as soon as possible after the Finance Bill receives Royal Assent. Introducing a zero rate of VAT on sanitary products has been an issue raised and supported by hon. Members from all parties in the House. The Government have listened to their views, and we accept the argument put forward by many hon. Members that we should not apply VAT, even at the current 5% reduced rate, to these products.

We have been active in pursuing this change in the European Union. In the autumn statement in 2015, the Chancellor announced that while the UK sought to change the rules for the application of VAT zero rates with the EU, £15 million a year—an amount equivalent to the revenue accrued from VAT on these products—would be spent on supporting women's charities. So far, this

[Mr Gauke]

fund has supported 25 charities that are making a significant impact on the lives of women and girls in the United Kingdom.

The Chancellor announced in the autumn statement that initial donations from the tampon tax fund, totalling £5 million, would support the Eve Appeal, Safelives, Women's Aid, and the Haven. Further grants totalling £12 million were announced at the Budget this year to support a range of charities. This included £5.2 million allocated to Comic Relief and Rosa to disburse over the coming year to a range of grassroots women's organisations across the UK.

The Prime Minister took this issue to the European Council in March and secured the agreement of all EU Heads of State, who welcomed Commission action in this area, including giving member states the option of zero-rating sanitary products. In May, ECOFIN unanimously agreed that the Commission should bring forward proposals as soon as possible to allow member states to apply a zero rate to women's sanitary products. The next step in the process is for a proposal to be published by the Commission, which it has committed to do before the end of this year. We are working with the Commission to expedite that process, so that the proposal is brought forward as soon as possible. To ensure that there is no delay in zero-rating women's sanitary products for VAT at the earliest opportunity, we have included this clause in this year's Bill.

Let me turn to amendments 1 and 2, the case for which was argued today by the hon. Member for Aberdeen North. She proposes that the provisions in the clause be extended to pads used to absorb breast milk and other products. The Government have taken decisive action to gain agreement across the EU on bringing forward a proposal on VAT on sanitary products, but it needs to be remembered that VAT applies to the vast majority of purchases of goods and supplies, including everyday items such as toilet paper, and it makes a significant contribution to the public finances. Extending the relief in the way that the amendment proposes is not possible under any feasible proposal from the Commission. Seeking to extend the scope of any new zero rate would introduce further complications to what are already delicate and complex discussions with the European Commission.

12.15 pm

Our fundamental aim must be to ensure that we can apply a zero rate of VAT to sanitary products. Seeking to widen the scope at this point could compromise our capacity to deliver on what we have promised. I think all sides of the House would agree that while we remain a member of the European Union—of course, that will change in future—we have to comply with European Union law. We are making good progress when it comes to women's sanitary products, but trying to extend the scope at this point would, I fear, jeopardise that progress.

That brings me to amendment 5. As I have stated, we are supportive of the introduction of a zero rate for sanitary products and would like to see that as soon as possible, which is why we have legislated for it in clause 115. We have been working hard to ensure that the Commission agrees that member states should be able to apply a zero rate to sanitary products if they wish, and we want that proposal published as soon as possible. The Prime Minister secured agreement in the March European Council conclusions with leaders of all member states that the VAT action plan would signal an intention to allow member states to apply a zero rate to women's sanitary products. The action plan published on 7 April did not include any proposals but set out options for future discussion.

The Commission has yet to publish its legislative proposal on sanitary products. I wrote to European Commissioner Pierre Moscovici in May, seeking the early publication of a proposal that would set a date for introduction. He confirmed that a proposal would definitely be provided before the end of the year. Discussions continue between ourselves and our EU partners to ensure that a proposal is published as soon as possible, and we are confident about those assurances. Although the clause provides the power, I understand the concern to ensure that we have an end date. I am optimistic that we will have the measure in place by 1 April 2017; I am happy to put that on the record.

There is no disagreement between the Government and the Opposition on this issue. We all recognise that the UK remains bound by European obligations. We will pursue introducing a zero rating as soon as possible. Had the UK voted to remain in, I think our influence in these discussions might well have meant that we could have brought in the measure much earlier than 1 April, but we are where we are.

I note that the hon. Member for Salford and Eccles does not propose to press her amendment but may well come back to the issue on Report. By then, there may be further developments. Let me be clear that the Government have an open mind as to whether we would accept the amendment on Report, when we hope to have greater clarity. We are confident that by 1 April there should be no reason why the measure is not in place. It is possible that the Government will come forward with our own amendment, but we may well simply accept amendment 5.

I hope that I have provided some reassurance that we do not wish to kick this issue into the long grass. We think that the negotiations are leading to a satisfactory conclusion, and we do not wish to complicate the process. That is why I urge the hon. Member for Aberdeen North not to press amendments 1 and 2, but if she does, I urge hon. Members to reject them. We are, of course, sympathetic to the arguments she made. In the light of the new situation, a future Government may wish to return to this issue.

On the point raised by the hon. Member for Salford and Eccles about support for charities, I have explained the circumstances in which we introduced the £15 million fund when we were not in a position, legally, to introduce a zero rate. The Chancellor committed to that fund continuing for the duration of this Parliament, or until we could introduce a zero rate for women's sanitary products. We are in sight of introducing a zero rate for women's sanitary products. Once the measure is introduced, the Chancellor will decide whether to continue funding women's charities in that way.

I cannot provide any more clarity than that, as the decision will have to be made in the future. I hope that is helpful to the Committee. The differences between the various parties are not particularly significant. I think that there is an acceptance that we want to introduce a zero rate for sanitary products and that we need to do so in a way that is compliant with EU law. There is every prospect that we can do both things by 1 April next year. I hope that clause 115 will stand part of the Bill.

Kirsty Blackman: I am not 100% sure of the protocol here. Given the Minister's suggestion that a future Government might look into the matter, and as he has listened to what we have said, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 115 ordered to stand part of the Bill.

Clause 116

SDLT: CALCULATING TAX ON NON-RESIDENTIAL AND MIXED TRANSACTIONS

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

The Chair: With this it will be convenient to discuss clause 121 stand part.

Kirsty Blackman: On a point of order, Sir Roger. We were sent a list of various territories to which these provisions apply. Some are for Scotland only, some are for Scotland and Northern Ireland, and some are for England and Wales. I am unsure how we proceed to consider this in terms of English votes for English laws. Any guidance you can give us, Sir Roger, would be hugely appreciated.

The Chair: I am advised that English votes for English laws does not apply in Committee. If such issues arise, they will be addressed on the Floor of the House. I hope that is satisfactory.

Rebecca Long Bailey: Clauses 116 and 121 introduce changes to the way stamp duty land tax is calculated for non-residential property transactions and transactions involving a mixture of residential and non-residential properties. I do not plan to go into a lot of detail, but there are a few questions that I want to ask the Minister. According to the policy paper, the change is expected to increase Exchequer revenue by £385 million in this financial year, rising to £590 million by 2020-21. The paper states:

"There are approximately 100,000 non-residential and mixed property transactions per year… As a result of these changes over 90% of non-residential property transactions will pay the same or less in SDLT."

It also says:

"All non-residential freehold and lease premium transactions worth less than £1.05 million will pay the same SDLT or less compared to the current system. For leasehold…transactions, those with a NPV of up to £5 million will pay the same in SDLT as under the current system."

Will the Minister confirm what the Government expect the impact to be on the remaining 10% who pay more in SDLT? What assessments have been carried out?

Clause 121 makes minor consequential amendments and we are quite happy to accept clauses 116 and 121. However, the Chartered Institute of Taxation has highlighted that the changes made by the clauses were introduced without consultation. I understand that the measures are transitional provision, but perhaps the Minister will take the opportunity to ease stakeholders' concerns and identify what the consultative process entailed.

Mr Gauke: Clause 116 makes changes to the non-residential rates of stamp duty land tax. In the 2014 autumn statement the Government announced a radical reform of residential SDLT, which improved the efficiency of the tax by removing the distortive slab structure that led to large increases in SDLT when homeowners pay just £1 over a tax threshold. The changes to non-residential SDLT follow on from those successful reforms and also form part of the business tax roadmap, which sets out the Government's plans for business taxes over the Parliament and will give businesses the clarity they need to invest with confidence. Tackling the deficit is essential for businesses, which can only grow and thrive if we have economic security.

The UK's commercial property market was worth £787 billion in 2014, having experienced 15% growth in that year alone. As that market develops, the Government must ensure that non-residential SDLT is modern, efficient and helps the commercial property market to continue to grow. The clause improves the economic efficiency of SDLT and will provide a tax cut for the large majority of businesses purchasing commercial property. SDLT on non-residential property transactions contains two elements, depending on whether property is purchased or leased with payment upfront, or whether payment is via rental payments over time. The clause makes changes to both aspects and changes will raise just over £2.5 billion over the scorecard period.

Since 17 March, SDLT on freehold and lease premium non-residential transactions has been payable on the portion of the transaction value that falls within each tax band, rather than the tax being due at one rate on the entire value. The new structure has a nil-rate band up to £150,000; a 2% rate between £150,001 and £250,000; and a top rate of 5% above £250,000. SDLT on leasehold rent transactions has also changed to include the new 2% rate for transactions in which the NPV—net present value—of the rental payments is above £5 million. The new structure will have a nil-rate band of up to £150,000; a 1% band between £150,001 and £5 million; and a top rate of 2% for those high-value leasings with an NPV above £5 million.

As a result of the changes, over 90% of non-residential property transactions will pay the same or less in SDLT, as the hon. Lady has said. Businesses purchasing the most expensive properties have a contribution to make and the purchasers of the most expensive properties will pay more tax. However, the increase in SDLT at the top of the market is modest. The maximum tax increase from the reforms for a very expensive property is a tax rise of a single percentage point. In the context of the wider public finances and the performance of the commercial property market in recent years, I think that is reasonable.

With regard to consultation, the reforms to SDLT came into force from midnight following the Budget. That early introduction was needed to minimise any distortions in the commercial property market, including the impact on construction and development projects, that may have resulted from early announcement or consultation of a future change to non-residential SDLT.

[Mr Gauke]

Recognising that some purchasers will have entered into legal agreements to purchase property, and to further minimise any potential market distortion, the Government are putting into place transitional rules for purchasers who have exchanged contracts but not completed their purchase before 17 March in order to ensure they do not lose out. The legislation for those changes is receiving scrutiny today. I hope that the Committee will support the clause, which will improve the economic efficiency of non-residential rates and builds on the successful changes that the Government have previously made to residential rates of SDLT.

Question put and agreed to.

Clause 116 accordingly ordered to stand part of the Bill.

Clause 117

SDLT: HIGHER RATES FOR ADDITIONAL DWELLINGS ETC

Mr Gauke: I beg to move amendment 29, in clause 117, page 167, line 20, leave out from beginning to "at".

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

Government amendments 30 to 42.

Clause stand part.

Mr Gauke: Let me say a word about clause 117, which introduces higher rates of stamp duty land tax on purchasers of additional residential properties. Owning a home is an aspiration for millions of people in our country. The Government are committed to helping people achieve that aspiration by supporting those who want to work hard, save and buy their own home. Home ownership is also a key part of the Government's plan to provide economic security for working people at every stage of their lives.

In the previous Parliament the Government took significant steps to support housing supply and low-cost home ownership, and in the spending review and autumn statement in 2015 we went further by announcing a bold five-point plan for housing. The plan refocuses support for housing towards low-cost home ownership for first-time buyers. Alongside delivering 400,000 affordable housing starts by 2020-21, extending the right to buy to housing association tenants, accelerating housing supply and introducing the London Help to Buy scheme, the five-point plan includes the introduction of higher rates of SDLT on purchases of additional residential properties such as second homes and buy-to-let properties.

The higher rates are designed to help redress the balance between those people who are struggling to buy their first home and those who are able to invest in additional properties. The higher rates are 3% above the standard SDLT rate and took effect on 1 April 2016. The Government will use some of the additional tax collected to provide £60 million for communities in England where the impact of second homes is particularly acute. The tax receipts will also help towards doubling the affordable housing budget, which will help first-time buyers.

12.30 pm

The changes made by clause 117 introduce the new higher rates of SDLT on purchases of additional residential properties. Several groups will not generally be subject to the higher rates: purchasers buying their first property; those replacing their main residence, even if they own more than one property; and those buying an additional property worth less than £40,000.

The Government ran a consultation on these changes ahead of the Budget. Several aspects of the policy design have been amended in response to the view expressed during that consultation. I have listened to those respondents who said that a longer grace period was required before the higher rates apply to homeowners who experience a gap or an overlap in property ownership when moving from their main home. For example, a purchaser may buy a new main residence before having the opportunity to sell their old one. The consultation proposed an 18-month grace period to purchase a new main residence after a former main home had been sold, or an 18-month period to dispose of an old one. In that case the Government would offer a refund from the higher rate. We have doubled the grace period to 36 months, which will help those moving home, including those moving in difficult circumstances.

The consultation also proposed an exemption from the higher rates for significant investors. We have decided not to do this. A significant number of consultation respondents put forward the view that exemption for large investors would be unfair. The Government have accepted this. A single higher rate for all investors, regardless of scale, is simpler and more equitable than disadvantaging smaller participants. The Government's assessment is that this will have an insignificant effect on housing supply and we are confident that housing developments will remain attractive for corporate investors as well as potential homeowners. We are taking a wide range of steps to boost house building, resulting in an increase in the number of completions, from 102,570 in 2010 to 142,000 last year.

The Government have tabled three groups of amendments to rectify certain technical issues that have become apparent since the introduction of the higher rates. The first set, amendments 29 to 39, will ensure that so-called granny annexes will be exempt from higher SDLT when purchased with a main residence in the same transaction. We have decided that it would be unfair to change the higher rate when someone buys a main house that includes self-contained living space for an elderly relative. The Bill as drafted would usually but not always exclude that, so we are amending it to put this beyond doubt. An annex will be defined by objective criteria. It must be on the same site as the main home and worth no more than one third of the total transaction value to ensure that the regime remains robust against avoidance. I again thank my right hon. Friend the Member for Brentwood and Ongar (Sir Eric Pickles) for bringing this issue to my attention.

The second correction, in amendment 40, will allow the Government to ensure that those who use Islamic finance to purchase their main residence will not be unfairly caught by the higher rate. This will ensure that the Islamic finance provisions are consistent with those that already exist within SDLT legislation.

Finally, we are introducing a power to make wholly relieving changes by regulation in amendments 41 and 42. These will allow us to react quickly if another unintended consequence, such as the treatment of annexes, comes to light, and they will ensure that taxpayers are not disadvantaged unnecessarily while waiting for the changes to come into force.

In summary, clause 117 seeks to redress the balance between investment and home ownership and supports owner-occupation and first-time buyers. I hope that it has the Committee's support.

Rebecca Long Bailey: As we have heard, clause 117 implements the higher rates of SDLT, or the 3% surcharge, on the purchase of additional residential properties by individuals and the purchase of any residential properties by companies. The measure has effect from 1 April 2016. The Government's stated intention is to support home ownership and first-time buyers. The measure is expected to bring in £3.7 billion in additional revenues between this financial year and 2020-21. Clearly it is an important measure and we are broadly supportive. However, as ever, clarification on some points would be welcome.

The Government have stated that they will use some of the tax take

"to provide £60 million for communities in England where the impact of second homes is particularly acute"

and that the receipts

"will help towards doubling the affordable housing budget."

I would like to press the Minister on those points. As I am sure he knows, Labour Members are not impressed with the present and previous Governments' track records on housing. They have presided over six years of failure to tackle the crisis in the market. There are 201,000 fewer home-owning households than in 2010, and home ownership has fallen from 67.4% in 2009-10 to 63.6% in 2014-15. Most drastically, the number of under-35s who own a home has fallen by 20% since 2009-10.

The Government's record on affordable housing is equally disappointing. Last year the number of affordable homes built was the smallest in more than two decades: 9,590 homes for social rent, compared with 33,180 delivered during Labour's last year in office. This Government have failed to deliver one-for-one replacements for homes sold through the right to buy; instead, only one is being built for every eight sold. Their "affordable rent" is not affordable for many families, particularly in London, where it could swallow up to 84% of the earnings of a family on the average income and require a salary of up to £74,000. Will the Minister clarify how the doubling of the affordable housing budget will be used effectively to support home ownership across the country? Will he also identify specifically which communities in England are in line for the £60 million fund, and in what form?

The Government conducted a consultation on these measures from December 2015 to February this year, a process that the Chartered Institute of Taxation has labelled inadequate. Stakeholders are concerned that the consultation ran for only five weeks and that the draft legislation was not published until two weeks before the measure took effect on 1 April 2016. Can the Minister provide some assurance that due consultation has taken place on these big changes to the SDLT regime?

Furthermore, there have been queries about what will happen in cases of joint purchase. If a property is purchased by more than one buyer and the higher rates apply to any one of them, the surcharge will apply to the whole of the chargeable consideration. The Government say that the measure is meant to support home ownership and first-time buyers, but does this provision not bring parents assisting their children to buy a first home into the scope of the surcharge, as the Institute of Chartered Accountants has suggested?

While Labour Members welcome efforts to cool the buy-to-let market in favour of first-time buyers, the new legislation will make an already-complex tax even more complex. It would be sensible to keep the issue of joint ownership by parents and children under review, as their options for assisting each other to purchase property are significantly restricted by the new legislation. I would welcome the Minister's thoughts on that.

Finally, before I turn to Government amendments 29 to 42, clause 117(16)(1) provides that ownership of a dwelling outside the UK shall be taken into account in deciding whether the surcharge applies to the purchase of a dwelling in the UK. The Chartered Institute of Taxation highlighted some practical difficulties with determining ownership of a property in certain jurisdictions, and whether it is a main residence. I am therefore concerned about compliance. As we know, there is a large problem in the UK property market, especially in London, where non-UK nationals buying property are pushing up house prices. Will the Minister therefore confirm what measures are in place to ensure compliance by overseas property owners?

I note that Government amendments 29 to 39 take action to address the tax treatment of dwellings with annexes or granny flats, as discussed. The changes mean that the surcharge will not be applicable when a granny flat is the only reason the higher rate would apply. I am aware of what stakeholders say and of wider reports in the media about the issue, and I am pleased that the Government have taken steps to address it.

Government amendment 40 clarifies the situation for dwellings purchased under alternative finance arrangements, so that where the surcharge is applicable the higher rates apply to the person occupying the property, not to the financial institution. Again, that is sensible, and it mirrors the situation with annual tax on enveloped dwelling. Finally, Government amendments 41 and 42, according to the explanatory note, will give the Treasury powers to change the rules on what is a higher rates transaction for the purpose of removing transactions from the higher rates.

To conclude, we support all the measures in this group, although we do have some concerns, which I have highlighted. I hope that the Minister will provide assurance.

Mr Gauke: The hon. Lady made a number of points about housing that we could spend a long time debating. I will try to resist that temptation, but let me make one point: in the previous Parliament, more council homes were built than in the whole period of the previous two Labour Governments. We are committed to delivering a large number of affordable homes. Annual housing starts are at an eight-year high, and last year housing completions rose by more than 10%. A £1 billion loan

[Mr Gauke]

fund will provide funds to small and medium-sized enterprises, such as small house builders. I could say more, but I will resist the temptation.

A number of technical points were made about the measures covered by this group. First, there was a point about how we deal with joint purchasers. We were asked why we do not use an apportionment approach for joint purchasers. A move to an apportionment system would increase complexity in the tax system and increase the risk of non-compliance. The Government's approach is simpler than an apportionment system and has been settled on after careful consideration. Where a property is purchased jointly, the higher rates will apply if the property is an additional property of one or more purchasers.

As to whether that is unfair to parents trying to help their children on to the property ladder, I do not think so. Parents may help their children on to the property ladder without being subject to the higher rates of SDLT—for example, a parent can offer direct financial support, or become the guarantor of the child's mortgage—but if the parent purchases a property jointly with the child, the transaction may be subject to the higher rate if the purchase is an additional property for the parent. Offering exemption for properties purchased jointly with children would add complexity to the tax system, reduce revenue and increase compliance risks.

On the impact on the buy-to-let market, the policy is not expected to have an effect on rents. SDLT will be paid only once, when the property is purchased. I was asked why the consultation period was short. Let me reassure the Committee that the consultation process was full and open, and that respondents' views were taken into account. I accept that the consultation period was shorter than 12 weeks, but that was so that we could properly analyse the responses in time for the final policy design to be confirmed, and for the policy to be in force, by 1 April. We recognise the effects on the property market of pre-announcing changes to SDLT rules, so there was a careful balance to be struck between providing stakeholders with the chance to have their say and not prolonging market disruption.

On treating homes abroad in the same way as homes in the UK, SDLT is a self-assessed tax, and those making returns need to complete returns honestly. It would be unfair to treat those with first homes abroad more beneficially than those with first homes in the UK. Her Majesty's Revenue and Customs monitors compliance and will check returns carefully.

The Department for Communities and Local Government is consulting on how the £60 million will be spent in communities with a large number of second homes. I am not sure that there is much more I can say on that at this point. It is a matter DCLG is leading on. I hope that those points are helpful to the hon. Member for Salford and Eccles and the Committee. I hope the clause and the amendments to it will stand part of the Bill.

Amendment 29 agreed to.

Amendments made: 30, in clause 117, page 167, line 21, at end insert

"meet conditions A, B and C"

Amendment 31, in clause 117, page 167, line 22, leave out

"Condition A is that the portion"

and insert

"A purchased dwelling meets condition A if the amount"

Amendment 32, in clause 117, page 167, line 25, leave out "Condition B is that" and insert

"A purchased dwelling meets condition B if"

Amendment 33, in clause 117, page 167, line 30, at end insert—

'(4) A purchased dwelling meets condition C if it is not subsidiary to any of the other purchased dwellings.

(5) One of the purchased dwellings ("dwelling A") is subsidiary to another of the purchased dwellings ("dwelling B") if—

(a) dwelling A is situated within the grounds of, or within the same building as, dwelling B, and

(b) the amount of the chargeable consideration for the transaction which is attributable on a just and reasonable basis to dwelling B is equal to, or greater than, two thirds of the amount of the chargeable consideration for the transaction which is attributable on a just and reasonable basis to the following combined—

(i) dwelling A,

(ii) dwelling B, and

(iii) each of the other purchased dwellings (if any) which are situated within the grounds of, or within the same building as, dwelling B."

Amendment 34, in clause 117, page 167, line 36, leave out from beginning to "one" and insert "only".

Amendment 35, in clause 117, page 167, line 37, after "dwellings" insert

"meets conditions A, B and C".

Amendment 36, in clause 117, page 167, line 38, leave out from "dwelling" to "is" in line 39 and insert "which meets those conditions".

Amendment 37, in clause 117, page 167, line 48, at end insert—

'( ) Sub-paragraphs (2) to (5) of paragraph 5 apply for the purposes of sub-paragraph (1)(c) of this paragraph as they apply for the purposes of sub-paragraph (1)(c) of that paragraph."

Amendment 38, in clause 117, page 168, line 9, leave out from beginning to "at".

Amendment 39, in clause 117, page 168, line 10, at end insert

"meets conditions A and B.

'( ) Sub-paragraphs (2) and (3) of paragraph 5 apply for the purposes of sub-paragraph (1)(c) of this paragraph as they apply for the purposes of sub-paragraph (1)(c) of that paragraph."

Amendment 40, in clause 117, page 171, line 8, at end insert—

"Alternative finance arrangements

14A (1) This paragraph applies in relation to a chargeable transaction which is the first transaction under an alternative finance arrangement entered into between a person and a financial institution.

(2) The person (rather than the institution) is to be treated for the purposes of this Schedule as the purchaser in relation to the transaction.

(3) In this paragraph—

"alternative finance arrangement" means an arrangement of a kind mentioned in section 71A(1) or 73(1);

"financial institution" has the meaning it has in those sections (see section 73BA);

"first transaction", in relation to an alternative finance arrangement, has the meaning given by section 71A(1)(a) or (as the case may be) section 73(1)(a)(i)."

Amendment 41, in clause 117, page 173, line 23, at end insert—

"Power to modify this Schedule

18 (1) The Treasury may by regulations amend or otherwise modify this Schedule for the purpose of preventing certain chargeable transactions from being higher rates transactions for the purposes of paragraph 1.

(2) The provision which may be included in regulations under this paragraph by reason of section 114(6)(c) includes incidental or consequential provision which may cause a chargeable transaction to be a higher rates transaction for the purposes of paragraph 1."

Amendment 42, in clause 117, page 174, line 7, at end insert—

'( ) Paragraph 14A of Schedule 4ZA to FA 2003 does not apply in relation to a land transaction of which the effective date is, or is before, the date on which this Act is passed if the effect of its application would be that the transaction is a higher rates transaction for the purposes of paragraph 1 of that Schedule."—*(Mr Gauke.)*

Clause 117, as amended, ordered to stand part of the Bill.

Clause 118

SDLT HIGHER RATE: LAND PURCHASED FOR COMMERCIAL USE

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

12.45 pm

The Chair: With this it will be convenient to discuss clauses 119 and 120 and 123 to 125 stand part.

Mr Gauke: Clause 118 to 120 and clauses 123 to 124 extend the reliefs available from the annual tax on enveloped dwellings—ATED—and the 15% higher rate of stamp duty land tax. Clause 125 corrects a minor technical amendment. ATED and the 15% rate of SDLT were introduced as part of a package of measures to tackle tax avoidance. They will ensure that individuals who envelope residential properties by owning or purchasing them through corporate structures without a commercial purpose pay a fair share of tax. The intention is to discourage future enveloping and encourage those who have enveloped to take the properties they own out of those structures. The 15% higher rate is charged on the enveloping of the property, and ATED is charged annually for as long as the property remains within the envelope.

