PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

FINANCE BILL

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

Fifth Sitting

Thursday 7 July 2016

(Morning)

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Monday 11 July 2016

The Committee consisted of the following Members:

Chairs: † Sir Roger Gale, Mr George Howarth

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

Matthew Hamlyn, Marek Kubala, *Committee Clerks*

† attended the Committee

Public Bill Committee

Thursday 7 July 2016

(Morning)

[Sir Roger Gale *in the Chair*]

Finance Bill

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

Clause 111

VAT: power to provide for persons to be eligible for refunds

11.30 am

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

Rebecca Long Bailey (Salford and Eccles) (Lab): I will keep my comments brief on this clause, which amends the Value Added Tax Act 1994 to enable public bodies to get VAT refunds when they enter into cost-sharing arrangements. I hope that the Minister can address a few points. First, the explanatory note indicates that some bodies will lose some of their existing funding as a result of the clause. It would be helpful if he could explain the criteria that the Government will apply. Secondly, can he give us more detail on the areas where the Government are encouraging shared services specifically? The tax information and impact note states:

"To date these services have mainly been in the fields of HR, recruitment and training, and IT services."

Will the Minister confirm whether the Government plan to encourage shared services in other areas?

The Financial Secretary to the Treasury (Mr David Gauke): It is a great pleasure to welcome you back to the Chair, Sir Roger. As we have heard, the clause will allow named non-departmental public bodies and similar bodies to claim a refund on VAT they incur as part of a shared service arrangement. That will encourage public bodies to share back-office services where doing so results in greater efficiencies of scale. Non-departmental public bodies such as the research councils and some NHS bodies cannot always recover the VAT they pay on the purchase of goods and supplies because they do not always undertake business activities—for example, those activities where an onward charge is made. That includes VAT charged when one such body supplies services to others under a shared services arrangement.

Current UK VAT legislation allows Government Departments and NHS bodies to recover the VAT they pay on outsourced or shared services, and we are now extending that scheme to non-departmental public bodies and similar arm's length bodies. That will ensure VAT does not act as a barrier to those organisations outsourcing and sharing services, which will encourage efficiency savings and deliver better value for taxpayers' money.

Tax liabilities, including VAT, are catered for in departmental spending settlements. To ensure that there is no double counting, it will be necessary for the Treasury to be satisfied that public funding of those bodies is adjusted where VAT has already been compensated for. Otherwise, the Exchequer could be paying twice. We will also require eligible bodies to claim VAT in the same financial year in which the purchase was made, and not in a later year. The change will affect around 124 departmental bodies.

The hon. Member for Salford and Eccles asked whether some bodies will lose funding. If a non-departmental public body gets its VAT back, the Department's spending profile will be adjusted accordingly, making it revenue-neutral. Bodies are therefore not losing out as a consequence of the clause. She also asked for more details on how the Government are encouraging shared services. We will accept bids and make decisions on a case-by-case basis. It is difficult for me to say much more at this point, but if efficiencies can be found, any sensible Government would want to find them, and we would not want the VAT system to get in the way.

The clause will allow named non-departmental and similar bodies to claim a refund of the VAT they incur as part of a shared service arrangement used to support their non-business activities, which will ensure that VAT is not a disincentive for public bodies to share back-office services and will encourage better value for money.

Question put and agreed to.

Clause 111 accordingly ordered to stand part of the Bill.

Clause 112

VAT: representatives and security

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

The Chair: With this it will be convenient to discuss clause 113 stand part.

Rebecca Long Bailey: These clauses are part of a package of anti-fraud measures announced at Budget 2016 to address online VAT fraud, of which I have direct experience. A business in my constituency has suffered from overseas sellers on platforms such as Amazon and eBay undercutting its prices by avoiding payment of VAT. Indeed, I have corresponded directly with the Minister on that issue, so I am pleased that the Government have decided to take note of my concerns.

Clause 112 will allow Her Majesty's Revenue and Customs to require a person established in a country outside the EU to appoint a representative to account for VAT on sales to consumers and non-taxable persons in the UK. It will also permit HMRC to require security from the seller for payment of the tax. The appointment of a representative to account for VAT is used in other circumstances, so the change simply extends the circumstances in which HMRC can exercise that power.

The Opposition have long called on the Government to go faster and further in cracking down on tax evasion, so we welcome the intention. However, we are concerned that the measure might not be fully effective because HMRC first has to identify that a person is not accounting

for VAT on sales into the UK and then it has to direct them to appoint a representative who is prepared to act. That may be difficult because the representative will then be responsible for accounting for VAT if the supplier does not do so and may be liable for the tax. It would be helpful if the Minister could specifically address that point. Furthermore, it seems possible for a determined fraudster to use different companies or aliases to avoid the impact of an HMRC direction. Will the Minister tell us today how the Government intend HMRC to take effective enforcement action on that?

