PARLIAMENTARY DEBATES

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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

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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