There are a series of reliefs from ATED and the 15% rate, aimed at genuine commercial use of the property. If the conditions for any particular relief are met, the 15% rate is reduced to the rate of SDLT that would ordinarily apply, and the ATED charge can be reduced to nil. Initially, when these taxes were introduced, they applied to properties valued at more than £2 million. However, legislative changes introduced in the Finance Act 2014 reduced that threshold to £500,000 from 1 April 2016. Following that reduction in the threshold, certain legitimate business activities have been identified where these taxes can apply. The clauses intend to provide relief for those cases.

Clause 118 resolves a problem that arose only in relation to the 15% rate of SDLT. Currently, where a residential property is acquired with the intention of using it for business premises—for example, as offices from which to run the trade or business—or for conversion or demolition or use for one or more relievable purposes, the 15% rate applies. The clause will relieve those types of business activity from the 15% rate to guard against abuse. If, within a three-year period, the property is no longer held exclusively for a relievable purpose, relief is withdrawn.

Clauses 119 and 123 provide relief from both the 15% rate and ATED in situations where a residential property is acquired or held exclusively for the purposes of an equity release scheme, referred to as a regulated home reversion plan. Those plans are typically offered by insurance companies to older people. The company buys all or part of their property in exchange for an annuity and a lifetime tenancy. The result of that can be that by having an interest in a residential property, the insurance company can become liable to the 15% rate and ATED where the value exceeds £500,000. Clauses 119 and 123 relieve home reversion plans from the charges. However, in order to protect against abuse, where the conditions are no longer met, relief will not be available.

In relation to clauses 120 and 124, relief is currently given where a property is made available to an employee of a trade, or where a property is rented out. However, no relief is available where a property is used by an employee of a property rental business or where a tenant-run flat management company permits one of the flats to be occupied by a caretaker. These clauses extend the current reliefs to remove those gaps. Similarly, where the conditions are no longer met, relief will no longer be available. For the 15% rate, it will be withdrawn if the property is no longer held exclusively for a relievable purpose. Those changes came into effect on 1 April 2016.

Clause 125 ensures that the ATED regime continues to function effectively following the introduction of the land buildings transaction tax in Scotland.

Roger Mullin (Kirkcaldy and Cowdenbeath) (SNP): Very briefly, I want to commend the Minister. We fully support clause 125.

Mr Gauke: I am grateful to the hon. Gentleman for putting that on the record.

These reliefs ensure that the 15% rate of SDLT and ATED work together effectively as intended to tackle avoidance, while supporting genuine businesses. I hope that these clauses can stand part of the Bill.

Question put and agreed to.

Clause 118 accordingly ordered to stand part of the Bill.

Clauses 119 to 121 ordered to stand part of the Bill.

Clause 122

SDLT: PROPERTY AUTHORISED INVESTMENT FUNDS AND CO-OWNERSHIP AUTHORISED CONTRACTUAL SCHEMES

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

The Chair: With this it will be convenient to discuss that schedule 16 be the Sixteenth schedule to the Bill.

Rebecca Long Bailey: This clause and schedule introduce a relief from SDLT for certain property funds and co-ownership schemes. The relief aims to remove barriers to the use of particular ways of investing in property. The transfer of property into property authorised investment funds and co-ownership authorised contractual schemes is currently subject to stamp duty.

As set out in the HMRC policy paper, this clause and schedule introduce a 100% relief from stamp duty land tax for the initial transfer, or seeding, of properties into an authorised PAIF or COACS. The measure also introduces changes to the SDLT treatment of COACSs, so that there will not be a SDLT charge on transactions in units.

In the 2014 Budget, the Government announced that they would consult on the SDLT treatment of the seeding of property authorised investment funds and the wider SDLT treatment of co-ownership authorised contractual schemes. That was in reaction to stakeholder suggestions that relieving stamp duty

"in certain circumstances could encourage more property funds to set up in the UK and facilitate greater collective investment in UK property."

The Government therefore carried out a consultation in July 2014, to seek views on the case for action on design features for a potential seeding relief and targeted stamp duty rules for co-ownership authorised contractual schemes. Subsequently, in the 2014 autumn statement, it was announced that those changes would be made subject to the resolution of potential avoidance issues.

The explanatory note to the clause states:

"The legislation includes anti-avoidance measures to limit the application of the relief to authorised funds with a broad base of investors and a sizeable portfolio of seeded properties. This aims to minimise SDLT avoidance via the 'enveloping' of properties within such funds."

We do not seek to divide the Committee on this measure, but I would like the Minister to expand on that point. Can he explain what safeguards are in place to prevent the avoidance of stamp duty through this relief? What is the Treasury's estimate of the risk of avoidance through this relief? Are there any plans in place to review the relief after a given time to assess whether the safeguards are working?

According to HMRC's policy paper, this measure is expected to cost £10 million in this financial year, rising to £15 million next year, and then dropping to £5 million by 2019-20. The expected impact is minimal, other than on

"life and pension companies, charities and other tax exempt investors that invest in property. They will all benefit as a result of SDLT cost reductions which may subsequently be passed on to beneficiaries of these organisations."

However, accountants Smith & Williamson noted that the measure is likely to affect only substantial property portfolios. It stated:

"it will be interesting to see whether it will be extended to other tax-favoured property investment vehicles such as real estate investment trusts".

Do the Government have any plans to extend the relief in any way?

We do not oppose this clause and schedule, but I hope the Minister can assure me that this new relief will not be used as a tax-avoidance scam, and that the Government have taken all possible action to ensure that it will not be.

Mr Gauke: As we have heard, clause 122 makes changes to ensure that the tax system supports UK competitiveness and makes the UK a more attractive location for fund management and domicile. The UK investment management industry is an important and successful part of the economy. It is a significant employer that accounts for 1% of GDP and is a key part of the wider financial services sector.

Property funds are an important part of the industry, so it is right that they are taxed fairly and appropriately, and in a way that supports the aim of the Government's investment management strategy. The Government have received many representations from the industry saying that SDLT rules do not work for two types of property funds: property authorised investment funds and co-ownership authorised contractual schemes.

Under current rules, an SDLT liability can arise even when economic ownership of properties has not changed and properties have not been bought or sold. That discourages the use of funds and is a barrier to UK competitiveness in this important area. The changes made by clause 122 and schedule 16 will ensure that property authorised investment funds and co-ownership authorised contractual schemes are treated fairly in the SDLT system.

A SDLT relief for property that is transferred into a new fund will be introduced where the underlying property has not changed economic ownership, and there will not be a SDLT charge when investors transfer units in a co-authorised contractual scheme. Those funds will continue to pay the appropriate levels of SDLT when purchasing property, but these changes will mean that SDLT will not be due when the underlying economic ownership of the property has not changed. That is an appropriate and fair outcome, costing £40 million over the scorecard period.

Under the previous Government, an SDLT exemption for the initial transfer of property to a unit trust scheme was repealed due to widespread tax avoidance and abuse of the rules. This Government are committed to addressing that kind of tax avoidance, and there are a number of crucial safeguards as part of the rules. For example, the property portfolio must be of a certain size and value to qualify for this relief. If units in the fund are sold to third-party investors within a three-year period, the SDLT relieved will be paid back to the Exchequer.

Those safeguards were not in place for the previous exemption for unit trusts and will minimise any potential tax avoidance issues. Of course, all taxes are kept under review in the normal way and the costings for this take into account the risk of avoidance.

An argument is sometimes made for extending such a measure to real estate investment trusts. Our view was that there was a clear benefit to the investment management industry and the wider economy from making these changes for the two types of funds that benefit. Evidence that similar effects would occur if the changes were extended to REITs has not yet been presented but, again, we keep all taxes under review.

In summary, the clause improves UK competitiveness in an important industry, encourages property funds to be managed and domiciled in the UK and to invest in UK property assets, and makes the UK tax system fairer. I hope that this clause and schedule can stand part of the Bill.

Question put and agreed to.

Clause 122 accordingly ordered to stand part of the Bill.

Schedule 16 agreed to.

Clauses 123 to 125 ordered to stand part of the Bill.

Ordered, That further consideration be now adjourned.—*(Mel Stride.)*

12.59 pm

Adjourned till this day at Two o'clock.

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

FINANCE BILL

(Except clauses 7 to 18, 41 to 44, 65 to 81, 129, 132 to 136 and 144 to 154 and schedules 2, 3, 11 to 14 and 18 to 22)

Sixth Sitting

Thursday 7 July 2016

(Afternoon)

CONTENTS

Clauses 126 to 141 agreed to.
Schedule 17 agreed to.
Clauses 142 and 143 agreed to.
Clauses 155 agreed to.
Schedule 23 agreed to.
Clauses 156 to 168 agreed to.
Schedule 24 agreed to.
Clauses 169 to 172 agreed to.
Schedule 25 agreed to.
Clauses 173 to 179 agreed to.
New clauses considered, and some agreed to.
Bill, as amended, to be reported.
Written evidence reported to the House.

PBC (Bill 001) 2016 - 2017

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor's Room, House of Commons,

not later than

Monday 11 July 2016

The Committee consisted of the following Members:

Chairs: Sir Roger Gale, † Mr George Howarth

† Argar, Edward *(Charnwood)* (Con)
† Atkins, Victoria *(Louth and Horncastle)* (Con)
† Blackman, Kirsty *(Aberdeen North)* (SNP)
† Boswell, Philip *(Coatbridge, Chryston and Bellshill)* (SNP)
† Burns, Conor *(Bournemouth West)* (Con)
Cadbury, Ruth *(Brentford and Isleworth)* (Lab)
Cooper, Julie *(Burnley)* (Lab)
Donelan, Michelle *(Chippenham)* (Con)
† Dowd, Peter *(Bootle)* (Lab)
† Frazer, Lucy *(South East Cambridgeshire)* (Con)
† Gauke, Mr David *(Financial Secretary to the Treasury)*
† Hall, Luke *(Thornbury and Yate)* (Con)
† Hinds, Damian *(Exchequer Secretary to the Treasury)*
† Long Bailey, Rebecca *(Salford and Eccles)* (Lab)
† McGinn, Conor *(St Helens North)* (Lab)
McDonnell, John *(Hayes and Harlington)* (Lab)
† Mak, Mr Alan *(Havant)* (Con)
† Matheson, Christian *(City of Chester)* (Lab)
† Merriman, Huw *(Bexhill and Battle)* (Con)
Mullin, Roger *(Kirkcaldy and Cowdenbeath)* (SNP)
† Quin, Jeremy *(Horsham)* (Con)
† Streeting, Wes *(Ilford North)* (Lab)
† Stride, Mel *(Lord Commissioner of Her Majesty's Treasury)*
† Tolhurst, Kelly *(Rochester and Strood)* (Con)

Matthew Hamlyn, Marek Kubala, *Committee Clerks*

† attended the Committee

Public Bill Committee

Thursday 7 July 2016

(Afternoon)

[MR GEORGE HOWARTH *in the Chair*]

Finance Bill

(Except clauses 7 to 18, 41 to 44, 65 to 81, 129, 132 to 136 and 144 to 154 and schedules 2, 3, 11 to 14 and 18 to 22)

Clause 126

STAMP DUTY: TRANSFERS TO DEPOSITARIES OR PROVIDERS OF CLEARANCE SERVICES

2 pm

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

The Chair: With this it will be convenient to consider clause 127 stand part.

Rebecca Long Bailey (Salford and Eccles) (Lab): These clauses relate to the rates of stamp duty and stamp duty reserve tax that are to be applied to share transactions and to options to buy and sell shares. Once again we are in the realm of financial derivatives, which members of the Committee will know I get quite excited about, given my remarks earlier in the week. I said that the Government need, for the national good, to identify the principles that will apply to the taxation and regulation of those markets after we leave the EU.

The clauses take steps to tackle tax avoidance by putting a stop to option arrangements that are being used to pay a lower rate of tax on the sale of shares. Such option arrangements are known as deep-in-the-money options—DITMs—which provide an option to buy shares with a strike price far below market value. DITMs are being used for tax avoidance purposes, as the Government's tax information and impact note explains. Her Majesty's Revenue and Customs is aware of an increasing amount of avoidance in which DITMs are created in order to transfer shares to depository receipt issuers and clearance services. The result of that avoidance is that tax is payable only on the very low strike price, rather than the full market value of the shares. The measure makes the tax system fairer by removing the opportunity for avoidance arising from the transfer of shares using a DITM.

In order to tackle that kind of avoidance, clauses 126 and 127 ensure that shares transferred to a depository receipt issuer or clearance service as a result of the exercise of an option will now be charged the 1.5% higher rate of stamp duty or SDRT based on either their market value or the option strike price—whichever is higher. The change has effect from 23 March 2016 and applies to options exercised on or after 23 March 2016 that were entered into on or after 25 November 2015. I am pleased that the Government have taken the time to consult on the provisions, which they did between 9 September 2015 and 3 February this year. However, a summary of the responses does not appear to be available. Will the Minister therefore provide some assurance that the legislation will reflect comments made by respondents in the consultation?

The Government's impact note expects the measure to generate £200 million in Exchequer revenue by 2020-21. Given that Treasury receipts from stamp taxes on shares are expected to total £3 billion in this financial year, rising to £3.5 billion by 2020-21, the measure is relatively small fish. However, the Opposition really support it, along with any other measures to tackle tax avoidance, especially those that Ernst and Young suggests will have a significant impact on deep-in-the-money options activity. We therefore support clauses 126 and 127.

Finally, will the Minister address what appears to be something of a peculiarity of the modern age and tell me the rationale for having a lower rate of duty for transactions that involve certificates than for transactions that are completed digitally?

The Financial Secretary to the Treasury (Mr David Gauke): As we have heard, clauses 126 and 127 make changes to stop the avoidance of stamp duty on shares, which will raise £155 million over the rest of this Parliament. They will ensure that the tax system operates fairly by closing an increasingly exploited loophole in which deep-in-the-money options are used to transfer shares to financial institutions or clearance services that then issue depository receipts that represent those shares and can be traded. The measure was announced by the Chancellor in the autumn statement. Stamp duty or stamp duty reserve tax, together referred to as stamp tax on shares, are charged on the purchase of shares in UK companies at 0.5% of their price. When shares are transferred to a depository receipt issuer or clearance service, a higher rate of 1.5% applies, reflecting the fact that subsequent transactions will no longer be taxed.

HMRC has become aware of a practice of deep-in-the-money options being used to avoid the higher rate charge and the Government have acted to stop it. A call option over shares gives their holder the right to buy the shares at a given price—the strike price—on or before a specified date. The price paid for the option is its premium. Deep-in-the-money call options have a strike price significantly below their market value and a high premium, which means the premium reflects the vast majority of the underlying value of the shares. When shares are transferred using an option, stamp tax is currently charged on the strike price and not on the premium, with the result that when purchasing shares using a deep-in-the-money option, tax could be based on the strike price of only a few pence when each share is really worth much more.

Deep-in-the-money options are being artificially created and then exercised immediately to transfer shares to depository receipt issuers or clearance services, avoiding a significant tax charge. Clearly that is not fair. As a result of the changes being made, the 1.5% higher rate stamp tax charge now applies to either the market value of the shares or the option strike price, whichever is greater. The measure applies to all options entered into on or after 25 November 2015 if they were exercised on or after 23 March 2016. This is a targeted response that will apply to a relatively small number of transactions where HMRC has identified clear evidence of tax avoidance. The change will apply only to transfers of shares to clearance services or depository receipt issuers and only when options are settled with shares, not cash. HMRC carried out public consultation following the autumn statement and no wider market impacts were identified.

The technical consultation was open from 9 December 2015 to 3 February 2016 and received three responses. Stakeholders questioned whether there was evidence of avoidance and the magnitude of the costing. HMRC has clear evidence that the Office for Budget Responsibility certified the costing so no changes were made as a result. Separately, meetings with industry bodies and depository receipt issuers have not indicated wider issues with the measure.

The rationale for costs for the differential rates is that stamp duty and stamp duty reserve tax apply the same rates to paper and electronic share transfers. I hope that that provides some clarity.

In conclusion, the Government have acted quickly to close a new tax loophole. Clauses 126 and 127 will stop avoidance of stamp tax on shares, raising a significant sum for the Exchequer and ensuring that the tax rules operate fairly.

Question put and agreed to.

Clause 126 accordingly ordered to stand part of the Bill.

Clauses 127 and 128 ordered to stand part of the Bill.

Kirsty Blackman (Aberdeen North) (SNP): On a point of order, Mr Howarth. Should we not be dealing with new clauses 3 and 6 with clause 128, or will we vote on them at the end? You have taken clauses 127 and 128 together.

The Chair: The hon. Lady is quite right and I beg her pardon. The script I am reading from slightly misled me.

Kirsty Blackman: We debated the new clauses on Tuesday morning, but I would appreciate it if we could withdraw new clause 3 and have a vote on new clause 6, or will we do that at the end? That is what I am trying to ascertain.

The Chair: The vote on new clause 3 will be at the end. We will now move on, with the greatest clarity available to me, to clause 130.

Clause 130

Landfill tax: rates from 1 April 2017

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

The Chair: With this it will be convenient to discuss clause 131 stand part.

Rebecca Long Bailey: I will be very brief. Clauses 130 and 131 increase the rates of landfill tax in line with retail prices index inflation from 1 April 2017 and 1 April 2018. We have no issues with that change and support the clauses. However, it would be helpful if the Minister could provide the latest figures for the levels of waste being sent to landfill in comparison with last year. After all, the purpose of the tax is to reduce the amount of waste sent to landfill, so it would be good to know if it is working in practice.

On a similar note, the 2016 Budget announced a consultation on landfill tax reform over the summer. I understand that there is an intention to consult on amending the definition of a taxable disposal of waste at a landfill site and clarifying the scope of the tax. According to the ENTRUST website, full proposals are being set out in a document later in 2016 and any changes legislated for in the Finance Bill 2017. Will the Minister confirm the exact timetable, if he is aware of it, for that consultation?

Finally, as the Financial Secretary and the Exchequer Secretary will no doubt be aware, the Government carried out a consultation on reforming the landfill communities fund last year. The LCF provides funding for certain specified projects in an area affected by a landfill site. Draft regulations were then published that would make a detrimental change to the way the fund operates. The regulations proposed the removal of provisions for third parties to contribute 10% of landfill operators' contributions to projects, and instead make it compulsory for landfill operators to fund the 10% themselves.

As the scheme is voluntary, stakeholders were rightly concerned that landfill operators would simply withdraw from the scheme and that an important funding stream would be lost. I wrote a submission to the consultation on the regulations, and I am pleased to say that the Government withdrew that particular part of the regulations, which were subsequently laid before the House on Budget day. I would like to take this opportunity to thank the Ministers for taking my advice.

The Exchequer Secretary to the Treasury (Damian Hinds): It is a pleasure to serve under your chairmanship once again, Mr Howarth. As the hon. Lady said, clauses 130 and 131 increase both the standard and lower rates of landfill tax in England, Wales and Northern Ireland in line with RPI from April 2017 and again from April 2018. She asked how successful landfill tax has been in reducing the amount of waste sent to landfill. Although I do not have the year-on-year figures in front of me, since 1996, when landfill tax was introduced, the amount of waste disposed of at landfill sites has nearly halved, while recycling rates have increased threefold. Of course, reducing landfilling of waste benefits the economy, as we make better use of valuable resources rather than throwing them away. At the same time it helps us reduce greenhouse gas emissions from decomposing waste and meet our climate change targets.

When disposed of at a landfill site, each tonne of standard-rated material is currently taxed at £84.40. Less environmentally damaging waste pays the lower rate of £2.65 per tonne. The clauses make amendments to the Finance Act 1996 to increase the standard and lower rates of landfill tax in line with inflation, based on the RPI, rounded to the nearest 5p. The changes will therefore see rates per tonne of £86.10 and £2.70 respectively from 1 April 2017 and £88.95 and £2.80 respectively from 1 April 2018.

Landfill tax already provides a disincentive to landfill by making it an expensive waste treatment method compared with alternatives. By increasing rates in line with inflation, we maintain the incentive for industry to

[Damian Hinds]

continue the move towards a more sustainable circular economy. In addition, we know that certainty is important to the waste management industry. The clauses will mean that businesses can have the confidence to invest in new facilities and technology, knowing that those will offer a long-term, economically viable alternative to landfill. That is why the changes will set rates as far ahead as March 2019. The clauses provide certainty on both the standard and lower rates of landfill tax, confirming that they will not be eroded by inflation and maintaining the incentives to invest in more sustainable waste treatment.

I note the hon. Lady's comments on the landfill communities fund. Of course, the Government decided to retain and reform that fund, and she is correct about the changes made and then adapted on the 10% contribution. The guidance from ENTRUST does encourage operators to make that type of contribution. The hon. Lady also asked about the consultation on the definitions for types of waste. The consultation runs from 26 May until 18 August.

2.15 pm

In conclusion, clauses 130 and 131 increase the rate of landfill tax in line with inflation from 1 April 2017, and again from 1 April 2018, as announced in the 2016 Budget. I hope that they can stand part of the Bill.

Question put and agreed to.

Clause 130 accordingly ordered to stand part of the Bill.

Clause 131 ordered to stand part of the Bill.

Clause 137

APD: RATES FROM 1 APRIL 2016

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

Rebecca Long Bailey: The clause increases the rates of band B air passenger duty in line with RPI. Band B rates apply to journeys more than 2,000 miles from London. From 1 April 2016 the reduced rate for the lowest class of travel will increase to £73 and the standard rate will increase to £146.

APD is currently charged on all passenger flights from airports in the UK except in Northern Ireland. It was introduced in 1993 and came into effect on 1 November 1994. Powers to set APD have subsequently been devolved to Northern Ireland and are in the process of being devolved to Scotland. APD raises a significant amount of revenue for the Treasury: £3.2 billion in this financial year according to the latest OBR forecasts. The measure is not expected to have an Exchequer impact but, as ever, businesses may incur a negligible one-off cost to update their systems, according to the tax information and impact note.

The increase with inflation has become standard practice, and with APD having been increased in this way for both 2013-14 and 2014-15, I see no reason to oppose it today. However, I want to use this opportunity to push the Minister on support for English regional airports, following the devolution of APD to Scotland and Northern Ireland. As he will be aware, the Scotland Act 2016 devolved powers to set the rate of APD and the Scottish National party intends to halve Scotland's rates. Northern Ireland already has a rate of zero. During the passage of the Scotland Bill several MPs from both sides raised concerns that further devolution would put regional airports in England at a significant disadvantage and create a distortion of competition.

HM Treasury published a discussion paper in July 2015 outlining three possible options for tackling the issue: devolving APD within England; varying APD rates within England; or providing aid to regional airports. It invited comments by 8 September, but to date no Government response has been published.

When I took part in a Westminster Hall debate on the issue on 20 October last year, in my former capacity as shadow Exchequer Secretary, the Financial Secretary told me that the response would be published in due course, but to date I cannot see a summary of responses. In a recent written answer he stated:

> "The Government is carefully considering the responses received to the discussion paper on options to support English regional airports from the potential impacts of air passenger duty devolution and will respond in due course."

Perhaps he could take this opportunity to provide an exact date, if possible, for publication of the Government's strategy to support regional airports. Aside from that and the other matters I have discussed, we will not oppose the clause.

Christian Matheson (City of Chester) (Lab): It is a pleasure to see you in the chair once again, Mr Howarth. I wish to speak only briefly. My hon. Friend the Member for Salford and Eccles reminds us that the Scottish National party Government in Scotland have chosen to reduce APD. It is nice to hear that for once they have actually done something with the tax powers they have been given, because of course they have been dodging other tax powers despite having the authority to exercise them.

May I echo the words of my hon. Friend the Member for Salford and Eccles? The tourism industry across the UK is crying out for clarity on APD, because of the devolution issues. The differences in air passenger duty now make it financially viable for a family of five to drive from the north-west of England, the area that I—and your good self, Mr Howarth—represent, up to Scotland to save money. Those price differentials now mean that that makes sense, so they are damaging the tourism industry and the airport sector outside London.

The impression of the tourism industry—fairly held, I think—is that Treasury Ministers have been kicking the issue into the long grass for a long while. They have been looking for a solution, not finding one and then having a further review. My hon. Friend has outlined some of that. I therefore stress to Ministers again that there has to be a long-term and sustainable answer to those variables in air passenger duty. The existing situation is not sustainable, so the sooner we get a consistent and sustainable balance that the tourism industry can live with, the better for our economy as a whole.

Damian Hinds: Clause 137 makes changes to ensure that the rates of APD for 2016-17 increase in line with RPI, so that the aviation sector continues to play its part in contributing towards general taxation and reducing the deficit.

As the hon. Member for Salford and Eccles rightly said, APD raises a little more than £3 billion annually, so it is an important part of Government revenue. The increase in rates has effect from 1 April this year and was announced at Budget 2015 to give the industry sufficient notice of the change in rates. The low level of inflation and the rounding of APD rates to the nearest £1 mean that short-haul rates will remain frozen for a fifth year in a row, which will be to the benefit of about 80% of passengers.

The hon. Members for Salford and Eccles and for City of Chester raised the important subject of APD devolution and the options that the Government have been considering. To be clear, APD will be under the control of the Scottish Parliament, but the Scottish Government are still consulting, so no change has yet been made. The three options in the discussion paper published at summer Budget 2015 were correctly identified by the hon. Lady: to devolve the setting of APD within England; to vary the rates within England; or to provide aid to regional airports. The issues are complex and we continue to consider the various options. I am not in a position to give a specific date, but we will of course respond in due course.