Clause 113 will impose joint and several liability on the operators of online marketplaces to account for VAT on sales by overseas sellers to UK consumers and non-taxable persons. As with clause 112, the clause suffers from the defect that HMRC's powers take effect only if the overseas seller has failed to comply with VAT rules and if HMRC issues a direction, which essentially means that VAT is likely to be lost, and may continue to be lost for some time, before HMRC acts. Will the Minister tell us today how he intends to address that problem?

Also of note is that clause 113 applies to any overseas business—in other words, other EU and non-EU businesses—but the measures are meant to be targeted at non-EU businesses only. HMRC states that, in practice, it will use the power only

"where overseas businesses do not have a genuine business establishment in the EU."

However, there is a view that the legislation should reflect what is intended in practice and that the current drafting raises the question of whether the measure is actually compatible with EU law. EU-established businesses could be caught by the legislation despite there already being local rules for them to comply with and mutual assistance procedures for the UK to use. Can the Minister assure us that such businesses will not be affected? One way to address the situation would be to amend clause 113 to mirror clause 112 to cover only non-EU established businesses. What is the Minister's view on that suggestion? Are the Government considering any further amendments?

A consultation was launched alongside these two clauses at Budget 2016 as part of a package of measures to address the issue. It was a live consultation on what due diligence should be undertaken by online marketplaces to ensure that overseas sellers are registered for VAT and account for it on their sales. We support HMRC taking action to target abuse and non-compliance in this area, but business groups have expressed concern that the primary target should be those who seek to evade the tax, rather than legitimate businesses that unwittingly deal with them. Can the Minister reassure those businesses on that point?

Her Majesty's Treasury estimates the VAT loss attributable to sales by overseas businesses via online marketplaces to have been as much as £1 billion to £1.5 billion in 2015-16. Acknowledging that the amounts involved are only estimated, but still significant, it would be helpful if the Government could expand on how that estimate has been reached.

The Labour party is prepared to offer support for a crackdown on VAT fraud but, given the understandable concerns of business about the administrative burdens, the Government need to be very clear about the amounts involved and the benefits to the taxpayer. Similarly, we hope that Ministers will report back to Parliament on the success of the scheme as well as on wider action to narrow the tax gap so that we can measure such success. Although the Government have estimated that they will receive an additional £365 million in revenue as a result of the measures by the end of the Parliament, that figure is obviously some way short of £1 billion. Will the Minister tell us why such a gap will remain and what further action the Government are considering?

On the detail of the proposed due diligence scheme, the primary concern that businesses expressed to us is that the scheme targets intermediaries in the supply chain, not those failing to comply. That places an additional burden on legitimate business and, although that may be justifiable to collect tax owed, there is a danger that it gives a message to potential tax evaders that they will not be pursued by HMRC. We support HMRC's aim of minimising the burdens on legitimate business arising from the scheme and limiting them to only those that are necessary and proportionate, but HMRC should also take account of the resources available to different businesses to meet the compliance burden. For example, small and medium-sized enterprises might struggle with compliance and need special protection to avoid an adverse impact on cross-border trade.

It is clear that enforcement is a fundamental issue for HMRC. Although there is a risk of missing trader fraud and misdeclarations in any VAT system, there can be no substitute for HMRC providing effective monitoring and enforcement. For the measures to be effective, HMRC must retain the role of primary enforcer, and it needs to be sufficiently resourced to monitor, investigate and administer trade in the area. With that in mind, does the Minister believe that HMRC currently has adequate resources to do that, given the cuts it has borne?

The Minister will be aware that in some EU member states the problem is avoided by making the online marketplace responsible for accounting for VAT. That is likely to be effective where the marketplace actually collects the selling price for the seller. Of course, it may not be effective if all the marketplace does is act as an intermediary.

Finally, there may be anomalies, for example when an overseas individual sells personal goods, which are not subject to VAT, to UK purchasers, as VAT should not be charged in such circumstances. Any thoughts that the Minister has on lessons from elsewhere and the Government's evaluation of other systems for collecting VAT would be helpful for us to consider.

Opposition Members are pleased that the Government are taking action to tackle online VAT fraud, and we are fully supportive of the clauses in principle. However, I would be grateful if the Minister addressed some of the many issues I have raised with the legislation and the wider strategy for tackling online fraud generally.