APD is a fair and efficient tax, where the amount paid corresponds to the distance and class of travel of the passenger. The changes under the clause will ensure that the aviation sector continues to play its part in contributing towards general taxation.

Question put and agreed to.

Clause 137 accordingly ordered to stand part of the Bill.

Clause 138

VED: RATES FOR LIGHT PASSENGER VEHICLES, LIGHT GOODS VEHICLES, MOTORCYCLES ETC

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

Rebecca Long Bailey: The clause increases the rate of vehicle excise duty on certain vehicles in line with RPI for the financial year 2016-17. This is standard practice, as VED rates have increased in line with inflation since 2010. Labour has not opposed that and I have no intention of doing so today, but I have some issues to take up with the Minister.

I want to repeat on the record how opposed we were to the last raft of changes to VED made in the previous Finance Bill. These changes put a stop to the link between the level of carbon dioxide emissions and the rate of vehicle excise duty. There is now simply a flat rate after the first year, with a surcharge on cars that cost more than £40,000. We simply do not see the Government's justification for removing incentives for lower-polluting cars. I would be grateful if the Minister clarified that. Aside from that issue, I am happy for this clause to stand part of the Bill.

Damian Hinds: Clause 138 makes changes to vehicle excise duty rates for cars, vans and motorcycles, with effect from 1 April 2016. For cars first registered prior to 1 March 2001, vehicle excise duty is based on the car's engine size. The rates of duty for those cars and vans before 1 March 2001 increase by £5 only as a result of this clause. For cars first registered on or after 1 March 2001, vehicle excise duty is based on the car's carbon dioxide emissions. There are currently 13 CO_2 bands. One rate is payable in the first year, and a separate, standard rate is payable in all subsequent years. For about 98% of those cars, the payment will be no more than £5 extra in 2016-17. That means that a motorist already owning a popular family Ford Focus will pay only £5 more.

First-year rates influence the purchasing choices of drivers buying brand-new cars. They act as a signal at the point of purchase that people can save money by choosing a cleaner car. In response to what the hon. Lady said about the 2017 reforms, it is not true that we have removed the incentives on CO_2. First-year rates have an extra effect: the so-called "sticker price" effect. There is also the zero rate for zero-emission cars.

We had a fairness and a sustainability challenge on vehicle excise duty. The sustainability challenge was due to the projected decline in revenues as more and more cars come into the lowest charging bands, and the fairness challenge was due to the fact that people who can afford only an older, second-hand car would pay more than those who can afford to change their car every couple of years.

This measure will mean that the highest-emitting new cars will pay first-year rates of £1,120—an increase of £20—and rates for the cleanest cars will remain unchanged at zero. The clause also increases the standard rate of duty for vans first registered from March 2001 onwards by £5 only. Finally, rates for motorcycles will also increase in line with inflation. Motorcyclists will see an increase of no more than £2.

Question put and agreed to.

Clause 138 accordingly ordered to stand part of the Bill.

Clause 139

VED: EXTENSION OF OLD VEHICLES EXEMPTION FROM 1 APRIL 2017

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

Rebecca Long Bailey: This clause extends the exemption from vehicle excise duty to vehicles constructed 40 or more years ago on an automatic rolling basis on 1 April each year. The VED exemption is intended to support classic vehicles, which the Government consider—and I agree—to be an important part of the nation's heritage. It appears to be a simple legislative change to create a rolling 40-year exemption, rather than requiring separate legislation year by year. We did not oppose the equivalent measure in the Finance Act 2014 when the Budget 2014 proposal for a rolling exemption was debated, and we do not oppose this clause today.

However, the Minister is not going to get off that lightly. I would like him to address a couple of my concerns. The policy paper indicates that the clause has no Exchequer impact, but the tax information and impact note for the original measure in Budget 2014 projected an impact of £5 million in 2016-17, £10 million in 2017-18 and £15 million in 2018-19. Will the Minister clarify whether there has been a change in the Treasury's assessment of the impact of the measure, or whether the zero impact assessment relates purely to the technical change to the legislative mechanism, rather than the underlying policy?

[Rebecca Long Bailey]

Furthermore, the original note stated that in 2014-15 the measure will

"have an advantageous impact for the owners of around 10,000 classic vehicles...Every year thereafter, the number of classic vehicles will increase as additional cohorts of vehicles are included in the exemption. It is estimated that an additional 10,000 classic vehicles will be affected in each year of the scorecard."

As of 30 September 2011, 162,734 cars and 152,836 other vehicles were exempt from VED on the grounds of age. Will the Minister confirm that the figure of 10,000 vehicles in the HMRC policy paper is additional to the figures in previous years, and will he give us an update on the total number of vehicles, either today or later in writing?

2.30 pm

It was originally estimated that the cost of a systems change to revise the qualifying cut-off date for the exemption each year would be £40,000, which was to be met by the Driver and Vehicle Licensing Agency. Will the Minister confirm that the systems change has now taken place? What is the Government's assessment of its operation to date and will they confirm that no further costs will be incurred in that regard? Finally, will the Minister explain what administrative issues owners of classic vehicles might face in navigating the scheme? Are they granted a lifelong VED exemption on their car's 40th birthday or will they have to apply for the exemption on an annual basis? How does the automaticity introduced by the clause affect that?

Damian Hinds: I rise to speak to a fairly uncontroversial clause on the exemption of classic vehicles from VED. The Government believe that classic vehicles are an important part of the nation's heritage. According to the Historic Vehicle Research Institute, the historical car industry employs about 28,000 people in the UK. The VED exemption is designed to support the maintenance and use of classic vehicles.

The classic vehicles VED exemption was first introduced under the Conservative Government in 1996 on a rolling 25-year basis. The Labour Government froze the exemption in 1998 so that it applied only to vehicles built after 1 January 1973. The Government announced in Budget 2013 that they would extend the exemption to vehicles built before 1 January 1974. Budget 2014 went further, announcing the introduction of a new rolling 40-year VED exemption for all vehicles, which extended the exemption to vehicles constructed before 1 January 1975 and 1 January 1976, to come into effect on 1 April 2015 and 1 April 2016 respectively.

Clause 139 places the VED exemption on a permanent basis so that, from 1 April each year, vehicles constructed more than 40 years before 1 January of that year will be automatically exempt from paying VED. In 2016-17, the exemption is worth £145 or £235 depending on the vehicle's engine size. As the hon. Lady said, the Government estimate that about 10,000 owners of classic vehicles will benefit each year, and that is additional to previous figures.

The operational cost of the programme to the DVLA is the negligible cost of updating its IT systems, which will need to be done each year. The standard in the financial statements and in setting out projections rounds down to the nearest £5 million, which means that the cost of a single year is less than £5 million and is therefore classed as negligible. However, the tax information and impact note refers to a rolling programme, so we have to add up the less than £5 million each time.

This measure ensures administrative and legislative efficiency by automatically extending the classic car exemption on a permanent basis. I hope the clause stands part of the Bill.

Question put and agreed to.

Clause 139 accordingly ordered to stand part of the Bill.

Clause 140 ordered to stand part of the Bill.

Clause 141

FUEL DUTIES: AQUA METHANOL ETC

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

The Chair: With this it will be convenient to discuss that schedule 17 be the Seventeenth schedule to the Bill.

Rebecca Long Bailey: Clause 141 and schedule 17 provide for a reduced rate of excise duty for aqua methanol that is set aside for use or used as a fuel in any engine, motor or other machinery. That reduced rate, which is 7.9p per litre, will take effect on 1 October 2016.

The stated aim of the clause is to incentivise the uptake of aqua methanol as a greener fuel relative to petrol and diesel. In the 2014 Budget, the coalition Government announced that they would introduce a lower rate of duty on aqua methanol used in road vehicles, similar to the reduced rates that apply to other alternative fuels, to encourage the use of that cleaner alternative. That was to be legislated for in the 2015 Finance Bill, but the Bill that was introduced after the March 2015 Budget was agreed very quickly, with minimal debate, due to the timing of the Dissolution for the election. That was done with cross-party approval, but the coalition Government removed a few clauses from that Bill, with a view to introducing them at a later stage. Clause 141 is one of those.

Clause 141 and schedule 17 introduce that lower rate of duty. The schedule also prohibits mixing aqua methanol on which lower duty has been charged with biodiesel, bioethanol, bioblend, bioethanol blend or hydrocarbon oil. At the time of the measure's initial announcement, the cost to the Exchequer was expected to be £5 million in 2015-16, £10 million in 2016-17, £20 million in 2017-18 and £40 million in 2018-19. The measure has taken a while to come to fruition, so perhaps the Minister can provide some up-to-date figures on the cost of the reduced duty rate. Further, the initial proposal, as printed in the 2014 Budget, said that the rate would be set at 9.32p per litre, so will the Minister confirm why the reduced rate will now be 7.9p?

Aside from those minor points of clarification, the Opposition are more than happy to support clause 141 and schedule 17. Indeed, I am glad that the Government are taking some action, however small, to promote cleaner, greener fuel, given the concerns about vehicle excise duty that I have outlined.

Damian Hinds: The clause will introduce a reduced duty rate for aqua methanol that is set aside for use as fuel in any engine, motor or other machinery. Aqua methanol is a new, greener fuel that is 95% methanol and 5% water. The reduced duty rate is intended to incentivise the uptake of aqua methanol, as the hon. Lady said, as a greener alternative fuel to petrol and diesel.

The Government are committed to improving air quality in the UK through the reduction of carbon dioxide and nitrogen dioxide emissions. Every year, around 50,000 people die prematurely due to poor air quality. Road vehicles account for around 92% of UK transport carbon dioxide emissions and 80% of nitrogen dioxide emissions in roadside locations.

Successive Governments will need to de-carbonise the road transport sector in the UK if we are to deliver on our commitments to reduce greenhouse gas emissions—as I know both the hon. Lady and I are committed to doing. Indeed, the fourth carbon budget requires successive Governments to reduce greenhouse gas emissions by 51% relative to their 1990 levels by 2027. Any action to meet those targets will need to include the deployment of new greener alternative fuels, and aqua methanol is one of those. Incentivising its use has the potential to contribute to the UK meeting its air quality targets through reductions in the use of diesel, which is the largest source of nitrogen dioxide emissions.

In the 2013 autumn statement, the Government announced that the differential between the lower duty rate for alternative road fuel gases and the main duty rate for petrol and diesel would be maintained until 2024. In the 2014 Budget the Government went further, announcing that we would also apply a reduced fuel duty rate to aqua methanol. The clause follows through on that commitment. It introduces a reduced duty rate of 7.9p per litre for aqua methanol to the main rate of 57.95p per litre. The decisions on aqua methanol were outlined in the autumn statement in 2014 and the costings of the policy remain consistent with our forecasts at that time, although the delay to the introduction of the new rate means costs to the Exchequer have also been delayed.

The reduced duty rate was recalculated based on fuel duty changes and the energy content. The clause legislates for the reduced rate of excise duty for aqua methanol, which will incentivise the uptake of that alternative fuel and help us to deliver on the commitment to reduce greenhouse gas emissions and improve air quality in our towns and cities.

Question put and agreed to.

Clause 141 accordingly ordered to stand part of the Bill.

Schedule 17 agreed to.

Clause 142

Tobacco products duty: rates

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

Rebecca Long Bailey: The Committee will be pleased to hear that I have just a few sentences to say about this clause. For the benefit of the Committee, the clause simply deals with increases in the rates of tobacco duty. I will not go into detail because I am sure the Minister will cover the specifics, but I want to illustrate some of the issues I noticed in the HMRC policy paper. The policy paper refers only to the 5% increase for hand-rolling tobacco and states that this measure alone is expected to raise £10 million each year to 2020-21. Will the Minister provide us with the expected Exchequer impact for all the measures in the clause, either now or later in writing?

Alistair Darling announced in the last Labour Government's final Budget that tobacco duty would rise by 1% above inflation in 2010 and by 2% above inflation for the following four years thereafter. The Opposition therefore support the introduction of the escalator in the Finance Act 2014 and we will certainly support this clause today.

Damian Hinds: Clause 142 makes changes to ensure that the tobacco duty regime continues to work as part of the Government's wider health agenda to reduce smoking prevalence. The clause implements tobacco duty increases of 2% above the RPI rate of inflation for all products and an additional 3% increase for hand-rolling tobacco, meaning a 5% increase in total for hand-rolling tobacco. The Government are committed to reducing smoking rates, especially among young people. Smoking is the single largest cause of preventable illness and premature death in this country. It accounts for around 100,000 deaths a year and kills around half of all long-term users. Reducing the affordability of tobacco products through taxation is widely acknowledged to be effective in reducing smoking prevalence.

The changes that have already come into effect have added 21p to a packet of 20 cigarettes and 44p to a 30g pouch of hand-rolling tobacco. Research shows that, as well as establishing high tobacco duty rates, maintaining those high rates is also important in reducing smoking prevalence. That is why, as was announced in the 2014 Budget, annual duty increases of 2% above inflation will continue until the end of the Parliament. I should clarify for the hon. Lady that that means they are already in the projections for the public finances and that the overall impact of the two changes is as published in the Budget scorecard. The clause implements the tobacco duty rate increase of 2% above inflation and an additional 3% for hand-rolling tobacco, which supports our wider health agenda.

Question put and agreed to.

Clause 142 accordingly ordered to stand part of the Bill.

Clause 143

Alcoholic liquor duties: rates

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

Rebecca Long Bailey: The clause increases the rates of alcohol duty on wine and some ciders and perries in line with inflation. The changes took effect on 21 March. In discussing the clause, I want to touch on one type of alcohol duty that is notably not being increased in line with inflation.

2.45 pm

The rates of duty on beer, spirits, wine and made-wine exceeding 22% alcohol by volume, and on still and sparkling cider and perry not exceeding 5.5%, will be frozen in 2016-17, as announced in the Budget. That freeze is expected to cost £85 million each year to 2020-21. We are not opposed to the freeze on beer duty, but I would like the Minister to address some minor concerns.

The Government have stated that their intention is to help pubs, which are important community assets that encourage responsible alcohol consumption. The industry, specifically the Campaign for Real Ale, the Society of Independent Brewers and the British Beer and Pub Association, has welcomed the freeze. Some trade bodies, however, have questioned why wine has been singled out for a duty rise. Will the Minister give some guidance on that? I am also interested to know that given my own more general interest in the price of a bottle of wine.

Furthermore, the Government acknowledged in their policy paper that the freeze is

"likely to lead to a minor increase in overall alcohol consumption in the UK."

Will the Minister give exact details of how minor that expected increase will be? Those minor questions aside, we will not be opposing the clause.

Damian Hinds: Clause 143 sets out changes to alcohol duty rates from 21 March this year. It was announced in the Budget that the duty on beer, spirits and most ciders would be frozen this year and that the duty on most wines and higher-strength sparkling cider would rise with inflation. With those changes, we continue to support the pub industry, which plays such an important part in British cultural life. To respond to the hon. Lady's point about what is most advantageous to the on-trade—to pubs—beer is considered to have a greater price sensitivity effect than wine, by a number of estimates.

The British Beer and Pub Association estimates that about 30 million adults visit a pub at least once a month. As I think all hon. Members would acknowledge, pubs are important community assets that promote responsible drinking in a generally friendly atmosphere. In the Budget, the Government therefore took further action to support the sector. Given that about two thirds of alcohol sold in pubs is beer, we froze duty on a typical pint of beer, following three consecutive beer duty cuts that were widely welcomed. The Government's support for pubs means that a typical pint of beer is now 10p cheaper than it would have been if we had not ended the beer duty escalator in 2013. I am sure that is welcome news to many, many pub goers. In the BBPA's assessment, the three beer duty cuts have created 19,000 jobs. The duty freeze will offer further support to pubs. The duty on high and low-strength beer will also be frozen, which offers the sector a continued incentive to expand the choice of those drinks to consumers.

The Government's key priority for this Parliament is to restore the public finances to a sustainable position. We outlined in the Budget our commitment to fiscal sustainability, and the decisions taken on duty rates must, of course, reflect that.

The clause provides for duty on most wines to increase by RPI only. Under these changes, the duty on beer and wine will remain broadly similar, and the duty rate on wine above 22% ABV will continue to be the same as that for spirits. The hon. Lady may have a particular interest in this point: the price of a bottle of wine is now 7% lower than it would have been if we had not ended the wine duty escalator in 2014.

The clause also sets out that duty on high-strength sparkling cider is increased by RPI only, which means that it continues to be the same as for sparkling wine of equivalent strength. It was also announced in the Budget that the duty on all other ciders would be frozen. That means that a typical litre of cider is now 4p cheaper than it would have been if we had not ended the cider duty escalator in 2014. The freeze in cider duty supports the industry, which has high production costs and plays an important role in many local economies, particularly in some of our rural areas.

The Budget also froze duty on spirits. As Scottish National party Members and others will acknowledge, Scotch is one of the great British success stories. Its exports are estimated to be worth nearly £4 billion, and account for about 20% of total food and drink exports. The freeze in spirits duty will provide further support to the Scotch industry. It means that a 70 cl bottle of whisky is now 87p lower in price than it would have been if we had not ended the spirits duty escalator.

The freeze will help elsewhere, too, including by supporting the global thirst for British gin. According to the Wine and Spirit Trade Association, 140 million bottles were exported in 2014, which is an impressive 37% increase in five years. Government statistics also show that between 2010 and 2015 a total of 174 new spirit distilleries opened in the UK, with 56 new licences issued in the past year alone. The announcements made in this year's Budget and in 2014 and 2015 have increased the confidence in the sector.

The changes to alcohol duty rates in the clause ensure that responsible drinkers are not penalised. It is right to point out the Government's continuing care and concern for the wider health agenda on alcohol consumption, but it is important not to penalise responsible drinkers. We recognise that not everyone is a responsible drinker, and we have taken a targeted approach to tackling alcohol-related harm. For example, to encourage the consumption and production of lower-strength beer, the Government place higher duties on super-strength beer and cider. Licensing rules are also in place to help to tackle irresponsible alcohol consumption. For example, local authorities can now introduce early morning restriction orders more easily.

The clause reaffirms the Government's commitment to supporting the pubs industry and responsible drinkers.

Question put and agreed to.

Clause 143 accordingly ordered to stand part of the Bill.

Clause 155

Simple assessments

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

The Chair: Having considered alcoholic liquor duties, we now stagger towards clause 155, with which we will consider the following:

That schedule 23 be the Twenty-third schedule to the Bill.

Clauses 156 and 157 stand part.

Rebecca Long Bailey: The clauses and schedule relate to tax assessment—that exciting subject—and tax returns. Clause 155 grants HMRC the power to make an assessment of someone's income and capital gains tax liabilities without their having to fill in a self-assessment form, from the 2016-17 financial year onwards. I understand that the provision will apply only to individuals on whom HMRC already has enough information to provide an assessment, so the number of individuals affected will be relatively small, but it will reduce the burden of self-assessment for them.

Providing a commentary on the clause, the Chartered Institute of Taxation said:

"We raised quite a lot of minor points in our submission about the wording of the draft legislation and the legislation that is in the Finance Bill 2016 has been made clearer on a number of these points.

Also, the length of time that the taxpayer has to query the simple assessment has been increased from 30 to 60 days which is a welcome extension."

It goes on to say:

"HMRC need to ensure that it is made clear to taxpayers that it is their responsibility to check the simple assessment (this means checking that all their taxable income is accounted for and all expenses and allowances to which they are entitled are being correctly claimed) and that they have the right to query the assessment if they disagree with it."

I am pleased that the Government have improved the legislation, but will the Minister tell me what measures are in place to ensure that taxpayers know that it is their responsibility to check the simple assessment, and that they know they have the right to query it?

The Chartered Institute of Taxation also highlighted the fact that the new power to issue a simple assessment comes into effect in the current tax year, but that until now there has been little publicity or guidance from HMRC about how it intends to use the power. Can the Government confirm whether HMRC will start using the power this year, and in what circumstances?

Clause 156, as set out in the explanatory notes, clarifies the amount of time allowed for making a self-assessment when HMRC has served a notice to file a return. The clause relates to an earlier legal case, R (oao of Higgs) *v.* HMRC [2015] UKUT, in which HMRC argued that a tax rebate did not have to be paid since the claim was lodged after the four-year time limit for tax returns to be completed had expired. The court found against HMRC on the grounds that the time limit does not apply to self-assessment returns, so the clause clarifies the existing legislation and negates the earlier legal decision. The Chartered Institute of Taxation has said that that seems like a sensible provision in light of that case, and we support the measure.

Finally, clause 157 enacts a minor change, allowing HMRC to withdraw a notice to file a self-assessment return where it is clear that an individual no longer has the need to. Again, we support that measure, and we will not oppose any of these clauses.

Mr Gauke: As we have heard, clause 155 and schedule 23 will provide a new power to allow HMRC to make an assessment of an individual's income tax and capital gains tax liability without their first being required to complete a self-assessment return. Clause 157 will allow HMRC to withdraw a notice to file or cancel any related penalty for failure to make a return. Clause 156 will ensure that the time allowed for making a self-assessment when HMRC has served notice to file a return is clear.

I will speak first to clause 155 and schedule 23. In March 2015, HMRC published "Making tax easier: The end of the tax return", which set out its vision to modernise the tax system by introducing digital tax accounts for individuals and businesses. That will lead to millions of HMRC customers no longer needing to fill in tax returns. At present, hundreds of thousands of people have to fill out a self-assessment tax return every year simply because they have a tax liability that cannot be collected through pay-as-you-earn. This is expensive and time-consuming for both the customer and HMRC. The measure will allow HMRC to send a tax calculation to customers along with a request for payment when HMRC already has enough information to make an accurate assessment of the tax due.

HMRC already holds a wide range of information, such as employment, pay and pension income, child benefit payments and savings income. That comes from a range of sources such as Government Departments, banks, building societies, employers, pension providers and information provided directly by taxpayers. Furthermore, HMRC already uses that information held on its systems to calculate an individual's tax liabilities on an annual basis.

From 2016-17, this measure will allow HMRC to send customers with the simplest affairs a simple tax calculation and request for payment, meaning that they will not have to fill out a tax return. HMRC will consult on using the power to create tax bills for customers with more complicated affairs. It estimates that in time, up to 2 million individuals will benefit from the simple assessment. Individuals will have a simple customer experience, and fewer customers will incur a penalty or have to pay interest because they have not sent their return in on time.

HMRC intends the process for customers to be online and as simple as possible, and as such has aligned simple assessment with the payment dates and interest provisions that already exist for self-assessment. The current processes for hardship will continue. There will also be assistance for customers who have difficulty going online, including a paper process for customers who are unable to access digital accounts. As is the case now, customers should check that the information in their simple assessment tax calculation is correct. Customers will be able to challenge figures, and there will be a right of appeal if disputes cannot be resolved informally.

Furthermore, customers will still be able to fill out a self-assessment return if they wish or if they have to declare changes to their circumstances. Simple assessments will be used to collect the tax that is due based only on information already known about income and circumstances.

In order for the Government to facilitate the change that I have just discussed, and to enable as many people as possible to benefit from that simplification, clause 157

[Mr Gauke]

makes amendments to the Taxes Management Act 1970 and consequential amendments to one of its schedules to allow HMRC to withdraw a notice to file or to cancel related penalties. Under the income tax self-assessment system, anyone sent a notice to file a self-assessment tax return by HMRC is required to complete and return the assessment. HMRC does not want to unnecessarily oblige customers to complete a tax return if they do not need to be within self-assessment.

3 pm

The Finance Act 2013 introduced a new power for HMRC to withdraw a notice to file a self-assessment tax return on a request from a taxpayer. If HMRC agrees to withdraw the notice, that Act enables it to cancel any late filing penalties. An individual can currently ask that a notice to file be withdrawn, but there is no such power for HMRC. Clause 157 will allow HMRC to withdraw a notice to file, and where a notice to file is withdrawn, HMRC may cancel any penalty for failure to make a return. The change will have effect in relation to the 2014-15 tax year. In subsequent years, it will facilitate the delivery of simple assessment and release customers from the administrative burden of completing needless tax returns.

Although the Government have set out their ambition to abolish the tax return, it is appropriate to clarify the time limits within the existing system of self-assessment. In 2015, a legal challenge found that HMRC's existing interpretation of the time limits for self-assessment—four years from the end of the tax year to which the self-assessment relates—was incorrect. It was found that the law as it stood did not provide any time limit for self-assessment. Clause 156 clarifies that the time limit for making self-assessment is four years from the end of the relevant tax year. That is the same time limit as for assessments by HMRC. The clause clarifies section 34 of the Taxes Management Act 1970 on assessments not including self-assessment, and proposed new section 34A clarifies that individuals have four years from the end of the relevant tax year to submit a tax return when notified by HMRC to do so. That will not apply when other statutory time limits apply. The change will have effect on and after 5 April 2017, and there are transitional arrangements for previous years.

The repayment of overpayments reported through self-assessments received more than four years after the end of the relevant tax year is estimated to cost the Exchequer approximately £30 million, and the Office for Budget Responsibility has included that in its forecast. The measure is likely to affect fewer than 40,000 individuals and households. Where taxpayers have submitted self-assessment returns late or not at all due to significant life events, HMRC's needs enhanced support team can provide tailored support. HMRC can also apply discretion in exceptional circumstances.

The hon. Member for Salford and Eccles asked when HMRC will use this power. It will be used from April 2017 for the 2016-17 tax year. She also asked about the timing of guidance and how we will ensure that taxpayers know about the responsibility to correct. HMRC expects to talk to taxpayers later this year about that, and guidance will be issued following consultation in which HMRC will outline fully the responsibilities of both the taxpayer and HMRC.

If HMRC's information or data are incorrect, there will be safeguards. Customers will be given the opportunity to dispute and correct the information held by HMRC that has been used in a simple assessment. After listening to customers and representative groups, HMRC has extended the amount of time that customers have to dispute their simple assessment. Taxpayers will now have 60 days to informally dispute the simple assessment. If the taxpayer remains unhappy once the dispute has been resolved, they will have a further 30 days to formally appeal. That will allow customers up to 90 days to dispute and appeal a simple assessment. The clauses clarify and simplify self-assessment for taxpayers, and I hope that they will stand part of the Bill.

Question put and agreed to.

Clause 155 accordingly ordered to stand part of the Bill.

Schedule 23 agreed to.

Clauses 156 and 157 ordered to stand part of the Bill.

Clause 158

Rate of interest applicable to judgment debts etc: Scotland

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

The Chair: With this it will be convenient to discuss clauses 159 and 160 stand part.

Rebecca Long Bailey: These clauses relate broadly to judgment debts, and they make the same provisions for Scotland, Northern Ireland, England and Wales. The Chartered Institute of Taxation has had no representations or comments from its members on the three clauses, apparently because they are completely uncontroversial. The legislation, however, seems complex, so I wondered whether the Minister has had any representations at all about its drafting. Otherwise, we have no issues with the clauses.

Mr Gauke: The clauses, as we have heard, deal with the rates of interest for all tax-related debts involving HMRC, ensuring that they are at the appropriate level, in accordance with tax legislation.

By way of background, section 52 of the Finance Act 2015 provided a set rate of judgment debt interest for England and Wales. Where HMRC is involved with a tax-related debt, the requirement is for the rates of interest to be those in tax legislation, and not those set out in a judgment debt or by a county court or others. Last summer, in the Finance Bill, we set out the rates of interest for England and Wales, but interest payable by or to HMRC following a court action in Scotland and Northern Ireland is set at a different rate. That is because we sought to consult with Scotland and Northern Ireland before extending the changes to them. They have since indicated that they are content for the legislation to be extended UK-wide.

To answer the hon. Lady's question, we have not received any representations on the measure. It may be complex, but it appears to be uncontroversial, so I hope it can stand part of the Bill.

Question put and agreed to.

Clause 158 accordingly ordered to stand part of the Bill.

Clauses 159 and 160 ordered to stand part of the Bill.

Clause 161

Gift aid: power to impose penalties on charities and intermediaries

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

Rebecca Long Bailey: The clause relates to gift aid and will allow HMRC to impose penalties on intermediaries that fail to comply with new requirements on gift aid declarations, as set out in secondary legislation that has not yet been published. A technical consultation on those draft regulations is apparently being carried out later this year. To understand the clause, therefore, the Committee might find some background useful.

The Government want to make it easier to claim gift aid on donations given through digital channels. At the moment, a charity requires a gift aid declaration from a donor in order to be able to claim gift aid. Where donations are made by an intermediary—through a website such as justgiving.com, or by text—the situation is difficult, because the intermediary has to collect the declaration from the donor and then pass it on to the charity.

The Government therefore carried out a consultation on digital giving, which ran from July to September 2013, and published their response in April 2014. The consultation received more than 100 responses, and I understand that meetings have been held with representatives of both charities and intermediaries. The Government's intention, as I understand it, is to allow gift aid declarations to be made by intermediaries representing individuals, and to allow charities to use such declarations to claim gift aid. The primary legislation that gave the Government the power to do that was enacted in the Finance Act 2014. Clause 161 simply amends that legislation so that the regulations, when published, may also include a penalty for intermediaries who fail to comply with the requirement, as well as a right of appeal against those penalties. Regulations for the requirements and penalties will be published later this year.

According to the policy paper, the Exchequer impact of the changes are not known, but the measure is expected to decrease net receipts, as there will be a higher level of gift aid on donations. The paper also states that the measure will affect only intermediaries who fail to comply with legislation, and that they may incur one-off costs to put systems in place to implement the changes. However, estimates of the impact will be made when details of the measure have been finalised.

We completely agree with making it easier for gift aid to be claimed on donations where it is complicated to do so, and we are happy to support the clause, but perhaps the Minister will provide more detail of what the regulations will contain and what the requirements on intermediaries will be.

Damian Hinds: I am grateful to the hon. Lady for this opportunity to put on the record a little more of the detail and some of the reasoning behind the measure. Clause 161 gives HMRC the power to impose penalties on intermediaries operating in the charity sector if they fail to comply with new requirements to be set out in regulations. These regulations are designed to make it easier for charities to claim gift aid through digital channels, and draft regulations have been made available to the Committee.

Clause 161 lays the groundwork for delivering the Government's commitment to giving intermediaries working in the charity sector a greater role in administering gift aid, which allows charitable donations to be made tax-free. Donors can now give through multiple digital channels, including SMS text donations, online portals and, more recently, Twitter. Gift aid legislation has not always kept up with these developments, so in autumn statement 2013, the Government announced plans to explore ways in which charity intermediaries could be given a greater role in administering gift aid. We have worked closely with representatives of charities and intermediaries to develop proposals to give additional flexibility in claiming gift aid through digital channels. The clause is a necessary step in delivering those proposals. It gives HMRC the ability to charge penalties to intermediaries that do not operate within the new rules. This will help to ensure that the additional flexibility for claiming gift aid is not misused, and so help to protect the income and reputation of charities throughout the country.

It may be helpful if I briefly set out how the new proposals will work. Before a charity can claim gift aid on a donation it has received, the donor must have completed a declaration stating both that the donation is eligible for gift aid and that they want the charity to be able to reclaim the tax paid on that donation. Essentially, this allows the donor to give an intermediary permission to complete a gift aid declaration on his or her behalf in respect of donations made through that intermediary. That permission will last for the rest of the tax year, negating the need to complete a gift aid declaration every time a donation is made. Donors will, of course, have the right to cancel that permission at any time. As with any tax relief, the Government must ensure that the gift aid is claimed only when it is right to do so, and clearly rules must be in place to ensure that.

These rules are in everyone's best interests. They protect the use of taxpayers' money and the reputation of those charities that benefit from gift aid relief, and encourage intermediaries to act responsibly. For example, it is only right that intermediaries should let donors know the total value of gift aid claimed on their donations over the course of a tax year, as this could affect their tax liability. Consequently, there will be new obligations on intermediaries who choose to offer the new process set out in regulations. Failure to comply with those obligations could result in intermediaries facing a penalty.

If a penalty is imposed, it will be £50 per failure to comply, up to a limit of £3,000 a year. I should stress that although there must be a sanction against those who are careless or negligent, it is not anticipated that HMRC will charge these penalties routinely. There will be scope to suspend them to enable intermediaries to rectify any shortcomings in processes, and of course there will be a right of appeal against a decision to impose a penalty. I want to make it clear that the Government do not propose applying new penalties on charities; they will apply only to intermediaries.

[Damian Hinds]

Clause 161 amends the Income Tax Act 2007 to set out when a penalty may be imposed, and the maximum amount that can be imposed for failure to comply, and it confers appeal rights. It also provides that the clause will take effect from a date appointed in regulations. The Government recognise that intermediaries can and indeed do play an important role in assisting charities to get the benefit of gift aid. It is necessary to ensure that the processes under which they operate are robust and not misused to the detriment of charities or their generous donors.

Question put and agreed to.

Clause 161 accordingly ordered to stand part of the Bill.

Clause 162

Proceedings under customs and excise Acts: prosecuting authority

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

3.15 pm

Rebecca Long Bailey: Clause 162 amends part XI of the Customs and Excise Management Act 1979 to remove reference to the commissioners from the definition of "prosecuting authority" for Scotland and Northern Ireland. It will also insert the Director of Public Prosecutions for Northern Ireland as the relevant prosecuting authority for Northern Ireland.

We see the clause as a minor amending clause that tidies up the measures in the 1979 Act relating to Scotland and Northern Ireland. We believe that it is sensible to ensure that the time limit for summary offences does not start to run before the date at which the prosecuting authority has knowledge of sufficient evidence to warrant the proceedings.

We have no concerns about the clause and are happy to support it, but I will stray slightly from the exact detail of the clause and ask the Minister what initial consideration the Treasury has given to the future of customs checks on the border between Northern Ireland and the Republic of Ireland following the EU referendum. I am sure that he is aware that the Irish border has been free of customs checks since 1993 as a result of the single market. A return to customs checks would be damaging to the British and Irish economy, and may well have implications for the Office of the Director of Public Prosecutions for Northern Ireland. Perhaps the Minister can address that concern, either today or in writing at a later date.

Damian Hinds: As the hon. Lady and all members of the Committee know, a number of issues will have to be addressed in due course. The clause does not relate to the subject of the question she asked.

Clause 162 amends the Customs and Excise Management Act 1979 to correct outdated references to the prosecuting authorities in Northern Ireland and Scotland. By doing so, it will ensure that time limits for starting proceedings will apply only to the correct authorities. The clause is purely technical and is not a change of policy.

Question put and agreed to.

Clause 162 accordingly ordered to stand part of the Bill.

Clause 163

Detention and seizure under CEMA 1979: notice requirements etc

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

Rebecca Long Bailey: Again, I have just got a few comments, because the clause is largely uncontroversial. It simply amends the 1979 Act to permit Border Force officers to treat the driver of a vehicle or someone comparable as if they were representatives of the goods being seized. It seems uncontroversial, but it has implications for vehicle drivers, including road haulage drivers. I am not aware of any concerns expressed by potential stakeholders, but what consultation has taken place with the Road Haulage Association in particular, the British International Freight Association and the office of the independent chief inspector of borders and immigration?

Damian Hinds: Clause 163 makes provision for an officer of HMRC to treat a person, when seizing or detaining goods, as if they are a representative of the owner of the goods, wherever that person has or appears to have possession or control over those goods.

Under current legislation, when detaining or seizing goods, there is no requirement for an officer to serve a notice of detention or notice of seizure on the person present if the officer believes that that person is a servant or agent of the owner of those goods. Whether a driver can be considered an agent or servant of the owner affects the processes that the officers seizing or detaining goods must follow. However, drivers of vehicles carrying such goods often claim distance from the owner, making it difficult for HMRC successfully to consider them to be an agent or servant of the owner. That leaves HMRC trying to find an owner in what is usually a complex, fraudulent supply chain.

The changes made by clause 163 will allow officers to treat the driver, or a person in a comparable position, as if he or she were a representative of the owner and, therefore, not legally entitled to a notice of detention or a notice of seizure. It will make the operational duties of officers of Her Majesty's Revenue and Customs more effective. Currently, those who purport to be owners are arguing that they have not had their legal right to appeal because they were not served with a notice.

HMRC has a duty to take robust action to deal with those who smuggle illicit goods of any description into the UK. By making explicit provision for the driver to be treated the same as an agent or servant, it will reduce the resource required in trying to identify the owner of the goods in what is usually a fraudulent and potentially complex supply chain.

The measure was consulted on in December 2015 for eight weeks. One response was received, and an individual reply was sent. The main thrust of the response was a request for clarification on the rights of appeal, and on whether the legislation would affect the rights of the owner to appeal against the seizure. HMRC was able to explain that the legislation would not affect those rights; appeal rights were not compromised. It was a consolidated response from industry, including hauliers.

To conclude, the measure removes the need for an officer to serve a notice on someone who has, or appears to have, possession or control of anything that is detained or seized. By doing that, the measure clarifies procedure for officers and those from whom the goods are detained or seized. It also removes significant operational barriers for HMRC in its pursuit of reduced excise tax gaps.

Question put and agreed to.

Clause 163 accordingly ordered to stand part of the Bill.

Clause 164

Data-gathering powers: providers of payment or intermediary services

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

The Chair: With this it will be convenient to consider clause 165 stand part.

Rebecca Long Bailey: Clause 164 looks at extending HMRC's data-gathering powers for the growing digital economy, which we are happy to support. HMRC's existing data-gathering powers were set out in schedule 23 to the Finance Act 2011. HMRC subsequently obtained new powers in section 228 of the Finance Act 2013 to request data from merchant acquirers—businesses—that process credit and debit card transactions.

More recently, HMRC completed a consultation, "Tackling the hidden economy: extension of data-gathering powers", between July and October 2015, which has led to the detail of this clause. The clause recognises the rapid development of the digital economy and payments made through it, and the Government wish to enhance their ability to obtain data by adding two new categories of data holders to the existing legislation on data gathering.

Those categories are identified as electronic stored-value payment services—or digital wallets—and as other business intermediaries operating offline. The *Financial Times* recently reported research by Worldpay that asserted that the rise of digital wallets would mean that credit cards and debit cards would fall from accounting for two thirds of all payments to just half by 2019.

The same report found that $647 billion of consumer payments to businesses will be made globally through digital or e-wallets that year. It is in that context that the Government wish to cast their data-gathering net wider to include that growing sector. I am particularly interested in the Minister's view of the possibility of increasing tax revenue through these powers. The economic impact in the policy paper suggests an increased take of approximately £200 million per year once these powers are embedded.

Roy Maugham, tax partner at UHY Hacker Young, said:

"The new powers HMRC are seeking indicate that they believe there is large-scale tax evasion in the 'app economy'."

Is the expectation that these powers will reveal new instances of tax evasion or tax avoidance? Will the Minister indicate what initial scoping or research has been possible to determine the likelihood of that? In the light of the consultation response from the Low Incomes Tax Reform Group, will the Minister guarantee that the powers will not be used in a way that disadvantages those on low incomes who run owner-managed businesses and who will find them a significant new administrative burden?

A number of submissions to the consultation and responses to the draft legislation, including from the Chartered Institute of Taxation and Payments UK, expressed concern about the definition of the two new categories. I believe that the comments from Payments UK on the definition of "providers of digital wallets" have largely been taken on board, with them now being referred to as

"providers of electronic stored-value payment services".

The Chartered Institute of Taxation would like further clarification on the definition of "business intermediaries" as it is concerned that that will catch not only websites such as eBay, Etsy and Airbnb but traditional businesses such as insurance brokers and letting agents. Can the Minister shine some light on that today?

We are also happy to support clause 165, which addresses HMRC's power to levy daily penalties on data holders that do not comply with a data information notice request. Under existing legislation, if a person fails to comply with a data holder notice, they are liable for an initial fixed penalty of £300 and daily default penalties of up to £60 a day. If that is unsuccessful, a tribunal can decide the amount of an increased daily default penalty, which cannot be more than £1,000 a day. The clause clarifies that the tribunal will be responsible for determining the maximum amount of an increased daily penalty, but HMRC will determine the penalty that applies.

Our main concern, once again raised by the Low Incomes Tax Reform Group, is that the proposed change to the law in clause 165 might move significant numbers into the scope of data holder notices and a penalty regime intended for large companies involved in established modes of transaction, such as companies that facilitate credit card transactions. Under the current data request regime, the requirement for the parties subject to a notice to produce the information demanded within 30 days, under threat of instant penalties, may be particularly demanding for lower-resourced parties. On that basis, I hope the Minister can give such companies some reassurance.

Aside from the points that I have outlined, we are more than happy to support clauses 164 and 165.

Mr Gauke: Clause 164 will extend HMRC's existing bulk data-gathering powers, allowing it to require data from two additional categories of data holder. The first category relates to business intermediaries that facilitate transactions, particularly online, between a supplier and a customer. The category covers providers of electronic stored-value payment services, also known as digital wallet transactions, a method of transferring payments to a retailer or trader. Comparing those new data with information that it already holds will enable HMRC to identify businesses that have failed to register with it or that are not declaring the full amount of tax they owe. HMRC will not seek data about individual transactions.

Clause 165 makes minor technical corrections to schedule 23 to the Finance Act 2011, which covers the bulk data-gathering powers mentioned in clause 164. Businesses are increasingly using intermediaries to provide custom or take payments, in some cases without registering

[Mr Gauke]

for tax. New payment models are evolving quickly and are moving away from cash and card transactions towards other electronic payment groups, which means that some businesses can trade digitally while remaining beyond HMRC's view.

Clause 164 updates HMRC's data-gathering powers to keep pace with those changes and futureproofs legislation by including emerging new data sources of a similar type. Those data will help HMRC to crack down on the hidden economy, which the Government are committed to addressing. The powers that enable HMRC to collect third-party data from a range of data holders is subject to appeal. When a data holder does not comply with a notice, HMRC may levy penalties.

Clause 165 corrects provision by which increased daily penalties can be approved and assessed. As drafted, the existing provisions are not sufficiently clear and may lead to confusion for data holders and obstacles to the administration of the penalties. Clause 165 gives clarity to the legislation regarding HMRC's application to the first-tier tribunal and adds an appeal right for the data holder over the number of days the increased penalties can be assessed.

3.30 pm

The changes made by clause 164 will affect business intermediaries, particularly those online and operators of digital wallets. Compliant business should benefit, as the clause ensures a level playing field between businesses that comply with their tax obligations and those that do not. There will be some impact, as there will be additional administrative burdens for the data holders. However, before an information notice is served, HMRC will always work closely with the data holder to understand their data in order to minimise the burden on the data holder and to ensure that the data are usable when they are passed to HMRC.

Clause 165 will affect only data holders who do not comply with a schedule 23 third-party bulk data information notice. The changes made by the clause will allow HMRC to issue data-gathering notices to two new categories of data holders. Data holders can appeal against a notice, if they deem it to be burdensome. New regulations will specify the types of data to be collected. However, the policy intention is not to capture data about individual transactions. The clause adds an appeal right for the data holder over the number of days for which the increased penalties can be assessed. That appeal right did not previously exist.

On the questions raised by the hon. Lady, it is correct that the measure will raise revenue by £220 million a year by 2021. The yield comes from tackling the hidden economy, which is very important. It is not HMRC's intention to impose the penalties. Before a notice is issued, HMRC will always work closely with data holders to understand the data they hold, how the data are collated and what format they are in. That ensures that HMRC's requirements are reasonable.

The hon. Lady asked whether the data holder has a right of appeal against an HMRC request. The answer is yes. The data holder can appeal against a notice to the tribunal on the grounds that the request is too onerous to comply with, they are not a data holder or the data requested are not relevant. Before a notice is served, HMRC will always work closely with data holders to ensure that HMRC's requirements are reasonable and to minimise the burden on the data holder.

On the concern that powers could be used to disadvantage owner-managed businesses of low income, the measures should not affect low-income groups. The powers relate to businesses that fail to register for tax or significantly under-declare their income. It is right that we take action on such businesses, but compliant businesses should have nothing to fear.

Data from data holders will enable HMRC more accurately to target their compliance checks in the area of highest risk and conclude them quicker. The technical corrections will give clarity to the legislation and add an appeal right for the data holder. That will help to provide a level playing field for the majority of legitimate businesses that register with HMRC and pay what they owe. I hope that the clauses stand part of the Bill.

Question put and agreed to.

Clause 164 accordingly ordered to stand part of the Bill.

Clauses 165 and 166 ordered to stand part of the Bill.

Clause 167

Raw tobacco approval scheme

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

Rebecca Long Bailey: Clause 167 introduces a raw tobacco approval scheme for users of and dealers in raw tobacco. Raw tobacco is not subject to excise duty or possession controls when it is not yet in a smokable form. The Government state that tobacco duty evasion is becoming increasingly prevalent through raw tobacco, which is freely and legally imported and either processed into smoking products in unregistered premises or sold in small quantities to consumers for home processing. To try to combat that, the Government carried out a consultation on the control of raw tobacco, and proposed an approval scheme.

The clause introduces a raw tobacco approval scheme that requires a person undertaking any activity involving raw tobacco to be approved and registered with HMRC. If a person is found to be undertaking an uncontrolled activity without registering with HMRC, the penalties that can be issued are either £250 or an amount equal to the duty that would have been charged on the relevant quantity of smoking tobacco at the lowest rate of duty. On that point, will the Minister confirm why the Government set the penalty at the lowest rate of duty? They could have gone for the hand-rolling rate, which would have doubled the penalty.

The clause allows exemptions to be granted to those who have a legitimate use of raw tobacco that does not involve the manufacturing of smoking products. HMRC expects that 20 to 24 businesses—mainly tobacco product manufacturers, importers, brokers and testing centres—will register. I understand that the Government are going to undertake a post-implementation review, which we welcome.

The aim is to address tobacco duty evasion by prohibiting the use of raw tobacco by unapproved persons to prevent the illegal manufacture of tobacco products. The clause will also make it a lot easier for border forces to seize tobacco and check whether it is destined for an approved person.

I understand that the new scheme will be largely built on existing registration processes, minimising the administrative impact on legitimate users of raw tobacco. For example, tobacco manufacturers already have duty approval, which will just be extended to include raw tobacco approval. Does the Minister feel that that addresses the Tobacco Manufacturers Association's concerns that the measure will place additional burdens on legitimate users of raw tobacco?

The Labour party welcomes any measures to crack down on tax evasion and avoidance. We will therefore support the clause.

Damian Hinds: Clause 167 makes changes prohibiting any unapproved person from carrying out any activity involving raw tobacco. That will reduce the risk of evasion of tobacco excise duty and prevent the illegal manufacture of tobacco products. The approval scheme will be set out in regulations made under powers in this clause, and tailored to reflect a proportionate response to the risk presented. It will build on existing approval processes where appropriate to minimise the impact on legitimate users of raw tobacco.

Raw tobacco that is not yet in a smokable form is not subject to excise duty and the associated movement controls in the UK. There is a significant risk of tobacco products duty evasion through raw tobacco being freely and legally imported. It can be processed into illicit tobacco products in unregistered premises or sold in small quantities to consumers for home processing. We have identified no legitimate use for significant quantities of raw tobacco in the UK, other than for the manufacture of smoking products.

The Government are aware that raw tobacco is occasionally used in very small quantities for non-smoking purposes, such as beekeeping, pigeon bedding and fertiliser production. We have identified no significant non-smoking uses for large volumes of raw tobacco in the United Kingdom. Dialogue has been sought with the representatives of the potential niche uses, and the scheme has been designed with an understanding of those alternative uses and the extent of the risk presented.

The illicit manufacture of cigarettes and hand-rolling tobacco in the UK from raw tobacco deprives the Exchequer of the duty that should be paid, upon which we rely to fund our public services. It also makes cheaper illicit tobacco products more accessible, undermining the Government's public health objectives.

The clause will assist in preventing the evasion of excise duty through the use of raw tobacco. It amends the Tobacco Products Duty Act 1979, prohibiting any person from carrying out any activity involving raw tobacco unless the person holds approval from HMRC. The changes will give HMRC powers to set out the details of the approval scheme in regulations, including how to apply for approval and what conditions and restrictions might apply to an approval. The clause will enable HMRC and Border Force officers to identify and seize raw tobacco if there is no evidence to show that the raw tobacco is destined for either an approved person or a premises that is specified in an approval. It also provides appropriate sanctions, including penalties and forfeiture, where any unapproved person has any involvement with raw tobacco.

From the consultation responses, it is expected that between 20 and 40 businesses will apply for approval. The one-off costs of familiarisation with the scheme and of making the application will be negligible. The raw tobacco scheme will protect £10 million of revenue per year by 2017-18, as certified by the Office for Budget Responsibility. The tobacco rate that applies to other smoking tobacco can be charged only until a tobacco product is produced, and if that happens, the correct tobacco rate will of course apply from that point. The clause will reduce the risk of evasion of excise duty by prohibiting activities involving raw tobacco by an unapproved person, to prevent the illegal manufacture of tobacco products.

Question put and agreed to.

Clause 167 accordingly ordered to stand part of the Bill.

Clause 168

Powers to obtain information about certain tax advantages

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

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

That schedule 24 be the Twenty-fourth schedule to the Bill.

Clauses 169 and 170 stand part.

Rebecca Long Bailey: These clauses give HMRC the power to collect and publish data relating to claimants of certain tax reliefs listed in schedule 24; I will not detail them all. The aim is essentially to make it easier for the European Commission to assess whether any such reliefs constitute state aid, in accordance with relevant EU obligations that commence on 1 July 2016. Information will be published only for beneficiaries who are in receipt of aid above €500,000, and the specific amount of tax advantage will not be published.

State aid is defined by the European Commission as

"an advantage in any form whatsoever conferred on a selective basis to undertakings by national public authorities."

We do not have any issue with the principle behind the clauses—despite the obvious question of whether they will all need to be repealed in a few years' time—but I have a question about clause 170(3) to (5), which allows the Treasury to amend the list of reliefs in schedule 24 by statutory instrument made under the negative procedure, meaning that it will not be debated. That raises the issue of scrutiny. Under what circumstances will the list be updated? I hope the Minister can provide some clarity on that. However, overall there does not appear to have been much reaction to the measures in these clauses, and we will not oppose them today.

Mr Gauke: Clauses 168 to 170 and schedule 24 introduce new powers to allow HMRC to collect information on certain tax reliefs and exemptions. They will allow HMRC to improve its ability to monitor and evaluate the effectiveness and value of those reliefs, which constitute state aid. The powers will also allow some of that information to be shared with the European Commission through a legal gateway and published on a public website.

[Mr Gauke]

Improved the monitoring and evaluation of state aid provided to UK businesses via tax reliefs and advantages is a sensible step forward. It may help if I provide hon. Members with some background. State aid is an advantage granted to an undertaking by public authorities through state resources on a selective basis. The Government support improved monitoring and evaluation of aid, to ensure that tax reliefs or advantages are well targeted and of value to the UK.

The provisions will allow HMRC to determine what information should be included in any claim for tax relief, to collect information from relevant persons in receipt of state aid and to publish and disclose relevant information about state aid received by beneficiaries. The changes will only affect UK businesses in receipt of state aid in the form of certain tax reliefs, and we will engage with those affected to ensure that they are ready.