Mr Gauke: As we have heard from the hon. Member for Salford and Eccles, the clauses make changes to ensure that the high street and online businesses that pay UK VAT can compete on a level playing field with overseas sellers that, on occasion, do not. The clauses will ensure that more VAT is paid by overseas sellers who store their goods in UK fulfilment houses and sell

[Mr Gauke]

those goods via online marketplaces, will give HMRC stronger powers to make overseas business appoint a UK tax representative, and will ensure that online marketplaces are part of the solution to the problem. The measures are forecast to reduce VAT evasion and raise £875 million in extra tax over the next five years, as certified by the independent Office for Budget Responsibility.

A recent survey by the British Retail Consortium shows that more than 20% of non-food retail spending now occurs online, which means that the UK public can now buy goods faster and cheaper than ever before. British businesses also have an online platform to enter markets they could normally never have imagined. A small village business can now supply high-quality local goods across the United Kingdom and even the world. However, that small business is competing with thousands of online sellers overseas, some of which are evading VAT. That abuse has grown significantly and now costs the UK taxpayer between £1 billion and £1.5 billion per year. Those overseas sellers are competing with all businesses trading in the UK, abusing the trust of UK consumers and depriving the Exchequer of significant revenue.

11.45 am

The Government are responding to that problem. An HMRC national taskforce is carrying out operational activity jointly with law enforcement agencies, which is actively disrupting the supply chains used by overseas businesses to evade VAT and has resulted in the seizure of more than £750,000-worth of illegal goods over the past year. However, HMRC's traditional powers are difficult to apply against those businesses, which is why the Government are acting to strengthen HMRC's powers in that area. Our first legislative step in the Bill focuses on those non-compliant overseas businesses themselves and the online marketplaces they trade through. We are strengthening HMRC's ability to require non-compliant overseas sellers to appoint a UK VAT representative to provide support. We are also introducing a new joint and several liability provision that will allow HMRC to make those online marketplaces ultimately responsible for any unpaid VAT.

Our second legislative step is a new due diligence scheme for fulfilment houses. Those are often large warehouses in which overseas businesses store goods in the UK before sale. The Government will ensure fulfilment houses perform proper due diligence on the overseas businesses using them and on the goods handled on their behalf. HMRC is currently consulting on the detail in preparation for legislation in next year's Finance Bill.

Turning back to the measures we are legislating for in the Bill, I will explain the changes made by these clauses. Clause 112 makes changes to the existing rules that allow HMRC to direct an overseas business to appoint a VAT representative with joint and several liability. The changes will ensure that the VAT representative is actually in the UK and is accessible to HMRC for operational activity. That will make it much easier for HMRC to pursue the debts of non-compliant overseas businesses. The clause also gives HMRC greater flexibility to seek a security.

The changes introduced by clause 113 will ensure that if overseas businesses fail to appoint a UK VAT representative or continue to evade VAT, the online marketplace that they trade in can be made liable for that VAT. In such circumstances, HMRC will put an online marketplace on notice that it will be held jointly and severally liable for an overseas business's VAT. That notice will set a period of time during which the online marketplace can avoid being liable for the VAT, either by securing compliance from the overseas business or by preventing that business from trading through its platform. If the online marketplace does neither, it will become liable for that VAT and will become accountable for the overseas businesses it hosts on its site. The new measures are aimed at the overseas businesses themselves but will also bring the online marketplaces into play. Those sites have an important role in that market and will bolster HMRC's ability to tackle that evasion.

In closing—I will come to the hon. Lady's questions in a moment—I thank my hon. Friend the Member for Daventry (Chris Heaton-Harris), whose campaigning on this issue rightly held the Government to account; the small businessmen and women of the UK have a worthy champion in this place. The hon. Member for Salford and Eccles reasonably requested that we do not target legitimate companies. I assure her that HMRC will take a risk-based approach to implementing the measures on a case-by-case basis. She also raised the concern that VAT may be lost before HMRC is able to take action. Let me reassure her that HMRC will act swiftly, taking a risk-based, case-by-case approach. From Royal Assent, action will be taken. For the purposes of yield, these measures score from 2017-18, but HMRC is keen to take action.

The hon. Lady asked how HMRC will enforce the VAT due from online marketplaces. HMRC is working with relevant interested parties to ensure that these clauses are effective. If online marketplaces do not pay up, they will be subject to HMRC's debt collection and enforcement processes.

On timing, it is important to remember that the suppliers, not the online marketplaces, have the primary responsibility to account for VAT. This package of measures will make it much more difficult for overseas businesses to avoid paying the tax they are liable for in the UK. If sellers continue to evade their liability and the online marketplaces do not act to prevent that, they will be held jointly and severally liable.