3.45 pm

On clause 170(3) to (5), the secondary power provides for the Treasury to amend the list in schedule 24 under the negative procedure. That secondary power will be exercised only if the list of tax reliefs needs to be changed, for instance to remove entries from the list or to vary an entry. That may happen if the tax relief or tax advantage is withdrawn, or if the state aid requirements no longer apply to it. The new powers will allow HMRC to monitor and evaluate the state aid it administers and ensure that the reliefs involved are delivering value to the United Kingdom. I therefore hope the clauses and schedule will stand part of the Bill.

Question put and agreed to.

Clause 168 accordingly ordered to stand part of the Bill.

Schedule 24 agreed to.

Clauses 169 and 170 ordered to stand part of the Bill.

Clause 171

Qualifying transformer vehicles

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

Rebecca Long Bailey: This clause provides a power, first, to define by regulations a qualifying transformer company, and secondly, to determine by regulations the tax treatments of QTCs, investors in QTCs and transactions involving QTCs. The Committee will be aware from my comments earlier in the week that transformer vehicles are used by insurance companies to transform receivables, such as the repayments for a bundle of mortgages from a group of mortgage borrowers, into a security. It is right to express extreme caution about that procedure, given that it was the process of securitisation in the US sub-prime mortgage market that led to the financial crisis in 2007-08.

The provision appears to be broadly unobjectionable, but it provides a power for the Treasury to create regulations. If memory serves me correctly, the issue was discussed recently during the passage of the Bank of England and Financial Services Act 2016. Securitisation structures operate by transferring assets, whether sub-prime mortgages, credit card receivables or similar cash flows, into off-balance-sheet special purpose vehicles. Ordinarily, the profits or cash flows received from those assets pass through the special purpose vehicle to the investors who have acquired bonds in it. Usually, the residual amounts—the focus of clause 61, which I spoke about at length earlier in the week—that are left in the special purpose vehicle are small amounts compared with the sums that are paid to the investors.

However, as with all such artificial financial structures, it is possible to manipulate those amounts. If the residual amounts held by special purpose vehicles are to be saved from withholding tax, as clause 61 provides, and treated in a different manner for tax purposes, that makes it possible for the payment flows through a special purpose vehicle to be artificially raised so that larger sums can benefit from that different tax treatment.

What concerns me is as follows. What is stopping an unscrupulous financial institution involved in the industry of off-the-peg tax avoiding derivatives from passing large sums that would otherwise be subject to withholding tax—for example as payments of interest—through special purpose vehicles? Have the Government considered in detail how such cash flows should be treated so as to prevent artificial or abusive tax avoidance? Are the Government satisfied that they have done enough work to identify contexts in which transformer vehicles might be used for tax avoidance purposes? For example, subsection (4)(c) acknowledges that the regulations must consider attempts to obtain a tax advantage using transformer vehicles.

I understand that from 1 March to 29 April, the Treasury ran a consultation on insurance-linked securities, to which there is not yet a Government response. The website still says:

> "We are analysing your feedback".

Will the Minister say why a response to the consultation was not published before this clause came before the Committee?

Mr Gauke: To address directly the points raised by the hon. Lady, the regime does not present significant avoidance opportunities. The tax approach will be contingent on regulatory rules being met, which will ensure that the tax rules are appropriately targeted. In addition, the clause allows for a tailored avoidance rule, specific to the regime. That will be in addition to other anti-avoidance rules that are in place, such as the general anti-abuse rule.

The hon. Lady raised the familiar issue of securitisation and the risks involved. It is worth pointing out that insurance-linked securities deals are not the kind of financial asset securitisations that were a contributory factor in the financial crisis. ILS deals are essentially specialist reinsurance deals that are fully funded to meet the risks that they take on. That full funding requirement will be a crucial safeguard in the new UK framework. Insurance-linked securities were an asset class that performed very well during the financial crisis, and they continue to do so. I hope that that provides some reassurance to her.

I should say a word about the consultation on this matter. A formal consultation was launched in March 2016. The Government consulted the London Market Group's ILS taskforce and a range of market participants on the development of a framework that will allow vehicles that issue ILS deals to locate in the UK. Respondents were supportive of the general approach outlined in the consultation, and the comments received will inform the drafting of secondary legislation made under this power. As for why those comments are unpublished, detailed rules will be included within regulations, which will be subject to further consultation over the summer, in addition to ongoing discussion with the industry taskforce.

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

Question put and agreed to.

Clause 171 accordingly ordered to stand part of the Bill.

Clause 172

Office of Tax Simplification

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

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

Amendment 140, in schedule 25, page 569, line 2, at end insert

", subject to subsection (4A).

(4A) The chair of the OTS will be appointed by the Chancellor of the Exchequer with the consent of the Treasury Committee of the House of Commons."

Amendment 141, in schedule 25, page 570, line 21, leave out from "considers" to end of line 22 and insert

"sufficient for the OTS to fulfil its duties."

That schedule 25 be the Twenty-fifth schedule to the Bill.

Amendment 142, in clause 173, page 254, line 32, after "contributions" insert "and tax reliefs".

Clause 173 stand part.

Amendment 137, in clause 174, page 255, line 5, after "Exchequer" insert

"or as the OTS considers appropriate".

Amendment 138, in clause 174, page 255, line 13, leave out "Chancellor of the Exchequer" and insert "OTS".

Clause 174 stand part.

Amendment 139, in clause 175, page 255, line 26, leave out "Chancellor of the Exchequer" and insert "OTS".

Clauses 175 to 177 stand part.

Mr Gauke: Clause 172 and schedule 25 place the Office of Tax Simplification and its governance arrangements on a permanent statutory footing. I will also cover the other clauses in this group. The Government are making these changes to reinforce the OTS's independence, ensure that it can play a greater role in public debate, and expand its role and capacity to advise the Government on tackling complexity in the tax system.

I would like to provide hon. Members with some background to the changes. The Government established the OTS as a temporary, non-statutory office of the Treasury in July 2010 to provide the Chancellor with independent advice on options for addressing existing complexity in the tax system. Since then, the OTS has made more than 400 recommendations to simplify the tax system, almost half of which have been implemented by the Government. To ensure that the OTS continues that important work, the Chancellor announced at summer Budget 2015 that the Government intended to put the OTS on a permanent statutory footing in this Bill.

The changes made by clause 172 and schedule 25 put the OTS on a statutory footing and strengthen its governance and operations. The OTS board must include the OTS chair and tax director and representatives from the Treasury and HMRC. In addition, the chair may nominate up to four further non-executive members to be approved by the Chancellor to provide the board with additional challenge and guidance.

Clauses 173 to 175 specify the enhanced functions and operations of the OTS. As part of the OTS's expanded role, it will be able to provide advice on the simplification of the tax system as it considers appropriate, which is something that it has never been able to do before, as well as undertake reviews on areas of the tax system at the request of the Chancellor of the Exchequer. Where the OTS has conducted a review at the Chancellor's request, he must publish a response.

The new OTS will also be more accountable and transparent. Clause 175 requires the OTS to publish an annual report on the performance of its functions. To ensure the OTS's long-term effectiveness, clause 176 requires the Treasury to review its work every five years and stipulates that such reviews must be published. Clause 177 gives the Treasury power to appoint the day when the legislation establishing the OTS will take effect. That will be done by the end of 2016.

If I may, I would like to respond briefly to amendments 137 to 142, which would amend clauses 174 and 175 and schedule 25. Amendment 137 would allow the OTS to conduct reviews on aspects of the tax system as it considers appropriate. Clause 173 makes a provision for the OTS to provide advice to the Chancellor on aspects of the tax system as it considers appropriate, which is a power that the OTS has never had before. That is appropriate to its advisory role.

Amendments 138 and 139 would provide for the OTS to lay reports before Parliament. The OTS's role is to advise the Chancellor on aspects of the tax system. It does not have a scrutiny function. It is therefore right that the Chancellor, who is accountable for the Treasury and its independent offices, should publish and lay the OTS reports in Parliament. The Chancellor also has the ability to make statements regarding OTS reports when laying them in Parliament. The OTS does not have that ability.

Amendment 140 would require the Chancellor to seek the approval of the Treasury Committee before appointing a new OTS chair. The role of the OTS is to advise on the simplification of the tax system; it does not have an Executive function. It is for the Chancellor to make the final decisions on tax policy while balancing the competing objectives of simplification, fairness and growth. The Government are nevertheless clear that the independence of the OTS is critical to its success and that is why we have strengthened the OTS's board and introduced legislation that will put it on a statutory

[Mr Gauke]

footing. The Bill will allow the OTS to advise the Chancellor on the simplification of the tax system as it considers appropriate, which it has not been able to do before. The Government believe that these measures, as well as the Treasury Committee's right to hold a post-appointment hearing for the OTS's chairman and tax director, are sufficient to achieve the independence proportionate to the function of the OTS.

Amendment 141 seeks to ensure that the OTS has the funding it needs to carry out its functions. The amendment is not necessary. The Treasury has increased the OTS's budget by nearly 50%, expanding its capacity with up to 10 full-time employees—an increase from six in the previous Parliament. Finally, amendment 142 looks to include tax reliefs in the OTS's remit. That is not needed as tax reliefs are already in the scope of the OTS's remit. Clause 173 provides for the OTS to give advice on the simplification of the tax system, which encompasses tax reliefs. I therefore urge Members to reject the amendments.

May I take this opportunity to thank John Whiting for his services to the OTS as tax director and congratulate him on his recent appointment as a CBE? He has served the OTS with much distinction and he will be greatly missed when he moves on. He has put a huge amount of effort into getting the OTS not only up and running but functioning well over a number of years.

The Government are committed to a tax system that is simple to understand and easy to comply with. The OTS has a key role to play in that. By tackling the big complexities in the system, the OTS can make a genuine difference to taxpayers. Establishing the OTS on a permanent, statutory footing will reinforce its independence and ensure that it can continue to provide robust and independent recommendations to the Government on simplifying the tax system. I hope that the clauses and schedule will stand part of the Bill.

4 pm

Rebecca Long Bailey: We will not press our amendments to a vote, but I want the Minister to understand our rationale for tabling them. As he has already explained, these clauses and schedule 25 make provisions for the OTS's governance, operation and functions. We support the measures, as we believe that the OTS made some valuable contributions during the previous Parliament to informing debate about taxation and challenging the Government, but we believe strongly that it should be clearly independent. As such, we have tabled amendments to try to beef up the Bill in that regard.

Amendment 140 would amend schedule 25 to specify that the chair of the OTS should be appointed by the Chancellor of the Exchequer with the Treasury Committee's consent, as is the case with the Office for Budget Responsibility. We think that that is a sensible approach to ensure the impartiality of the OTS. I am sure that the Minister is aware that Labour has placed on record its concerns about the OTS being used for political purposes. We therefore think that the consent of the Treasury Committee to the appointment of the OTS's chair would be beneficial, and it would be helpful to hear the Minister's thoughts about that idea in principle.

Amendment 141 would ensure that the Chancellor was not able to refuse to provide funding for OTS inquiries that he did not deem to be within its remit, as I understand could be the case as the Bill currently stands. The amendment would make it harder for the Chancellor to refuse to fund inquiries.

Amendment 142 would insert tax reliefs specifically into the OTS's functions, allowing it to review the best way to simplify the ever-growing number of tax breaks and reliefs. The Opposition are concerned that there does not seem to be an effective process to review the efficacy of those tax breaks and reliefs in achieving their desired aims, and it would therefore be sensible to insert tax reliefs directly into the functions of the OTS.

Amendments 137 and 138 relate to the reports and reviews that the OTS will produce. Amendment 137 would clarify that the OTS could produce reports as it considered appropriate, not just at the request of the Chancellor, and amendment 138 would allow the OTS directly to lay reports before Parliament. As the Bill currently stands, the OTS will report to the Chancellor, who can then lay those reports before Parliament. The amendments would give the OTS greater independence and accountability to Parliament, not just to the Chancellor.

We will not press the amendments to a vote, but I hope that the Minister will take time to consider and address the Opposition's concerns about the Bill as drafted and that the Government will be willing to move on those issues in due course.

Mr Gauke: I am grateful for the hon. Lady's remarks in support of the OTS. I addressed many of her points in my earlier remarks, but let me briefly come back to the point about independence. The role of the OTS is fundamentally different from that of the OBR. The OBR is a scrutinising body. Rather than the OTS having an Executive function, its role is to provide advice to the Chancellor on simplification of the tax system. Ministers then make the final decisions on tax policy and are held accountable for those decisions.

The hon. Lady expressed concern that the OTS's independence is at risk because the Chancellor could withhold funding because the Treasury do not like what the OTS is doing. I do not think that is a real risk. It is worth making the point that the OTS budget has been expanded, providing it with the funding that it needs. It is also worth highlighting the OTS's expanded role in providing advice on the simplification of the tax system as it considers appropriate, as opposed to where it has been given a specific remit.

I touched on many of those points in my earlier remarks, but I wanted to take this opportunity to reiterate them. I am pleased that there is cross-party support for the existence and role of the OTS and welcome that this afternoon.

Question put and agreed to.

Clause 172 accordingly ordered to stand part of the Bill.

Schedule 25 agreed to.

Clauses 173 to 179 ordered to stand part of the Bill.

The Chair: We now come to new clauses. Before I start with Government new clause 7, it might be helpful to point out to the hon. Member for Aberdeen North that we will take the free-standing new clauses in the name of her hon. Friend the Member for Kirkcaldy and Cowdenbeath at the end of the Government new clauses. She has been very patient and if she hangs on a bit longer, her moment will come.

New Clause 7

Receipts from intellectual property: diverted profits tax

'(1) Part 3 of FA 2015 (diverted profits tax) is amended as follows.

(2) In section 79 (charge to tax), at the end insert—

"(6) But banking surcharge profits and notional banking surcharge profits, to the extent that they are determined by reference to notional PE profits (or what would have been notional PE profits) for an accounting period, do not include any amount which is (or would have been) included in notional PE profits for that period by virtue of section 88(5)(b)."

(3) In section 88 (which relates to the calculation of taxable diverted profits), for subsection (5) substitute—

"(5) "Notional PE profits", in relation to an accounting period, means an amount equal to the sum of—

(a) the amount of profits (if any) which would have been the chargeable profits of the foreign company for that period, attributable (in accordance with sections 20 to 32 of CTA 2009) to the avoided PE, had the avoided PE been a permanent establishment in the United Kingdom through which the foreign company carried on the trade mentioned in section 86(1)(b), and

(b) an amount equal to the total of royalties or other sums which are paid by the foreign company during that period in connection with that trade in circumstances where the payment avoids the application of section 906 of ITA 2007 (duty to deduct tax).

(5A) For the purposes of subsection (5)(b) a payment of a royalty or other sum avoids the application of section 906 of ITA 2007 if—

(a) that section does not apply in relation to the payment, but

(b) that section would have applied in relation to the payment had the avoided PE been a permanent establishment in the United Kingdom through which the foreign company carried on the trade mentioned in section 86(1)(b)."

(4) In section 100 (credit for UK or foreign tax on same profits), for the heading substitute "Credits for tax on the same profits".

(5) In section 100, after subsection (2) insert—

"(2A) Subsection (2)(b) does not allow a credit against a liability to diverted profits tax if or to the extent that the liability arises by virtue of section 88(5)(b) (payments of royalties etc)."

(6) In section 100, after subsection (4) insert—

"(4A) Subsection (4B) applies where—

(a) a company's notional PE profits for an accounting period include an amount under section 88(5)(b) determined by reference to a royalty or other sum,

(b) the company's liability to diverted profits tax for the accounting period is determined by reference to taxable diverted profits calculated under section 91(4) or (5), and

(c) those taxable diverted profits include an amount of relevant taxable income referred to in section 91(4)(b) or (5)(b) determined by reference to the same royalty or other sum.

(4B) A credit equal to the company's liability to diverted profits tax for that accounting period which arises by virtue of section 88(5)(b) in respect of the royalty or other sum, to the extent that it is included in relevant taxable income for the purposes of section 91(4)(b) or (5)(b), is allowed against the company's total liability to diverted profits tax for that period.

(4C) Subsection (4D) applies where—

(a) by reason of the payment of a royalty or other sum a company's liability to diverted profits tax for an accounting period includes liability arising by virtue of section 88(5)(b),

(b) the royalty or other sum is paid to a person who is resident in a country or territory outside the United Kingdom, and

(c) under any relevant provision relief would have been due to that person had the avoided PE been a permanent establishment in the United Kingdom through which the company carried on the trade mentioned in section 86(1)(b).

(4D) Such credit as is just and reasonable having regard to the amount of the relief referred to in subsection (4C)(c) is allowed against the company's liability to diverted profits tax.

(4E) In subsection (4C)(c) "relevant provision" means—

(a) the provision of a double taxation arrangement (as defined by section 2(4) of TIOPA 2010), or

(b) section 758 of ITTOIA 2005 (exemption for certain interest and royalty payments)."

(7) The amendments made by this section have effect in relation to accounting periods ending on or after 28 June 2016.

(8) For the purposes of section 88(5)(b) of FA 2015 as inserted by this section, a royalty or other sum which would not otherwise be regarded as paid during an accounting period ending on or after 28 June 2016 is to be regarded as so paid if—

(a) for the purposes of section 906 of ITA 2007 it is regarded as paid on a date during that period by virtue of section *(deduction of income tax at source: intellectual property)*(6), or

(b) for the purposes of section 577A(1) of ITTOIA 2005 it is regarded as paid on a date during that period by virtue of section *(receipts from intellectual property: territorial scope)*(5).'"—*(Mr Gauke.)*

Brought up, read the First and Second time, and added to the Bill.

New Clause 8

Deduction of income tax at source: intellectual property

'(1) Part 15 of ITA 2007 (deduction from other payments connected with intellectual property) is amended as specified in subsections (2) and (3).

(2) In section 906 (certain royalties etc where usual place of abode of owner is abroad), for subsections (1) to (3) substitute—

"(1) This section applies to any payment made in a tax year where condition A or condition B is met.

(2) Condition A is that—

(a) the payment is a royalty, or a payment of any other kind, for the use of, or the right to use, intellectual property (see section 907),

(b) the usual place of abode of the owner of the intellectual property is outside the United Kingdom, and

(c) the payment is charged to income tax or corporation tax.

(3) Condition B is that—

(a) the payment is a payment of sums payable periodically in respect of intellectual property,

(b) the person entitled to those sums ("the assignor") assigned the intellectual property to another person,

(c) the usual place of abode of the assignor is outside the United Kingdom, and

(d) the payment is charged to income tax or corporation tax."

(3) For section 907 substitute—

'907 Meaning of "intellectual property"

(1) In section 906 "intellectual property" means—

(a) copyright of literary, artistic or scientific work,

(b) any patent, trade mark, design, model, plan, or secret formula or process,

(c) any information concerning industrial, commercial or scientific experience, or

(d) public lending right in respect of a book.

(2) In this section "copyright of literary, artistic or scientific work" does not include copyright in—

(a) a cinematographic film or video recording, or

(b) the sound-track of a cinematographic film or video recording, except so far as it is separately exploited."'

(4) The amendments made by subsections (2) and (3) have effect in respect of payments made on or after 28 June 2016.

(5) In determining whether section 906 of ITA 2007 applies to a payment, no regard is to be had to any arrangements the main purpose of which, or one of the main purposes of which, is to avoid the effect of the amendments made by this section.

(6) Where arrangements are disregarded under subsection (5) in relation to a payment which—

(a) is made before 28 June 2016, and

(b) is due on or after that day,

the payment is to be regarded for the purposes of section 906 of ITA 2007 as made on the date on which it is due.

(7) In determining the date on which a payment is due for the purposes of subsection (6), disregard the arrangements referred to in that subsection.

(8) In this section "arrangements" includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable and whether entered into before, or on or after, 28 June 2016)."'—*(Mr Gauke.)*

Brought up, read the First and Second time, and added to the Bill.

New Clause 9

Receipts from intellectual property: territorial scope

'(1) In section 577 of ITTOIA 2005 (territorial scope of Part 5 charges), at the end insert—

"(5) See also section 577A (territorial scope of Part 5 charges: receipts from intellectual property)."

(2) After that section insert—

'577A Territorial scope of Part 5 charges: receipts from intellectual property

(1) References in section 577 to income which is from a source in the United Kingdom include income arising where—

(a) a royalty or other sum is paid in respect of intellectual property by a person who is non-UK resident, and

(b) the payment is made in connection with a trade carried on by that person through a permanent establishment in the United Kingdom.

(2) Subsection (3) applies where a royalty or other sum is paid in respect of intellectual property by a person who is non-UK resident in connection with a trade carried on by that person only in part through a permanent establishment in the United Kingdom.

(3) The payment referred to in subsection (2) is to be regarded for the purposes of subsection (1)(b) as made in connection with a trade carried on through a permanent establishment in the United Kingdom to such extent as is just and reasonable, having regard to all the circumstances.

(4) In determining for the purposes of section 577 whether income arising is from a source in the United Kingdom, no regard is to be had to arrangements the main purpose of which, or one of the main purposes of which, is to avoid the effect of the rule in subsection (1).

(5) In this section—

"arrangements" includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable);

"intellectual property" has the same meaning as in section 579;

"permanent establishment"—

(a) in relation to a company, is to be read (by virtue of section 1007A of ITA 2007) in accordance with Chapter 2 of Part 24 of CTA 2010, and

(b) in relation to any other person, is to be read in accordance with that Chapter but as if references in that Chapter to a company were references to that person."'

(3) The amendments made by subsections (1) and (2) have effect in relation to royalties or other sums paid in respect of intellectual property on or after 28 June 2016.

(4) It does not matter for the purposes of subsection (4) of section 577A of ITTOIA 2005 (as inserted by this section) whether the arrangements referred to in that subsection are entered into before, or on or after, 28 June 2016.

(5) Where arrangements are disregarded under subsection (4) of section 577A of ITTOIA 2005 (as inserted by this section) in relation to a payment of a royalty or other sum which—

(a) is made before 28 June 2016, but

(b) is due on or after that day,

the payment is to be regarded for the purposes of subsection (1) of that section as made on the date on which it is due.

(6) In determining the date on which a payment is due for the purposes of subsection (5), disregard the arrangements referred to in that subsection.

(7) Where—

(a) an intellectual property royalty payment within the meaning of section 917A of ITA 2007 is made on or after 28 June 2016,

(b) the payment is made under arrangements (within the meaning of that section) entered into before that day,

(c) the arrangements are not DTA tax avoidance arrangements for the purposes of that section,

(d) it is reasonable to conclude that the main purpose, or one of the main purposes, of the arrangements was to obtain a tax advantage by virtue of any provisions of a foreign double taxation arrangement, and

(e) obtaining that tax advantage is contrary to the object and purpose of those provisions,

the arrangements are to be regarded as DTA tax avoidance arrangements for the purposes of section 917A of ITA 2007 in relation to the payment.

(8) In subsection (7)—

"foreign double taxation arrangement" means an arrangement made by two or more territories outside the United Kingdom with a view to affording relief from double taxation in relation to tax chargeable on income (with or without other tax relief);

"tax advantage" is to be construed in accordance with section 208 of FA 2013 but as if references in that section to "tax" were references to tax chargeable on income under the law of a territory outside the United Kingdom.

(9) Where—

(a) a royalty is paid on or after 28 June 2016,

(b) the right in respect of which the royalty is paid was created or assigned before that day,

(c) section 765(2) of ITTOIA 2005 does not apply in relation to the payment, and

(d) it is reasonable to conclude that the main purpose, or one of the main purposes, of any person connected with the creation or assignment of the right was to take advantage, by means of that creation or assignment, of the law of any territory giving effect to Council Directive 2003/49/EC of 3rd June 2003 on a common system of taxation applicable to interest and royalty payments made between associated companies of different member States, section 758 of ITTOIA 2005 does not apply in relation to the payment."'—*(Mr Gauke.)*

Brought up, read the First and Second time, and added to the Bill.

New Clause 10

STAMP DUTY: ACQUISITION OF TARGET COMPANY'S SHARE CAPITAL

'(1) Section 77 of FA 1986 (acquisition of target company's share capital) is amended as follows.

(2) In subsection (3), omit the "and" at the end of paragraph (g) and after paragraph (h) insert ", and

(i) at the time the instrument mentioned in subsection (1) is executed there are no disqualifying arrangements, within the meaning given by section 77A, in existence."

(3) In subsection (3A) for "(3)" substitute "(3)(b) to (h)".

(4) In subsection (4) after "this section" insert "and section 77A".

(5) After section 77 of FA 1986 insert—

"77A Disqualifying arrangements

(1) This section applies for the purposes of section 77(3)(i).

(2) Arrangements are "disqualifying arrangements" if it is reasonable to assume that the purpose, or one of the purposes, of the arrangements is to secure that—

(a) a particular person obtains control of the acquiring company, or

(b) particular persons together obtain control of that company.

(3) But neither of the following are disqualifying arrangements—

(a) the arrangements for the issue of shares in the acquiring company which is the consideration for the acquisition mentioned in section 77(3);

(b) any relevant merger arrangements.

(4) In subsection (3) "relevant merger arrangements" means arrangements for the issue of shares in the acquiring company to the shareholders of a company ("company B") other than the target company ("company A") in a case where—

(a) that issue of shares to the shareholders of company B would be the only consideration for the acquisition by the acquiring company of the whole of the issued share capital of company B,

(b) the conditions in section 77(3)(c) and (e) would be met in relation to that acquisition (if that acquisition were made in accordance with the arrangements), and

(c) the conditions in paragraphs (f) to (h) of section 77(3) would be met in relation to that acquisition if—

(i) that acquisition were made in accordance with the arrangements, and

(ii) the shares in the acquiring company issued as consideration for the acquisition of the share capital of company A were ignored for the purposes of those paragraphs;

and in section 77(3)(e) to (h) and (3A) as they apply by virtue of this subsection, references to the target company are to be read as references to company B.

(5) Where—

(a) arrangements within any paragraph of subsection (3) are part of a wider scheme or arrangement, and

(b) that scheme or arrangement includes other arrangements which—

(i) fall within subsection (2), and

(ii) do not fall within any paragraph of subsection (3),

those other arrangements are disqualifying arrangements despite anything in subsection (3).

(6) In this section—

"the acquiring company" has the meaning given by section 77(1);

"arrangements" includes any agreement, understanding or scheme (whether or not legally enforceable);

"control" is to be read in accordance with section 1124 of the Corporation Tax Act 2010;

"the target company" has the meaning given by section 77(1)."

(6) The amendments made by this section have effect in relation to any instrument executed on or after 29 June 2016 (and references to arrangements in any provision inserted by this section include arrangements entered into before that date).'—*(Mr Gauke.)*

Brought up, and read the First time.

Mr Gauke: I beg to move, That the clause be read a Second time.

I will speak briefly about new clause 10, unless there are questions. The new clause stops an unfair stamp duty advantage where takeovers are brought about through share-for-share exchanges with no stamp duty becoming due. It will ensure that the tax system operates fairly by preventing share-for-share relief from being claimed in situations for which it was not intended. The change made by the clause will catch the insertion of a new company above another by way of a share-for-share exchange as part of a wider transaction involving transfer of a controlling stake in the new company. The change will mean that no share-for-share relief will be available where arrangements are in place, at the time of the share-for-share exchange, for a change of control of the new company. The measure will apply to any instrument exercised on or after 29 June 2016.

New clause 10 will stop share-for-share relief being claimed inappropriately on takeovers. The Government have acted quickly to prevent an unfair tax advantage and to protect significant tax revenue.

Question put and agreed to.

New clause 10 accordingly read a Second time, and added to the Bill.

New Clause 11

CORPORATION TAX: TERRITORIAL SCOPE ETC

"(1) Section 5 of CTA 2009 (territorial scope of charge) is amended in accordance with subsections (2) to (4).

(2) For subsection (2) substitute—

'(2) A non-UK resident company is within the charge to corporation tax only if—

(a) it carries on a trade of dealing in or developing UK land (see section 5B), or

(b) it carries on a trade in the United Kingdom (other than a trade of dealing in or developing UK land) through a permanent establishment in the United Kingdom.'

(3) After subsection (2) insert—

'(2A) A non-UK resident company which carries on a trade of dealing in or developing UK land is chargeable to corporation tax on all its profits wherever arising that are profits of that trade.'

(4) In subsection (4), after '(1)' insert ', (2A)'.

(5) After section 5 of CTA 2009 insert—

"5A Arrangements for avoiding tax

(1) Subsection (3) applies if a company has entered into an arrangement the main purpose or one of the main purposes of which is to obtain a relevant tax advantage for the company.

(2) In subsection (1) the reference to obtaining a relevant tax advantage includes obtaining a relevant tax advantage by virtue of any provisions of double taxation arrangements, but only in a case where the relevant tax advantage is contrary to the object and purpose of the provisions of the double taxation arrangements (and subsection (3) has effect accordingly, regardless of section 6(1) of TIOPA 2010).

(3) The relevant tax advantage is to be counteracted by means of adjustments.

(4) For this purpose adjustments may be made (whether by an officer of Revenue and Customs or by the company) by way of an assessment, the modification of an assessment, amendment or disallowance of a claim, or otherwise.

(5) In this section "relevant tax advantage" means a tax advantage in relation to corporation tax to which the company is chargeable (or would without the tax advantage be chargeable) by virtue of section 5(2A).

(6) In this section—

"arrangement" (except in the phrase "double taxation arrangements") includes any agreement, understanding, scheme, transaction or series of transactions, whether or not legally enforceable;

"double taxation arrangements" means arrangements which have effect under section 2(1) of TIOPA 2010 (double taxation relief by agreement with territories outside the United Kingdom);

"tax advantage" has the meaning given by section 1139 of CTA 2010.

5B Trade of dealing in or developing UK land

'(1) A non-UK resident company's "trade of dealing in or developing UK land" consists of —

(a) any activities falling within subsection (2) which it carries on, and

(b) any activities from which profits, gains or losses arise which are treated under Part 8ZB of CTA 2010 as profits or losses of the company's trade of dealing in or developing UK land.

(2) The activities within this subsection are—

(a) dealing in UK land;

(b) developing UK land for the purpose of disposing of it.

(3) In this section "land" includes—

(a) buildings and structures,

(b) any estate, interest or right in or over land, and

(c) land under the sea or otherwise covered by water.

(4) In this section—

"disposal" is to be interpreted in accordance with section 356OQ of CTA 2010;

"UK land" means land in the United Kingdom."

(6) In section 3 of CTA 2009 (exclusion of charge to income tax), in subsection (1), for paragraph (b) substitute—

"(b) the company is not UK resident and—

(i) the income is profits of a trade of dealing in or developing UK land, or

(ii) the income is within its chargeable profits as defined by section 19."

(7) In section 18A of CTA 2009 (exemption for profits or losses of foreign permanent establishments), after subsection (2) insert—

"(2A) But profits and losses are not to be left out of account as mentioned in subsection (2) so far as they are, or would if the company were non-UK resident be, profits of the company's trade of dealing in or developing UK land (as defined in section 5B)."

(8) In section 19 of CTA 2009 (chargeable profits)—

(a) in subsection (2) for "company's chargeable profits" substitute "company's "chargeable profits"";

(b) after subsection (2) insert—

"(2A) But the company's "chargeable profits" do not include profits of a trade of dealing in or developing UK land (and accordingly such profits are not attributable to any permanent establishment of the company)."

(9) In section 189 of CTA 2009 (post-cessation receipts: extent of charge to tax), in subsection (4), at the end insert "other than a company's trade of dealing in or developing UK land".

(10) In section 107 of CTA 2010 (restrictions on losses etc surrenderable by non-UK resident), in subsection (1), for the words from "non-UK resident" to the end substitute "non-UK resident company—

(a) carrying on a trade of dealing in or developing UK land, or

(b) carrying on a trade in the United Kingdom through a permanent establishment."

(11) In section 1119 of CTA 2010 (definitions for purposes of Corporation Tax Acts), at the appropriate place insert—

""trade of dealing in or developing UK land", in relation to a non-UK resident company, has the meaning given by section 5B of CTA 2009,"."—*(Mr Gauke.)*

Brought up, and read the First time.

Mr Gauke: I beg to move, That the clause be read a Second time.

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

Government new clause 12—*Corporation tax: transactions in UK land.*

Government new clause 13—*Income tax: territorial scope etc.*

Government new clause 14—*Income tax: transactions in UK land.*

Government new clause 15—*Pre-trading expenses.*

Government new clause 16—*Commencement and transitional provision: sections (Corporation tax: territorial scope etc), (Corporation tax: transactions in UK land) and (Pre-trading expenses).*

Government new clause 17—*Commencement and transitional provision: sections (Income tax: transactions in UK land) and (Income tax: territorial scope etc).*

Mr Gauke: New clauses 11 to 17 will introduce the legislation announced in the 2016 Budget for a specific charge to income tax or corporation tax on profits from the disposal of land in the UK. The new clauses will ensure that offshore structures cannot be used to avoid UK tax on profits generated from dealing in or developing land in the UK.

New clauses 11, 12 and 15 will introduce new rules to ensure that profits generated by a company from dealing in or developing land in the UK will be chargeable to UK corporation tax. Those rules will apply regardless of the residence of the person carrying on the trade and regardless of whether the developer has a permanent establishment in the UK.

New clauses 13 and 14 will ensure that the profits generated by an individual from dealing in or developing land will always be chargeable to UK income tax. To prevent avoidance, the new charge will also apply where, instead of dealing in land, a developer sells shares in a company that carries on such developments. It will also apply where arrangements are put in place to split profits from development activity between the developer and related entities that could otherwise reduce chargeable allowance. In addition, the Government have strengthened long-standing rules on transactions in land to ensure that they can effectively counter abuse of the new rules.

To support those new rules, the Government are introducing an anti-avoidance rule to prevent manipulation between the policy announcement on Budget day 2016 and the introduction of the new clauses. The anti-avoidance rule is in new clause 16 for corporation tax and new clause 17 for income tax, along with other commencement and transitional rules. We have taken steps to amend our double taxation treaties; I am grateful to our partners in Guernsey, the Isle of Man and Jersey for agreeing to make changes to those treaties, taking effect from Budget day 2016. These measures will raise £2.2 billion over the scorecard period and take effect from 5 July 2016; they will affect developers of UK property who choose to operate from somewhere other than the UK to reduce their tax bills. There will be no effect on companies, based in the UK or elsewhere, whose profits are already fully taxed in the UK.

The changes made by new clauses 11 to 17 will continue the Government's fight against aggressive tax planning and profit shifting. They will bring the UK in line with other major economies and ensure fair treatment between UK and overseas developers.

Rebecca Long Bailey: The measures appear to be closing a tax loophole. On that basis, we do not oppose them, especially as they are estimated to bring in £130 million in this financial year, rising to a peak of £640 million in 2019-20. I must say, however, that this important addition to the Bill was tabled rather late in the day, even if the outline of the measure itself was announced for consultation at the Budget. It could be argued that the Opposition and stakeholders have been given insufficient time to go through the detail of the legislation.

None the less, the Chartered Institute of Taxation has identified two areas of concern on which it would like some clarification. First, will the Minister confirm that the Government do not intend pure investment structures to be affected by the new measures? Secondly, will he confirm that new clause 16 is simply a timing rule dealing with the opposition of pre-trading expenditure that would not be deductible under normal principles and where reliance needs to be placed on section 61 of the Corporation Tax Act 2009? The concern is that the clause seeks to restrict normal trading expenses incurred prior to the company's falling within the new charge. Some clarification from the Minister on those points would be appreciated.

Mr Gauke: I will of course address the questions that the hon. Lady has raised, but it might be helpful if I first provide a bit of background. Stamp duty is usually payable at 0.5% on instruments that transfer shares—no, I do not want to give that background. *[Interruption.]*

4.15 pm

Yes, let us turn to this new clause. To give a bit of background, it is worth pointing out that this measure has two key principles. First, UK land is a national resource and profits from dealing in or developing land should be fully taxed in the UK. This is an internationally accepted principle. However, some companies based offshore have organised their operations to reduce their UK tax on these profits. The new specific charge on these profits will put an end to such arrangements.

Secondly, this measure is about fairness. It will level the playing field between UK and offshore developers by preventing arrangements that are designed to avoid UK tax. This will ensure that UK and overseas businesses are put on the same tax footing when carrying out the same activities. This measure was announced at Budget 2016 alongside an anti-avoidance rule that had immediate effect. HMRC has also created a taskforce to ensure that tax on these profits is effectively collected by identifying and investigating offshore businesses that try to avoid paying tax.

This measure is targeted at those who have a property building trade; it does not impact the tax profile for investors in UK property. On the timing, I understand why the hon. Member for Salford and Eccles raised the fact that we have done this through new clauses. It is important that we get this legislation right. In these particular circumstances, it was not possible to bring the legislation forward at the time the Finance Bill was published. None the less, I think these new clauses deliver what the Government are seeking to do. I therefore hope that they will stand part of the Bill.

Question put and agreed to.

New clause 11 accordingly read a Second time, and added to the Bill.

New Clause 12

Corporation tax: transactions in UK land

'(1) In CTA 2010, after Part 8ZA insert—

"Part 8ZB

Transactions in UK land

Introduction

356OA Overview of Part

This Part contains provision about the corporation tax treatment of certain profits and gains realised from disposals concerned with land in the United Kingdom.

Amounts treated as profits of a trade

356OB Disposals of land in the United Kingdom

(1) Section 356OC(1) applies (subject to subsection (3) of that section) if—

(a) a person within subsection (2)(a), (b) or (c) realises a profit or gain from a disposal of any land in the United Kingdom, and

(b) any of conditions A to D is met in relation to the land.

(2) The persons referred to in subsection (1) are—

(a) the person acquiring, holding or developing the land,

(b) a person who is associated with the person in paragraph (a) at a relevant time, and

(c) a person who is a party to, or concerned in, an arrangement within subsection (3).

(3) An arrangement is within this subsection if—

(a) it is effected with respect to all or part of the land, and

(b) it enables a profit or gain to be realised—

(i) by any indirect method, or

(ii) by any series of transactions.

(4) Condition A is that the main purpose, or one of the main purposes, of acquiring the land was to realise a profit or gain from disposing of the land.

(5) Condition B is that the main purpose, or one of the main purposes, of acquiring any property deriving its value from the land was to realise a profit or gain from disposing of the land.

(6) Condition C is that the land is held as trading stock.

(7) Condition D is that (in a case where the land has been developed) the main purpose, or one of the main purposes, of developing the land was to realise a profit or gain from disposing of the land when developed.

(8) In this section "relevant time" means any time in the period beginning when the activities of the project begin and ending 6 months after the disposal mentioned in subsection (1).

(9) In this section "the project" means all activities carried out for any of the following purposes—

(a) the purposes of dealing in or developing the land, and

(b) any other purposes mentioned in Conditions A to D.

(10) For the purposes of this section a person ("A") is associated with another person ("B") if—

(a) A is connected with B by virtue of any of subsections (5) to (7) of section 1122 (read in accordance with section 1123), or

(b) A is related to B (see section 356OT).

356OC Disposals of land: profits treated as trading profits

(1) The profit or gain is to be treated for corporation tax purposes as profits of a trade carried on by the chargeable company (see section 356OG).

(2) If the chargeable company is non-UK resident, that trade is the company's trade of dealing in or developing UK land (as defined in section 5B of CTA 2009).

(3) But subsection (1) does not apply to a profit or gain so far as it would (apart from this section) be brought into account as income in calculating profits (of any person)—

(a) for corporation tax purposes, or

(b) for income tax purposes.

(4) The profits are treated as arising in the accounting period of the chargeable company in which the profit or gain is realised.

(5) This section applies in relation to gains which are capital in nature as it applies in relation to other gains.

356OD Disposals of property deriving its value from land in the United Kingdom

(1) Section 356OE applies (subject to subsection (3) of that section) if—

(a) a person realises a profit or gain from a disposal of any property which (at the time of the disposal) derives at least 50% of its value from land in the United Kingdom,

(b) the person is a party to, or concerned in, an arrangement concerning some or all of the land mentioned in paragraph (a) ("the project land"), and

(c) the arrangement meets the condition in subsection (2).

(2) The condition is that the main purpose, or one of the main purposes, of the arrangement is to—

(a) deal in or develop the project land, and

(b) realise a profit or gain from a disposal of property deriving the whole or part of its value from that land.

356OE Disposals within section 356OD: profits treated as trading profits

(1) The relevant amount is to be treated for corporation tax purposes as profits of a trade carried on by the chargeable company.

(2) If the chargeable company is non-UK resident, that trade is the company's trade of dealing in or developing UK land.

(3) But subsection (1) does not apply to an amount so far as it would (apart from this section) be brought into account as income in calculating profits (of any person)—

(a) for corporation tax purposes, or

(b) for income tax purposes.

(4) The profits are treated as arising in the accounting period of the chargeable company in which the profit or gain is realised.

(5) In this section the "relevant amount" means so much (if any) of the profit or gain mentioned in section 356OD(1) as is attributable, on a just and reasonable apportionment, to the relevant UK assets.

(6) In this section "the relevant UK assets" means any land in the United Kingdom from which the property mentioned in section 356OD(1) derives any of its value (at the time of the disposal mentioned in that subsection).

(7) This section applies in relation to gains which are capital in nature as it applies in relation to other gains.

356OF Profits and losses

(1) Sections 356OB to 356OE have effect as if they included provision about losses corresponding to the provision they make about profits and gains.

(2) Accordingly, in the following sections of this Part references to a "profit or gain" include a loss.

Person to whom profits attributed

356OG The chargeable company

(1) For the purposes of sections 356OC and 356OE the general rule is that the "chargeable company" is the company ("C") that realises the profit or gain (as mentioned in section 356OB(1) or 356OD(1)).

(2) The general rule in subsection (1) is subject to the special rules in subsections (4) to (6).

(3) But those special rules do not apply in relation to a profit or gain to which section 356OH(3) (fragmented activities) applies.

(4) If all or any part of the profit or gain accruing to C is derived from value provided directly or indirectly by another person ("B") which is a company, B is the "chargeable company".

(5) Subsection (4) applies whether or not the value is put at the disposal of C.

(6) If all or any part of the profit or gain accruing to C is derived from an opportunity of realising a profit or gain provided directly or indirectly by another person ("D") which is a company, D is "the chargeable company" (unless the case falls within subsection (4)).

(7) For the meaning of "another person" see section 356OO.

Anti-fragmentation

356OH Fragmented activities

(1) Subsection (3) applies if—

(a) a company ("C") disposes of any land in the United Kingdom,

(b) any of conditions A to D in section 356OB is met in relation to the land, and

(c) a person ("R") who is associated with C at a relevant time has made a relevant contribution to activities falling within subsection (2).

(2) The following activities fall within this subsection—

(a) the development of the land,

(b) any other activities directed towards realising a profit or gain from the disposal of the land.

(3) For the purposes of this Part, the profit or gain (if any) realised by C from the disposal is to be taken to be what that profit or gain would be if R were not a distinct person from C (and, accordingly, as if everything done by or in relation to R had been done by or in relation to C).

(4) Subsection (5) applies to any amount which is paid (directly or indirectly) by R to C for the purposes of meeting or reimbursing the cost of corporation tax which C is liable to pay as a result of the application of subsection (3) in relation to R and C.

(5) The amount—

(a) is not to be taken into account in calculating profits or losses of either R or C for the purposes of income tax or corporation tax, and

(b) is not for any purpose of the Corporation Tax Acts to be regarded as a distribution.

(6) In subsection (1) "relevant time" means any time in the period beginning when the activities of the project begin and ending 6 months after the disposal.

(7) For the purposes of this section any contribution made by R to activities falling within subsection (2) is a “relevant contribution” unless the profit made or to be made by R in respect of the contribution is insignificant having regard to the size of the project.

(8) In this section “contribution” means any kind of contribution, including, for example—

(a) the provision of professional or other services, or

(b) a financial contribution (including the assumption of a risk).

(9) For the purposes of this section R is “associated” with C if—

(a) R is connected with C by virtue of any of subsections (5) to (7) of section 1122 (read in accordance with section 1123), or

(b) R is related to C (see section 356OT).

(10) In this section “the project” means all activities carried out for any of the following purposes—

(a) the purposes of dealing in or developing the land, and

(b) any other purposes mentioned in Conditions A to D in section 356OB.

Calculation of profit or gain on disposal

356OI Calculation of profit or gain on disposal

For the purposes of this Part, the profit or gain (if any) from a disposal of any property is to be calculated according to the principles applicable for calculating the profits of a trade under Part 3 of CTA 2009, subject to any modifications that may be appropriate (and for this purpose the same rules are to apply in calculating losses from a disposal as apply in calculating profits).

356OJ Apportionments

Any apportionment (whether of expenditure, consideration or any other amount) that is required to be made for the purposes of this Part is to be made on a just and reasonable basis.

Arrangements for avoiding tax

356OK Arrangements for avoiding tax

(1) Subsection (3) applies if an arrangement has been entered into the main purpose or one of the main purposes of which is to enable a company to obtain a relevant tax advantage.

(2) In subsection (1) the reference to obtaining a relevant tax advantage includes obtaining a relevant tax advantage by virtue of any provisions of double taxation arrangements, but only in a case where the relevant tax advantage is contrary to the object and purpose of the provisions of the double taxation arrangements (and subsection (3) has effect accordingly, regardless of anything in section 6(1) of TIOPA 2010).

(3) The tax advantage is to be counteracted by means of adjustments.

(4) For this purpose adjustments may be made (whether by an officer of Revenue and Customs or by the company) by way of an assessment, the modification of an assessment, amendment or disallowance of a claim, or otherwise.

(5) In this section “relevant tax advantage” means a tax advantage in relation to corporation tax charged (or which would, if the tax advantage were not obtained, be charged) in respect of amounts treated as profits of a trade by virtue of this Part.

(6) In this section—

“double taxation arrangements” means arrangements which have effect under section 2(1) of TIOPA 2010 (double taxation relief by agreement with territories outside the United Kingdom);

“tax advantage” has the meaning given by section 1139.

Exemption

356OL Profits attributable to period before relevant activities etc began

(1) Subsection (2) applies if—

(a) subsection (1) of section 356OC applies because Condition D in section 356OB is met (land developed with purpose of realising a gain from its disposal when developed), and

(b) part of the profit or gain mentioned in that subsection is fairly attributable to a period before the intention to develop was formed.

(2) Section 356OC(1) has effect as if the person mentioned in section 356OB(1) had not realised that part of the profit or gain.

(3) Subsection (4) applies if—

(a) section 356OE(1) applies, and

(b) part of the profit or gain mentioned in section 356OE(5) is fairly attributable to a period before the person mentioned in section 356OD(1) was a party to, or concerned in, the arrangement in question.

(4) Section 356OE has effect as if the person had not realised that part of the profit or gain.

(5) In applying this section account must be taken of the treatment under Part 3 of CTA 2009 (trading income) of a company which appropriates land as trading stock.

Other supplementary provisions

356OM Tracing value

(1) This section applies if it is necessary to determine the extent to which the value of any property or right is derived from any other property or right for the purposes of this Part.

(2) Value may be traced through any number of companies, partnerships, trusts and other entities or arrangements.

(3) The property held by a company, partnership or trust must be attributed to the shareholders, partners, beneficiaries or other participants at each stage in whatever way is appropriate in the circumstances.

(4) In this section—

“partnership” includes an entity established under the law of a country or territory outside the United Kingdom of a similar nature to a partnership; and “partners”, in relation to such arrangements, is to be construed accordingly;

“trust” includes arrangements—

(a) which have effect under the law of a country or territory outside the United Kingdom; and

(b) under which persons acting in a fiduciary capacity hold and administer property on behalf of other persons,

and “beneficiaries”, in relation to such arrangements, is to be construed accordingly.

356ON Relevance of transactions, arrangements, etc

(1) In determining whether section 356OC(1) or 356OE(1) applies, account is to be taken of any method, however indirect, by which—

(a) any property or right is transferred or transmitted, or

(b) the value of any property or right is enhanced or diminished.

(2) Accordingly—

(a) the occasion of the transfer or transmission of any property or right, however indirect, and

(b) the occasion when the value of any property or right is enhanced,

may be an occasion on which section 356OC(1) or 356OE(1) applies.

(3) Subsections (1) and (2) apply in particular—

(a) to sales, contracts and other transactions made otherwise than for full consideration or for more than full consideration,

(b) to any method by which any property or right, or the control of any property or right, is transferred or transmitted by assigning—to the creation of an option affecting the disposition of any property or right and the giving of consideration for granting it,

(i) share capital or other rights in a company,

(ii) rights in a partnership, or

(iii) an interest in settled property,

(c) to the creation of a requirement for consent affecting such a disposition and the giving of consideration for granting it,

(d) to the creation of an embargo affecting such a disposition and the giving of consideration for releasing it, and

(e) to the disposal of any property or right on the winding up, dissolution or termination of a company, partnership or trust.

Interpretation

356OO "Another person"

(1) In this Part references to "other" persons are to be interpreted in accordance with subsections (2) to (4).

(2) A partnership or partners in a partnership may be regarded as a person or persons distinct from the individuals or other persons who are for the time being partners.

(3) The trustees of settled property may be regarded as persons distinct from the individuals or other persons who are for the time being the trustees.

(4) Personal representatives may be regarded as persons distinct from the individuals or other persons who are for the time being personal representatives.

356OP "Arrangement"

(1) In this Part "arrangement" (except in the phrase "double taxation arrangements") includes any agreement, understanding, scheme, transaction or series of transactions, whether or not legally enforceable).

(2) For the purposes of this Part any number of transactions may be regarded as constituting a single arrangement if—

(a) a common purpose can be discerned in them, or

(b) there is other sufficient evidence of a common purpose.

356OQ "Disposal"

(1) In this Part references to a "disposal" of any property include any case in which the property is effectively disposed of (whether wholly or in part, as mentioned in subsection (2))—

(a) by one or more transactions, or

(b) by any arrangement.

(2) For the purposes of this Part—

(a) references to a disposal of land or any other property include a part disposal of the property, and

(b) there is a part disposal of property ("the asset") where on a person making a disposal, any form of property derived from the asset remains undisposed of (including in cases where an interest or right in or over the asset is created by the disposal, as well as where it subsists before the disposal).

356OR "Land" and related expressions

(1) In this Part "land" includes—

(a) buildings and structures,

(b) any estate, interest or right in or over land, and

(c) land under the sea or otherwise covered by water.

(2) In this Part references to property deriving its value from land include—

(a) any shareholding in a company deriving its value directly or indirectly from land,

(b) any partnership interest deriving its value directly or indirectly from land,

(c) any interest in settled property deriving its value directly or indirectly from land, and

(d) any option, consent or embargo affecting the disposition of land.

356OS References to realising a gain

(1) For the purposes of sections 356OB(1) and 356OD(1) it does not matter whether the person ("P") realising the profit or gain in question realises it for P or another person.

(2) For the purposes of subsection (1), if, for example by a premature sale, a person ("A") directly or indirectly transmits the opportunity of realising a profit or gain to another person ("B"), A realises B's profit or gain for B.

356OT Related parties

(1) For the purposes of this Part a person ("A") is related to another person ("B")—

(a) throughout any period for which A and B are consolidated for accounting purposes,

(b) on any day on which the participation condition is met in relation to them, or

(c) on any day on which the 25% investment condition is met in relation to them.

(2) A and B are consolidated for accounting purposes for a period if—

(a) their financial results for a period are required to be comprised in group accounts,

(b) their financial results for the period would be required to be comprised in group accounts but for the application of an exemption, or

(c) their financial results for a period are in fact comprised in group accounts.

(3) In subsection (2) "group accounts" means accounts prepared under—

(a) section 399 of the Companies Act 2006, or

(b) any corresponding provision of the law of a territory outside the United Kingdom.

(4) The participation condition is met in relation to A and B ("the relevant parties") on a day if, within the period of 6 months beginning with that day—

(a) one of the relevant parties directly or indirectly participates in the management, control or capital of the other, or

(b) the same person or persons directly or indirectly participate in the management, control or capital of each of the relevant parties.

(5) The 25% investment condition is met in relation to A and B if—

(a) one of them has a 25% investment in the other, or

(b) a third person has a 25% investment in each of them.

(6) Section 259NC of TIOPA 2010 applies for the purposes of determining whether a person has a "25% investment" in another person for the purposes of this section as it applies for the purposes of section 259NB(2) of that Act.

(7) In Chapter 2 of Part 4 of TIOPA 2010, sections 157(2), 158(4), 159(2) and 160(2) (which are about the interpretation of references to direct and indirect participation) apply in relation to subsection (4) as they apply in relation to subsection (4) of section 259NA of that Act."

(2) In section 1 of CTA 2010 (overview), in subsection (4), omit paragraph (e).

(3) In section 481 of CTA 2010 (exemption from charges under provisions to which section 1173 applies), in subsection (2) omit paragraph (a).

(4) In CTA 2010 omit Part 18 (transactions in land).

(5) In section 1173 of CTA 2010 (miscellaneous charges), in Part 2 of the table in subsection (2), omit the entry relating to section 818(1) of CTA 2010.

(6) In section 14B of TCGA 1992 (meaning of "non-resident CGT disposal")—

(a) in subsection (1) for "subsection (5)" substitute "subsections (5) and (6)";

(b) after subsection (5) insert—

"(6) A disposal of a UK residential property interest is not a non-resident CGT disposal if section 356OC(1) of CTA 2010 (gains etc on certain disposals treated as trading profits for corporation tax purposes) or section 517C of ITA 2007 (gains etc on certain disposals treated as trading profits for income tax purposes) applies in relation to it."

(7) In section 37 of TCGA 1992 (consideration chargeable to tax on income), in subsection (5A)(a), for the words from "821(3)" to "not" substitute "356OG(4) or (6) of CTA 2010 (transactions in land: the

chargeable company) applies, an amount is charged to corporation tax as profits of a person other than".

(8) In section 39 of TCGA 1992 (exclusion of expenditure by reference to tax on income), in subsection (5)(a), for the words from "821(3)" to "not" substitute "356OG(4) or (6) of CTA 2010 (transactions in land: the chargeable company) applies, an amount is charged to corporation tax as profits of a person other than".

(9) In section 161 of TCGA 1992 (appropriations to and from stock), in subsection (6), for paragraph (a) substitute—

"(a) any person is charged to corporation tax by virtue of sections 356OB and 356OC of CTA 2010 (certain profits or gains on a disposal of land treated as trading profits) on the realisation of a profit or gain because the condition in section 356OB(7) of that Act is met, and".

(10) In section 188A of TCGA 1992 (election for pooling), in subsection (4), at the end insert "or section 14B(6) (gains on certain disposals treated as trading profits)".'—*(Mr Gauke.)*

Brought up, read the First and Second time, and added to the Bill.

New Clause 13

Income tax: territorial scope etc

'(1) In section 6 of ITTOIA 2005 (territorial scope of charge to tax)—

(a) after subsection (1) insert—

"(1A) Profits of a trade of dealing in or developing UK land arising to a non-UK resident are chargeable to tax under this Chapter wherever the trade is carried on.";

(b) in subsection (2), after "Profits of a trade" insert "other than a trade of dealing in or developing UK land".

(2) After section 6 of ITTOIA 2005 insert—

"6A Arrangements for avoiding tax

(1) Subsection (3) applies if a person has entered into an arrangement the main purpose or one of the main purposes of which is to obtain a relevant tax advantage for the person.

(2) In subsection (1) the reference to obtaining a relevant tax advantage includes obtaining a relevant tax advantage by virtue of any provisions of double taxation arrangements, but only in a case where the relevant tax advantage is contrary to the object and purpose of the provisions of the double taxation arrangements (and subsection (3) has effect accordingly, regardless of anything in section 6(1) of TIOPA 2010).

(3) The relevant tax advantage is to be counteracted by means of adjustments.

(4) For this purpose adjustments may be made (whether by an officer of Revenue and Customs or by the company) by way of an assessment, the modification of an assessment, amendment or disallowance of a claim, or otherwise.

(5) In this section "relevant tax advantage" means a tax advantage in relation to income tax to which the company is chargeable (or would without the tax advantage be chargeable) by virtue of section 6(1A).

(6) In this section "tax advantage" includes—

(a) a relief or increased relief from tax,

(b) repayment or increased repayment of tax,

(c) avoidance or reduction of a charge to tax or an assessment to tax,

(d) avoidance of a possible assessment to tax,

(e) deferral of a payment of tax or advancement of a repayment of tax, and

(f) avoidance of an obligation to deduct or account for tax,

(7) In this section—

"arrangement" (except in the phrase "double taxation arrangements") includes any agreement, understanding, scheme, transaction or series of transactions, whether or not legally enforceable;

"double taxation arrangements" means arrangements which have effect under section 2(1) of TIOPA 2010 (double taxation relief by agreement with territories outside the United Kingdom).

6B Trade of dealing in or developing UK land

(1) A non-UK resident person's "trade of dealing in or developing UK land" consists of —

(a) any activities falling within subsection (2) which the person carries on, and

(b) any activities from which profits arise which are treated under Part 9A of ITA 2007 as profits of the person's trade of dealing in or developing UK land.

(2) The activities within this subsection are—

(a) dealing in UK land;

(b) developing UK land for the purpose of disposing of it.

(3) In this section "land" includes—

(a) buildings and structures,

(b) any estate, interest or right in or over land, and

(c) land under the sea or otherwise covered by water.

(4) In this section—

"disposal" is to be interpreted in accordance with section 517R of ITA 2007;

"UK land" means land in the United Kingdom."

(3) In section 3 of ITTOIA 2005 (overview of Part 2), in subsection (4) for "6(2)" substitute "6(1A), (2)".

(4) In section 243 of ITTOIA 2005 (post-cessation receipts: extent of charge to tax), in subsection (4), at the end insert ", other than a person's trade of dealing in or developing UK land".

(5) In section 989 of ITA 2007 (definitions for purposes of Income Tax Acts), at the appropriate place insert—

""trade of dealing in or developing UK land", in relation to a non-UK resident person, has the meaning given by section 6B of ITTOIA 2005,".'—*(Mr Gauke.)*

Brought up, read the First and Second time, and added to the Bill.

New Clause 14

Income tax: transactions in UK land

'(1) In ITA 2007, after Part 9 insert—

Part 9A

Transactions in UK land

Introduction

517A Overview of Part

This Part contains provision about the income tax treatment of certain profits and gains realised from disposals concerned with land in the United Kingdom.

Amounts treated as profits of a trade

517B Disposals of land in the United Kingdom

(1) Section 517C(1) applies (subject to subsection (3) of that section) if—

(a) a person within subsection (2)(a), (b) or (c) realises a profit or gain from a disposal of any land in the United Kingdom, and

(b) any of conditions A to D is met in relation to the land.

(2) The persons referred to in subsection (1) are—

(a) the person acquiring, holding or developing the land,

(b) a person who is associated with the person in paragraph (a) at a relevant time, and

(c) a person who is a party to, or concerned in, an arrangement within subsection (3).

(3) An arrangement is within this subsection if—

(a) it is effected with respect to all or part of the land, and

(b) it enables a profit or gain to be realised—

(i) by any indirect method, or

(ii) by any series of transactions.

(4) Condition A is that the main purpose, or one of the main purposes, of acquiring the land was to realise a profit or gain from disposing of the land.

(5) Condition B is that the main purpose, or one of the main purposes, of acquiring any property deriving its value from the land was to realise a profit or gain from disposing of the land.

(6) Condition C is that the land is held as trading stock.

(7) Condition D is that (in a case where the land has been developed) the main purpose, or one of the main purposes, of developing the land was to realise a profit or gain from disposing of the land when developed.

(8) In this section "relevant time" means any time in the period beginning when the activities of the project begin and ending 6 months after the disposal mentioned in subsection (1).

(9) In this section "the project" means all activities carried out for any of the following purposes—

(a) the purposes of dealing in or developing the land, and

(b) any other purposes mentioned in Conditions A to D.

(10) For the purposes of this section a person ("A") is associated with another person ("B") if—

(a) A is connected with B by virtue of any of subsections (2) to (4) of section 993 (read in accordance with section 994), or

(b) A is related to B (see section 517U).

517C Disposals of land: profits treated as trading profits

(1) The profit or gain is to be treated for income tax purposes as profits of a trade carried on by the chargeable person.

(2) If the chargeable person is non-UK resident, that trade is the person's trade of dealing in or developing UK land (as defined in section 6B of ITTOIA 2005).

(3) But subsection (1) does not apply to a profit or gain so far as it would (apart from this section) be brought into account as income in calculating profits (of any person)—

(a) for income tax purposes, or

(b) for corporation tax purposes.

(4) The profits are treated as arising in the tax year in which the profit or gain is realised.

(5) This section applies in relation to gains which are capital in nature as it applies in relation to other gains.

517D Disposals of property deriving its value from land in the United Kingdom

(1) Section 517E(1) applies (subject to subsection (3) of that section) if—

(a) a person realises a profit or gain from a disposal of any property which (at the time of the disposal) derives at least 50% of its value from land in the United Kingdom,

(b) the person is a party to, or concerned in, an arrangement concerning some or all of the land mentioned in paragraph (a) ("the project land"), and

(c) the arrangement meets the condition in subsection (2).

(2) The condition is that the main purpose, or one of the main purposes, of the arrangement is to—

(a) deal in or develop the project land, and

(b) realise a profit or gain from a disposal of property deriving the whole or part of its value from that land.

517E Disposals within section 517D: profits treated as trading profits

(1) The relevant amount is to be treated for income tax purposes as profits of a trade carried on by the chargeable person.

(2) If the chargeable person is non-UK resident, that trade is the chargeable person's trade of dealing in or developing UK land.

(3) But subsection (1) does not apply to an amount so far as it would (apart from this section) be brought into account as income in calculating profits (of any person)—

(a) for income tax purposes, or

(b) for corporation tax purposes.

(4) The profits are treated as arising in the tax year in which the profit or gain is realised.

(5) In this section the "relevant amount" means so much (if any) of the profit or gain mentioned in section 517D(1) as is attributable, on a just and reasonable apportionment, to the relevant UK assets.

(6) In this section "the relevant UK assets" means any land in the United Kingdom from which the property mentioned in section 517D(1) derives any of its value (at the time of the disposal mentioned in that subsection).

(7) This section applies in relation to gains which are capital in nature as it applies in relation to other gains.

517F Profits and losses

(1) Sections 517B to 517E have effect as if they included provision about losses corresponding to the provision they make about profits and gains.

(2) Accordingly, in the following sections of this Part references to a "profit or gain" include a loss.

Person to whom profits attributed

517G The chargeable person

(1) For the purposes of sections 517C and 517E the general rule is that the "chargeable person" is the person ("P") that realises the profit or gain (as mentioned in section 517B(1) or 517D(1)).

(2) The general rule in subsection (1) is subject to the special rules in subsections (4) to (6).

(3) But those special rules do not apply in relation to a profit or gain to which section 517H(3) (fragmented activities) applies.

(4) If all or any part of the profit or gain accruing to P is derived from value provided directly or indirectly by another person ("B"), B is the "chargeable person".

(5) Subsection (4) applies whether or not the value is put at the disposal of P.

(6) If all or any part of the profit or gain accruing to P is derived from an opportunity of realising a profit or gain provided directly or indirectly by another person ("D"), D is "the chargeable person" (unless the case falls within subsection (4)).

(7) For the meaning of "another person" see section 517P.

Anti-fragmentation

517H Fragmented activities

(1) Subsection (3) applies if—

(a) a person ("P") disposes of any land in the United Kingdom,

(b) any of conditions A to D in section 517B is met in relation to the land, and

(c) a person ("R") who is associated with P at a relevant time has made a relevant contribution to activities falling within subsection (2).

(2) The following activities fall within this subsection—

(a) the development of the land,

(b) any other activities directed towards realising a profit or gain from the disposal of the land.

(3) For the purposes of this Part, the profit or gain (if any) realised by P from the disposal is to be taken to be what that profit or gain would be if R were not a distinct person from

P (and, accordingly, as if everything done by or in relation to R had been done by or in relation to P).

(4) Subsection (5) applies to any amount which is paid (directly or indirectly) by R to P for the purposes of meeting or reimbursing the cost of income tax which P is liable to pay as a result of the application of subsection (3) in relation to R and P.

(5) The amount—

(a) is not to be taken into account in calculating profits or losses of either R or P for the purposes of income tax or corporation tax, and

(b) is not for any purpose of the Corporation Tax Acts to be regarded as a distribution.

(6) In subsection (1) "relevant time" means any time in the period beginning when the activities of the project begin and ending 6 months after the disposal.

(7) For the purposes of this section any contribution made by P to activities falling within subsection (2) is a "relevant contribution" unless the profit made or to be made by P in respect of the contribution is insignificant having regard to the size of the project.

(8) In this section "contribution" means any kind of contribution, including, for example—

(a) the provision of professional or other services, or

(b) a financial contribution (including the assumption of a risk).

(9) For the purposes of this section R is "associated" with P if—

(a) R is connected with P by virtue of any of subsections (2) to (4) of section 993 (read in accordance with section 994), or

(b) R is related to P (see section 517U).

(10) In this section "the project" means all activities carried out for any of the following purposes—

(a) the purposes of dealing in or developing the land, and

(b) any other purposes mentioned in Conditions A to D in section 517B.

Calculation of profit or gain on disposal

517I Calculation of surplus on a disposal of land

For the purposes of this Part, the profit or gain (if any) from a disposal of any property is to be calculated according to the principles applicable for calculating the profits of a trade under Part 2 of ITTOIA 2005, subject to any modifications that may be appropriate (and for this purpose the same rules are to apply in calculating losses from a disposal as apply in calculating profits).

517J Apportionments

Any apportionment (whether of expenditure, consideration or any other amount) that is required to be made for the purposes of this Part is to be made on a just and reasonable basis.

Arrangements for avoiding tax

517K Arrangements for avoiding tax

(1) Subsection (3) applies if an arrangement has been entered into the main purpose or one of the main purposes of which is to enable a person to obtain a relevant tax advantage.

(2) In subsection (1) the reference to obtaining a relevant tax advantage includes obtaining a relevant tax advantage by virtue of any provisions of double taxation arrangements, but only in a case where the relevant tax advantage is contrary to the object and purpose of the provisions of the double taxation arrangements (and subsection (3) has effect accordingly, regardless of anything in section 6(1) of TIOPA 2010).

(3) The tax advantage is to be counteracted by means of adjustments.

(4) For this purpose adjustments may be made (whether by an officer of Revenue and Customs or by the company) by way of an assessment, the modification of an assessment, amendment or disallowance of a claim, or otherwise.

(5) In this section "relevant tax advantage" means an advantage in relation to income tax charged (or which would, if the tax advantage were not obtained, be charged) in respect of amounts treated as profits of a trade by virtue of this Part.

(6) In this section "advantage" includes—

(a) a relief or increased relief from tax,

(b) repayment or increased repayment of tax,

(c) avoidance or reduction of a charge to tax or an assessment to tax,

(d) avoidance of a possible assessment to tax,

(e) deferral of a payment of tax or advancement of a repayment of tax, and

(f) avoidance of an obligation to deduct or account for tax.

Exemptions

517L Gain attributable to period before intention to develop formed

(1) Subsection (2) applies if—

(a) subsection (1) of section 517C applies because Condition D in section 517B is met (land developed with purpose of realising a gain from its disposal when developed), and

(b) part of the profit or gain mentioned in that subsection is fairly attributable to a period before the intention to develop was formed.

(2) Section 517C(1) has effect as if the person mentioned in section 517B(1) had not realised that part of the profit or gain.

(3) Subsection (4) applies if—

(a) section 517E(1) applies, and

(b) part of the profit or gain mentioned in section 517E(5) is fairly attributable to a period before the person mentioned in section 517D(1) was a party to, or concerned in, the arrangement in question.

(4) Section 517E has effect as if the person had not realised that part of the profit or gain.

(5) In applying this section account must be taken of the treatment under Part 2 of ITTOIA 2005 (trading income) of a person who appropriates land as trading stock.

517M Private residences

No liability to income tax arises under this Part in respect of a gain accruing to an individual if—

(a) the gain is exempt from capital gains tax as a result of sections 222 to 226 of TCGA 1992 (private residences), or

(b) it would be so exempt but for section 224(3) of that Act (residences acquired partly with a view to making a gain).

Other supplementary provisions

517N Tracing value

(1) This section applies if it is necessary to determine the extent to which the value of any property or right is derived from any other property or right for the purposes of this Part.

(2) Value may be traced through any number of companies, partnerships, trusts and other entities or arrangements.

(3) The property held by a company, partnership or trust must be attributed to the shareholders, partners, beneficiaries or other participants at each stage in whatever way is appropriate in the circumstances.

(4) In this section—

"partnership" includes an entity established under the law of a country or territory outside the United Kingdom of a similar nature to a partnership; and "partners", in relation to such arrangements, is to be construed accordingly;

"trust" includes arrangements—

(a) which have effect under the law of a country or territory outside the United Kingdom; and

(b) under which persons acting in a fiduciary capacity hold and administer property on behalf of other persons,

and "beneficiaries", in relation to such arrangements, is to be construed accordingly.

517O Relevance of transactions, arrangements, etc

(1) In determining whether section 517C(1) or 517E(1) applies, account is to be taken of any method, however indirect, by which—

(a) any property or right is transferred or transmitted, or

(b) the value of any property or right is enhanced or diminished.

(2) Accordingly—

(a) the occasion of the transfer or transmission of any property or right, however indirect, and

(b) the occasion when the value of any property or right is enhanced,

may be an occasion on which section 517C(1) or 517E(1) applies.

(3) Subsections (1) and (2) apply in particular—

(a) to sales, contracts and other transactions made otherwise than for full consideration or for more than full consideration,

(b) to any method by which any property or right, or the control of any property or right, is transferred or transmitted by assigning—to the creation of an option affecting the disposition of any property or right and the giving of consideration for granting it,

(i) share capital or other rights in a company,

(ii) rights in a partnership, or

(iii) an interest in settled property,

(c) to the creation of a requirement for consent affecting such a disposition and the giving of consideration for granting it,

(d) to the creation of an embargo affecting such a disposition and the giving of consideration for releasing it, and

(e) to the disposal of any property or right on the winding up, dissolution or termination of a company, partnership or trust.

Interpretation

517P "Another person"

(1) In this Part references to "other" persons are to be interpreted in accordance with subsections (2) to (4).

(2) A partnership or partners in a partnership may be regarded as a person or persons distinct from the individuals or other persons who are for the time being partners.

(3) The trustees of settled property may be regarded as persons distinct from the individuals or other persons who are for the time being the trustees.

(4) Personal representatives may be regarded as persons distinct from the individuals or other persons who are for the time being personal representatives.

517Q "Arrangement"

(1) In this Part "arrangement" (except in the phrase "double taxation arrangements") includes any agreement, understanding, scheme, transaction or series of transactions, whether or not legally enforceable.

(2) For the purposes of this Part any number of transactions may be regarded as constituting a single arrangement if—

(a) a common purpose can be discerned in them, or

(b) there is other sufficient evidence of a common purpose.

517R "Disposal"

(1) In this Part references to a "disposal" of any property include any case in which the property is effectively disposed of (whether wholly or in part, as mentioned in subsection (2))—

(a) by one or more transactions, or

(b) by any arrangement.

(2) For the purposes of this Part—

(a) references to a disposal of land or any other property include a part disposal of the property, and

(b) there is a part disposal of property ("the asset") where on a person making a disposal, any form of property derived from the asset remains undisposed of (including in cases where an interest or right in or over the asset is created by the disposal, as well as where it subsists before the disposal).

517S "Land" and related expressions

(1) In this Part "land" includes—

(a) buildings and structures,

(b) any estate, interest or right in or over land, and

(c) land under the sea or otherwise covered by water.

(2) In this Part references to property deriving its value from land include—

(a) any shareholding in a company deriving its value directly or indirectly from land,

(b) any partnership interest deriving its value directly or indirectly from land,

(c) any interest in settled property deriving its value directly or indirectly from land, and

(d) any option, consent or embargo affecting the disposition of land.

517T References to realising a gain

(1) For the purposes of sections 517B(1) and 517D(1) it does not matter whether the person ("P") realising the profit or gain in question realises it for P or another person.

(2) For the purposes of subsection (1), if, for example by a premature sale, a person ("A") directly or indirectly transmits the opportunity of realising a profit or gain to another person ("B"), A realises B's profit or gain for B.

517U Related parties

(1) For the purposes of this Part a person ("A") is related to another person ("B")—

(a) throughout any period for which A and B are consolidated for accounting purposes,

(b) on any day on which the participation condition is met in relation to them, or

(c) on any day on which the 25% investment condition is met in relation to them.

(2) A and B are consolidated for accounting purposes for a period if—

(a) their financial results for a period are required to be comprised in group accounts,

(b) their financial results for the period would be required to be comprised in group accounts but for the application of an exemption, or

(c) their financial results for a period are in fact comprised in group accounts.

(3) In subsection (2) "group accounts" means accounts prepared under—

(a) section 399 of the Companies Act 2006, or

(b) any corresponding provision of the law of a territory outside the United Kingdom.

(4) The participation condition is met in relation to A and B ("the relevant parties") on a day if, within the period of 6 months beginning with that day—

(a) one of the relevant parties directly or indirectly participates in the management, control or capital of the other, or

(b) the same person or persons directly or indirectly participate in the management, control or capital of each of the relevant parties.

(5) The 25% investment condition is met in relation to A and B if—

(a) one of them has a 25% investment in the other, or

(b) a third person has a 25% investment in each of them.

(6) Section 259NC of TIOPA 2010 applies for the purposes of determining whether a person has a "25% investment" in another person for the purposes of this section as it applies for the purposes of section 259NB(2) of that Act.

(7) In Chapter 2 of Part 4 of TIOPA 2010, sections 157(2), 158(4), 159(2) and 160(2) (which are about the interpretation of references to direct and indirect participation) apply in relation to subsection (4) as they apply in relation to subsection (4) of section 259NA of that Act."

(2) In section 2 of ITA 2007 (overview of Act)—

(a) after subsection (9) insert—

"(9A) Part 9A is about the treatment of certain transactions in UK land.", and

(b) in subsection (13), omit paragraph (c).

(3) In section 482 of ITA 2007 (types of amount to be charged at special rates for trustees), in the words relating to Type 11, for "Chapter 3 of Part 13 of this Act (tax avoidance: transactions in land)" substitute "Part 9A of this Act (transactions in land)".

(4) In section 527 of ITA 2007 (exemption from charges under provisions to which section 1016 applies), in subsection (2)—

(a) insert "and" at the end of paragraph (d), and

(b) omit paragraph (e).

(5) In Part 13 of ITA 2007, omit Chapter 3 (transactions in land).

(6) In section 944 of ITA 2007 (tax avoidance: directions for duty to deduct to apply), in subsection (1)—

(a) omit paragraph (a), and

(b) in paragraph (b) for "that Part" substitute "Part 13".

(7) In section 1016 of ITA 2007 (table of provisions to which that section applies), in Part 2 of the table in subsection (2), omit the entry relating to Chapter 3 of Part 13 of that Act.

(8) In section 37 of TCGA 1992 (consideration chargeable to tax on income), in subsection (5)(a), for the words from "759(4)" to "is" substitute "517G(4) or (6) of ITA 2007 (transactions in land: the chargeable person) applies, an amount is charged to income tax as income of"

(9) In section 39 of TCGA 1992 (exclusion of expenditure by reference to tax on income), in subsection (4)(a), for the words from "759(4)" to "is" substitute "517G(4) or (6) of ITA 2007 (transactions in land: the chargeable person) applies, an amount is charged to income tax as income of".

(10) In section 161 of TCGA 1992 (appropriations to and from stock), in subsection (5), for paragraph (a) substitute—

"(a) any person is charged to income tax by virtue of sections 517B and 517C of CTA 2010 (certain profits or gains on a disposal of land treated as trading profits) on the realisation of a profit or gain because the condition in section 517B(7) of that Act is met, and".

(11) In section 830 of ITTOIA 2005, in subsection (3), for the words from "of" to the end substitute "of—

(a) section 844 (unremittable income: income charged on withdrawal of relief after source ceases), or

(b) section 517C or 517E of ITA 2007 (profits on certain disposals concerned with land in the United Kingdom treated as trading profits).""—*(Mr Gauke.)*

Brought up, read the First and Second time, and added to the Bill.

New Clause 15

Pre-trading expenses

'(1) Subsection (2) has effect if—

(a) a particular time ("T") is the time when a company ("C") is first within the charge to corporation tax by virtue of subsection (2)(a) of section 5 of CTA 2009 (territorial scope of charge),

(b) immediately before time T, C was within the charge to corporation tax as a result of carrying on the relevant trade in the United Kingdom through a permanent establishment in the United Kingdom, and

(c) expenses which the company has incurred for the purposes of the trade meet the conditions in subsection (3) and (4).

"The relevant trade" means the trade of dealing in or developing UK land mentioned in subsection (2)(a) of section 5 of CTA 2009.

(2) Section 61 of CTA 2009 (pre-trading expenses) has effect in relation to those expenses as if the company had started to carry on the relevant trade at time T.

(3) The condition in this subsection is that—

(a) no deduction would be allowed for the expenses in calculating the profits of the relevant trade for corporation tax purposes (ignoring subsection (2)), but

(b) a deduction would be allowed for them (in accordance with sections 41 and section 61 of CTA 2009) if the company had not been within the charge to corporation tax in respect of the relevant trade immediately before time T.

(4) The condition in this subsection is that no relief has been obtained for the expenses under the law of any country or territory outside the United Kingdom.'—*(Mr Gauke.)*

Brought up, read the First and Second time, and added to the Bill.

New Clause 16

Commencement and transitional provision: sections (Corporation tax: territorial scope etc), (Corporation tax: transactions in UK land) and (Pre-trading expenses)

'(1) The amendments made by sections(Corporation tax: territorial scope etc), (Corporation tax: transactions in UK land) and (Pre-trading expenses) have effect in relation to disposals on or after 5 July 2016.

(2) In subsection (1) of section 5A of CTA 2009 (tax avoidance in relation to section 5(2A) of that Act) "arrangement" does not include an arrangement (as defined in section 5A(6) of that Act) entered into before 16 March 2016.

(3) In subsection (1) of section 356OK of CTA 2010 (tax avoidance in relation to Part 8ZB of CTA 2010) "arrangement" does not include an arrangement (as defined in section 356OP of that Act) entered into before 16 March 2016.

(4) Subsection (6) applies if—

(a) a person disposes of a relevant asset to a person who is associated with that person at the relevant time,

(b) the disposal is made on or after 16 March 2016 and before 5 July 2016, and

(c) a company obtains a relevant tax advantage as a result of the disposal.

(5) In subsection (4) the reference to obtaining a relevant tax advantage includes obtaining a relevant tax advantage by virtue of any provisions of double taxation arrangements, but only in a case where the relevant tax advantage is contrary to the object and purpose of the provisions of the double taxation arrangements (and subsection (6) has effect accordingly, regardless of anything in section 6(1) of TIOPA 2010).

(6) The tax advantage is to be counteracted by means of adjustments.

(7) Adjustments for the purposes of subsection (6) may be made (whether by an officer of Revenue and Customs or by the company) by way of an assessment, the modification of an assessment, amendment or disallowance of a claim, or otherwise.

(8) In subsection (4)(c) "relevant tax advantage" means a tax advantage in relation to tax to which the company in question is charged or chargeable (or would, if the tax advantage were not obtained, be charged or chargeable)—

(a) by virtue of section 5(2A) of CTA 2009, or

(b) in respect of amounts treated as profits of a trade by virtue of Part 8ZB of CTA 2010.

(9) For the purposes of this section, where any property is disposed of under a contract, the time at which the disposal is made is the time the contract is made (and not, if different, the time at which the property is conveyed or transferred).

(10) In subsection (9) "contract" includes a conditional contract.

(11) In this section—

"arrangement" includes any scheme, agreement or understanding (whether or not legally enforceable);

"disposal" is to be interpreted in accordance with section 356OQ of CTA 2010;

"relevant asset" means land, or property deriving the whole or part of its value from land;

"tax advantage" has the meaning given by section 1139 of CTA 2010.

(12) For the purposes of this section a person ("A") is "associated" with another person ("B") if—

(a) A is connected with B by virtue of any of subsections (5) to (7) of section 1122 of CTA 2010 (read in accordance with section 1123 of that Act), or

(b) A is related to B.

(13) In subsection (12) "related to" is to be interpreted in accordance with section 356OT of CTA 2010.

(14) In subsection (4) "the relevant time"—

(a) in a case within subsection (8)(a), means the time of the disposal mentioned in subsection (4)(a).

(b) in a case within subsection (8)(b), means any time in the period beginning when the activities of the project began and ending 6 months after the disposal mentioned in section 356OB(1) or 356OD(1) of CTA 2010.

(15) In subsection (14) "the project" means (as the case requires) the project described in section 356OB(9) of CTA 2010 or the activities mentioned in section 356OD(2)(a) of that Act.'—*(Mr Gauke.)*

Brought up, read the First and Second time, and added to the Bill.

New Clause 17

Commencement and transitional provision: sections (Income tax: transactions in UK land) and (Income tax: territorial scope etc)

'(1) The amendments made by sections (Income tax: transactions in UK land) and (Income tax: territorial scope etc) have effect in relation to disposals on or after 5 July 2016.

(2) In subsection (1) of section 6A of ITA 2007 (tax avoidance arrangements in relation to section 6(1A) of that Act) "arrangement" does not include an arrangement (as defined in section 6A(7) of that Act) entered into before 16 March 2016.

(3) In subsection (1) of section 517K of ITA 2007 (tax avoidance in relation to Part 9A of that Act) "arrangement" does not include an arrangement (as defined in section 517Q of that Act) entered into before 16 March 2016.

(4) Subsection (6) applies if—

(a) a person disposes of a relevant asset to a person who is associated with that person at the relevant time,

(b) the disposal is made on or after 16 March 2016 and before 5 July 2016, and

(c) a person obtains a relevant tax advantage as a result of the disposal.

(5) In subsection (4) the reference to obtaining a relevant tax advantage includes obtaining a relevant tax advantage by virtue of any provisions of double taxation arrangements, but only in a case where the relevant tax advantage is contrary to the object and purpose of the provisions of the double taxation arrangements (and subsection (6) has effect accordingly, regardless of anything in section 6(1) of TIOPA 2010).

(6) The tax advantage is to be counteracted by means of adjustments.

(7) Adjustments for the purposes of subsection (6) may be made (whether by an officer of Revenue and Customs or by the company) by way of an assessment, the modification of an assessment, amendment or disallowance of a claim, or otherwise.

(8) In subsection (4)(c) "relevant tax advantage" means a tax advantage in relation to tax to which the person in question is charged or chargeable (or would, if the tax advantage were not obtained, be charged or chargeable)—

(a) by virtue of section 6(1A) of ITTOIA 2005, or

(b) in respect of amounts treated as profits of a trade by virtue of Part 9A of ITA 2007.

(9) For the purposes of this section, where any property is disposed of under a contract, the time at which the disposal is made is the time the contract is made (and not, if different, the time at which the property is conveyed or transferred).

(10) In subsection (9) "contract" includes a conditional contract.

(11) In this section—

"arrangement" includes any scheme, agreement or understanding (whether or not legally enforceable);

"disposal" is to be interpreted in accordance with section 517R of ITA2007;

"relevant asset" means land, or property deriving the whole or part of its value from land;

"tax advantage" has the same meaning as in section 6A of ITTOIA 2005.

(12) For the purposes of this section a person ("A") is "associated" with another person ("B") if—

(a) A is connected with B by virtue of any of subsections (2) to (4) of section 993 of ITA 2007 (read in accordance with section 994 of that Act), or

(b) A is related to B.

(13) In subsection (12) "related to" is to be interpreted in accordance with section 517U of ITA 2007.

(14) In subsection (4), "the relevant time"—

(a) in a case within subsection (8)(a), means the time when the disposal was made,

(b) in a case within subsection (8)(b), means any time in the period beginning when the activities of the project began and ending 6 months after the disposal mentioned in section 517B(1) or 517D(1) of ITA 2007.

(15) In subsection (14) "the project" means (as the case requires) the project described in section 517B(9) of ITA 2007 or the activities mentioned in section 517D(2)(a) of that Act.'—*(Mr Gauke.)*

Brought up, read the First and Second time, and added to the Bill.

New Clause 1

VAT treatment of the Scottish Police Authority and the Scottish Fire and Rescue Service

'The Chancellor of the Exchequer must commission a review of the VAT treatment of the Scottish Police Authority and the Scottish Fire and Rescue Service, including but not limited to an analysis of the impact on the financial position of Police Scotland and the Scottish Fire and Rescue Service arising from their VAT treatment and an estimate of the change to their financial position were they eligible for a refund of VAT under section 33 of the VAT Act 1994, and must publish the report of the review within six months of the passing of this Act.'—*(Kirsty Blackman.)*

Brought up, and read the First time.

Kirsty Blackman: I beg to move, That the clause be read a Second time.

My apologies for causing confusion earlier. If I am ever lucky enough to be on a Finance Bill again, I promise to try hard not to cause so much confusion.

The Government will not be surprised that we have tabled this new clause, because it concerns an ongoing issue between the Scottish and UK Governments. We feel that it still requires attention. To give a little background, before the incorporation of the police and fire authorities, regional authorities were gifted VAT exemption for the fire and rescue and police services. In 2013, when the single Scottish police force and the fire service were brought in, the VAT exemption failed to be carried over to the new services.

The Government argue that the exemption should not apply because national non-departmental public bodies are outside the exemptions under the Value Added Tax Act 1994. Since the issue has arisen, however, HMRC and HM Treasury have decided that tax breaks should be given to the new transport agency Highways England, which is a national non-departmental public body, and that the exemption should be given to the UK-wide Olympic legacy organisation, London Legacy Development Corporation. Those are comparable organisations in terms of territorial extent and they are national bodies, but they have been given the exemption. The Conservative Government can no longer say that the issue is one of fairness, when it is clearly one of unfairness.

The VAT charge, which is being levied unfairly, is costing Scotland's emergency services tens of millions every year. We would appreciate the opportunity to spend the money on front-line services instead. We have tabled the new clause in the hope that the Government will look at the issue, particularly in the light of the fact that they have permitted exemptions for Highways England and London Legacy. The Government should consider fairness and parity.

Mr Gauke: This is a familiar debate. The new clause requests that the Treasury reviews the VAT treatment of the Scottish police and fire and rescue services, reporting the cost of VAT and what the change would be if they were eligible for a refund. I am tempted to refer the Committee to the speech I have given on numerous occasions previously, as well as to the history of this. Furthermore, the Scottish Government made the decision to reform their public services knowing full well about the VAT implications.

As was explained last year, any use of Treasury resource to review and produce a report into the financial position of Police Scotland and the Scottish Fire and Rescue Service would be unjustified. Neither is eligible to receive VAT refunds under existing legislation, and the Treasury has no intention of amending principles of the VAT refund scheme to change that. I recognise that the SNP has raised the issue before, and I dare say that it will again. However, we cannot support the new clause and, if pressed to a vote, I recommend that the Committee rejects it.

Kirsty Blackman: We wish to return to the matter on Report, so I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 4

Fuel duty regulator regime

'The Chancellor of the Exchequer shall undertake a review of fuel duty to establish the form of fuel duty regulator regime which would best ensure stability of pricing, and report to Parliament within six months of the passing of this Act.'—*(Philip Boswell.)*

Brought up, and read the First time.

Philip Boswell (Coatbridge, Chryston and Bellshill) (SNP): I beg to move, That the clause be read a Second time.

I understand that we are going to be running through new clauses 1 to 6. If it is your pleasure, Mr Howarth, I will speak to new clause 4, as advised.

The Chair: New clauses 2 and 3 have already been debated. We are now dealing with new clauses 4 and 5, which are open to debate. Is that helpful?

Kirsty Blackman: So we do not vote on new clauses 2 and 3 now.

The Chair: You could do if you wanted to. If there is a desire to have Divisions on them, the procedure allows for it.

Kirsty Blackman: Apologies. It was our intention to withdraw them but we are unsure as to the stage at which we should do that.

The Chair: They do not need to be moved.

Philip Boswell: I apologise for any confusion, Mr Howarth. It is a pleasure to serve under your chairmanship.

I rise to ask the Minister to review the need for a fuel duty regulation regime that could mitigate the worst excesses of fuel price fluctuations and best ensure the stability of pricing. It should be obvious to even the most casual observer that fuel prices fluctuate, but it is perhaps not so obvious that the oil price typically runs through a cycle of approximately seven or eight years. As sure as oil prices go down, they inevitably go up. The fluctuation of the price between $125 per barrel in 2012 to under $30 per barrel earlier this year has had a massive impact on producers and users alike. It is good news for some that oil prices appear to be on the rise again, with oil sitting at around $50 per barrel today.

The fluctuations seriously affect road haulage companies, private road users and other transport services, as well as domestic fuel users across the country. Some of the most severely affected are those who are subject to fuel poverty. As a responsible fuel-duty regulator should, the Government could protect the most vulnerable people from the worst vagaries of the markets. In Scotland, 35% of households are affected by fuel poverty, which I am sure the Minister will agree is unacceptable. I urge him to consider a review with the objective of regulating fuel prices via a fuel duty regulator. I advise the Committee that we will press new clause 4 to a vote.

Mr Gauke: The Government oppose the inclusion of the new clause in the Bill. We recognise that, even with the recent fall in fuel prices, fuel costs remain a significant part of business and household costs, which is why it was announced at Budget 2016 that fuel duty would remain frozen for the sixth year in a row, thereby saving the average driver £75 a year and the average haulier £2,400 a year, relative to the pre-2010 fuel duty escalator.

[Mr Gauke]

Our policy has provided greater certainty for consumers and businesses and has left pump prices much lower than they would have been.

The hon. Member for Coatbridge, Chryston and Bellshill is asking the Chancellor to undertake a review of fuel duty to establish a form of fuel duty regulatory regime that would ensure the stability of pricing. Members will remember that at Budget 2011 the Chancellor put forward a proposal for a fair fuel stabiliser that would have linked fuel duty rates more closely with oil prices. That policy would have meant that if oil prices were high, fuel duty rates would increase by RPI only, as the Government would have more revenues from the supplementary charge levied on oil and gas production. If oil prices were below the trigger price, fuel duty would have been increased by RPI plus 1p per litre, and the supplementary charge cut back to 20%. The fair fuel stabiliser was abolished in 2014 so that the Government could support the oil and gas industry without raising the tax burden on motorists. Had it been maintained, we would have had to raise fuel duty at the Budget.

A fuel duty regulator that links fuel duty to changes in oil prices would destabilise public finances by making receipts collected from the Government's fifth-largest tax more volatile. Since 2010, oil prices have shown significant volatility, with the price per barrel ranging from between $30 to $130. By contrast, pump prices have not shown the same level of volatility.

4.30 pm

In freezing fuel duty, the Government have lessened the impact of high oil prices on consumers and households. Indeed, the OBR has estimated that a £10 increase in oil prices could raise pump prices by 7p per litre if the increase is fully passed through. Offsetting the increase in pump prices via a reduction in fuel duty could cost the Exchequer £3.3 billion. In addition, establishing a fuel duty regulator could create uncertainty for business if the regulator resulted in several changes in fuel duty a year. This would be particularly burdensome for the transport sector where fuel forms a significant part of operational costs.

Finally, a fuel duty regulator would reduce the Government's flexibility to adjust fuel duty beyond its set parameters. The Government chose to keep fuel duty frozen when oil prices were high, so even at that time the amount motorists paid in fuel duty was reducing in real terms. Now, when oil prices are lower, we have still kept fuel duty frozen. Motorists had to pay the price when oil prices were high; when they are low, it is right that they should see the benefit. I should also make the point that the United Kingdom is better placed to deal with oil price volatility, which can be significant, than an independent Scotland would be.

To conclude, the Government have already considered a fuel duty regulator and found that it would destabilise the public finances and could create uncertainty for businesses, which would be harmful for economic growth. I therefore hope that new clause 4 will be rejected.

Rebecca Long Bailey: I have just a brief comment. Labour Members agree that the fluctuations in the price of oil in recent years is concerning. A review of how best to stabilise pricing would be sensible. We will therefore support the SNP Members if they choose to press the matter to a vote.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 5, Noes 11.

Division No. 3]

AYES

Blackman, Kirsty
Boswell, Philip
Dowd, Peter
Long Bailey, Rebecca
Matheson, Christian

NOES

Argar, Edward
Burns, Conor
Frazer, Lucy
Gauke, Mr David
Hall, Luke
Hinds, Damian
Mak, Mr Alan
Merriman, Huw
Quin, Jeremy
Stride, Mel
Tolhurst, Kelly

Question accordingly negatived.

New Clause 5

TAXATION OF ALLOWANCES PAYABLE TO MEMBERS OF THE HOUSE OF LORDS

"The Chancellor of the Exchequer shall undertake a review of the tax-free status of allowances payable to members of the House of Lords and report to Parliament within six months of the passing of this Act."—*(Kirsty Blackman.)*

Brought up, and read the First time.

Kirsty Blackman: I beg to move, That the clause be read a Second time.

The new clause would allow the taxation of allowances payable to Members of the House of Lords to be reviewed. Members of the House of Lords receive a tax-free allowance of £300 for every day that they pitch up and sign in. They do not all claim it, but many of them do. In 2014-15, the House of Lords sat for 126 days. That was a low number of days—normally they sit for more—but I have done some calculations on the basis of that. If one peer was there for all 126 days, they would receive £37,800 tax-free for that year. If we imagine that a lot of peers are on the 40% tax rate—many will be in the 45% bracket; not many will be on a lower tax rate—we are looking at a tax loss to the Treasury of £15,120 per peer. If 798 peers pitched up on all those days, that is a tax loss to the Treasury of £12 million.

Most peers do not turn up every day. The average attendance last year was 483 peers on any given day, which means that the loss to the Treasury is more like £7 million every year. That is quite a lot of money, and considering that the majority of those who sit in the House of Lords probably do not have a huge need for that money, I believe, as a member of a progressive party, that it would be better for some of that wealth to be redistributed. Will the Government seriously consider examining whether those people sitting in the House of Lords should, in times of austerity, receive a tax-free payment? The Treasury could easily do something on this issue; it could decide to tax the £300-a-day allowance at the appropriate level, depending on what the Member earns in other income. This is not a good use of taxpayers' money. The money could come to the Treasury, but we are using it instead for a tax-free allowance for peers.

Mr Gauke: The Government oppose new clause 5. We are committed to ensuring a fair and more sustainable tax system for everyone, but the Finance Bill is not the appropriate vehicle to review the system of financial support for Members of the House of Lords. The new clause says that the Chancellor of the Exchequer

"shall undertake a review of the tax-free status of allowances payable to members of the House of Lords".

The Government recognise the importance of keeping the general system of tax reliefs and allowances under review. That is done routinely by the Treasury and HMRC, who consult on changes to the tax system as part of the policy-making process, but the House of Lords introduced the present system of financial support in 2010. That system and its basis have not changed, and therefore we do not consider that the tax treatment needs to be re-examined at this time. In addition, such a review could not be carried out in isolation; the system would need to be considered as a whole, and the Finance Bill is not the vehicle to consider such constitutional reform.

Finally, this cannot be a matter solely for the Commons; we must respect the constitutional position. For the Commons to intervene on House of Lords reform without any involvement of the other House would not be the right process. It is simply not the place of the Finance Bill to legislate for such a review.

Kirsty Blackman: Given that we are asking for a review, it is quite possible that peers and the House of Lords could be consulted and have input into that review. I think the very place to discuss taxation and allowances in taxation is the Finance Bill. That is what we did with respect to workers who work through intermediaries. This is a totally sensible place to discuss this issue.

Mr Gauke: As I said, this has to be looked at in the context of the system of financial support for Members of the House of Lords in the round; we cannot look at the tax system in isolation, which is what a review under the Finance Bill would have to do. This is not the right way in which to consider the system of financial support for Members of the House of Lords. Any review of that system would need to be done in the round, and the new clause is not appropriate for the Finance Bill. I therefore urge hon. Members to oppose new clause 5, if it is pressed to a Division.

Rebecca Long Bailey: I understand that the Review Body on Senior Salaries published a review of financial support for Members of the other place in November 2009. Our position is that there needs to be a broader review of House of Lords salaries and allowances. We are happy to support the Scottish National party if the new clause is pressed to a vote; it certainly deserves consideration.

Kirsty Blackman: A number of my colleagues would love to speak on this issue on Report. I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 6

OIL AND GAS: DECOMMISSIONING CONTRACTS

"(1) The Chancellor of the Exchequer shall commission a review of the ways in which the tax regime could be changed to increase the competitiveness of UK-registered companies in bidding for supply chain contracts associated with the decommissioning of oil and gas infrastructure.

(2) In undertaking the review, the Chancellor shall consult the Department for Business, Innovation and Skills, the Oil and Gas Authority; Scottish Ministers; and any other stakeholders that the Chancellor thinks appropriate.

(3) The Chancellor shall report to Parliament on the results of his review within six months of the passing of this Act.".—*(Philip Boswell.)*

Brought up, and read the First time.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 5, Noes 11.

Division No. 4]

AYES

Blackman, Kirsty
Boswell, Philip
Dowd, Peter
Long Bailey, Rebecca
Matheson, Christian

NOES

Argar, Edward
Atkins, Victoria
Burns, Conor
Frazer, Lucy
Gauke, Mr David
Hall, Luke
Hinds, Damian
Mak, Mr Alan
Merriman, Huw
Stride, Mel
Tolhurst, Kelly

Question accordingly negatived.

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

Mr Gauke: Before we conclude, I would like to make one or two remarks and thank a number of people. I am pleased that Finance Bills continue to receive excellent scrutiny, even if we have had dramatic changes in the Committee's composition over the course of the past few days. The hon. Member for Salford and Eccles has continued the diligence and common sense of her predecessor. In the circumstances—I speak from experience, having held the Opposition Front Bencher role on Finance Bills—she has acted with great thoroughness and determination, and I congratulate her on providing scrutiny in slightly difficult circumstances, particularly as I understand she did not inherit any notes.

I should also thank the hon. Member for Wolverhampton South West (Rob Marris) for his work in the earlier stages of the Committee. I thank the SNP Members; rather remarkably, they had a larger Front-Bench team working on this Bill than the Labour party. I thank you, Mr Howarth, and Sir Roger for your guidance and wisdom in steering all Members through what can be a complex process. I owe you a particular debt for your chairing, with regard to chairs and your generosity in allowing me to stand and sit in accordance with the needs of my back, rather than the usual standards of procedure. Without that, this Committee might have been my last. As it is, I can highly recommend the curative effects of debating deep-in-the-money options.

[Mr Gauke]

I thank all Members on the Committee for their contributions and, indeed, non-contributions. I thank Members on the Government Benches for their patience and, above all, attendance. The Finance Bill has been considered against the backdrop of significant and dramatic events elsewhere in the Palace of Westminster. I would hesitate to suggest that the Finance Bill Committee is ever anything other than the very centre of the country's public and political life, but I am not even sure it has been the centre of public life on this corridor. However, excitement and substance can be very different things.

I pay tribute to the Committee's diligence and expertise in considering the wide range of issues before it. The hon. Member for Salford and Eccles shot straight to the first rank of Finance Bill humourists by observing that a clause does what it says on the tin. I will not attempt to compete with that, beyond observing that fellow Members of the Commons owe a debt to Committee members—the people who love the jobs you hate.

I thank the usual channels, my hon. Friend the Member for Central Devon and the hon. Member for St Helens North. I am particularly grateful for the assistance I received from the Exchequer Secretary to the Treasury, my hon. Friend the Member for East Hampshire. Finally, I thank the interested parties who submitted evidence to the Committee, as well as our Clerks, the *Hansard* Reporters and the Doorkeepers, who have ensured the smooth running of the Committee. I thank the HMRC and Treasury officials without whose inspiration this job would be much harder, and the Office of the Parliamentary Counsel, without which none of this would be possible. I look forward to us all meeting again at some point on Report.

The Chair: On behalf of the co-Chair, Sir Roger, and myself, I thank the Minister for his kind words. I particularly thank him for promoting me at one point in our proceedings to the lofty position of Speaker. I mentioned this to Mr Speaker, and he gave me a very frosty look.

I thank all Committee members, including those from the Scottish National party and the official Opposition, for the cordial way in which they conducted themselves, making it a pleasure for Sir Roger and me to chair the Finance Bill Committee. On behalf of both of us, I particularly thank the Clerks, *Hansard* and the Doorkeepers for ensuring that we conducted our proceedings efficiently, while still ensuring ample opportunity for the democracy of the Committee to function. In all those thank-yous, I am sorry if I missed anybody out.

Question put and agreed to.

Bill, as amended, accordingly to be reported.

4.46 pm

Committee rose.

Written evidence reported to the House

FB 11 Institute of Chartered Accountants for England and Wales (clause 35)

FB 12 Institute of Chartered Accountants for England and Wales (clause 82)

FB 13 Institute of Chartered Accountants for England and Wales (clause 115)

FB 14 Institute of Chartered Accountants for England and Wales (clause 117)

FB 15 Hargreaves Lansdown

FB 16 Association of Accounting Technicians

FB 17 Association of Taxation Technicians (clause 117)

FB 18 Residential Landlords Association

FB 19 HM Treasury

FB 20 Institute of Chartered Accountants for England and Wales (clause 5)

FB 21 Institute of Chartered Accountants for England and Wales (clauses 87-110)

FB 22 Oil & Gas UK

FB 23 Prism