On the yield from these measures and how it was calculated, the costings were certified by the independent Office for Budget Responsibility. As I said earlier, £875 million has been scored over the next five years. On the issue of HMRC's resources and its ability to deal with tax avoidance and evasion more widely, we have already announced that in this Parliament we will legislate for more than 25 measures on avoidance, evasion and aggressive tax planning, and they are forecast to raise £16 billion by 2021. We have also given HMRC an extra £800 million to fund additional work to tackle tax evasion and non-compliance by 2020-21.

We have to remember that the UK's percentage tax gap is one of the lowest in the world; in 2009-10 it was 7.3%, and in the first four years of the previous Parliament it fell to 6.4%. That is not to say that there is not more to do. This measure is evidence of the need for further

action. We have provided HMRC with the support it needs—powers and resources—and that will continue to be the case.

This type of tax evasion by overseas businesses is a major risk to the Exchequer, so it is right that we take action. This action will protect millions of UK businesses from unfair competition and protect the Exchequer. I welcome the cross-party support for clauses 112 and 113.

Question put and agreed to.

Clause 112 accordingly ordered to stand part of the Bill.

Clause 113 ordered to stand part of the Bill.

Clause 114

VAT: Isle of Man charities

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

Rebecca Long Bailey: Committee members will be pleased to know that my comments on this clause will be very brief. The clause simply puts it beyond doubt that charities in the Isle of Man jurisdiction may qualify for the VAT release available to other charities in the UK. This provision gives effect to the principal VAT directive and the 1979 customs and excise agreement with the Isle of Man. It would be helpful if the Minister could confirm whether he has yet had any discussions with the Government that suggest that, following Brexit, the principal VAT directive will not—subject, of course, to the terms of any subsequent trade deal—apply to the UK.

The Minister may also like to clarify any early thinking about how Brexit may affect general trade relations, such as those with the Isle of Man, which is not a member of the EU or the European economic area. It has access to the single market in goods only, and only through its relationship with the UK. Presumably, the Government have no plans to alter the customs and excise agreement, but it would be helpful if the Minister could briefly expand on that point in relation to matters within the scope of the Bill.

The clause is largely a technical provision designed to clarify rather than change the law, and we take no issue with it.

Mr Gauke: Clause 114 makes changes to ensure that charities subject to the jurisdiction of the High Court of the Isle of Man are able to obtain the same VAT release as charities in the United Kingdom. As the hon. Lady says, it is a largely technical clause, and I am not surprised that it is uncontroversial.

The hon. Lady raises the perfectly fair issue of the future of VAT in the light of the Brexit vote. That is indeed one of the issues that we will have to wrestle with. All I can say at the moment is that it is something that we will have to consider. It will depend very much on the nature of the relationship that we have with the European Union, and of course that will be a matter for negotiation, and for decision by the next Prime Minister. Although the hon. Lady raises a fair question, and her point is well made, I fear at this point I am not able to provide any clarity for her.

Question put and agreed to.

Clause 114 accordingly ordered to stand part of the Bill.

Clause 115

VAT: women's sanitary products

Kirsty Blackman (Aberdeen North) (SNP): I beg to move amendment 1, in clause 115, page 162, line 8, leave out from "liners" to end of line 9.

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

Amendment 2, in clause 115, page 162, line 10, at end insert—

"(d) products that are designed, and marketed, as being solely for use for absorbing breastmilk".

Amendment 5, in clause 115, page 162, line 14, after "after" insert

"1 April 2017, or on any prior".

Clause stand part.

Kirsty Blackman: I want to start by thanking the Government. I am pleased that it is hoped that clause 115 will stand part of the Bill; it is a good move by the Government. I welcome the huge amount of hard work done last year by my hon. Friend the Member for Glasgow Central (Alison Thewliss) and by Members across the House on raising this matter. I appreciate the work that was done, and the fact that the Government have included this clause in the Bill.

I want to talk about our intention. In amendment 1 we are looking at the removal of the exemption from the zero rate for incontinence products. I understand that the Government's proposal does not include incontinence products. There is some technical language in VAT legislation relating to people with disabilities and their ability to claim zero-rate VAT on incontinence products. However, that does not apply across the board to everybody who has incontinence problems; it applies only to those who meet the specific criteria that were drafted.

We have real concerns about that. Just because somebody is not registered disabled does not mean that they do not need to use incontinence products. That is a serious issue and the Government should not charge VAT in that case. If somebody has problems with incontinence, these products are necessary for their wellbeing and in their everyday life. The Government need to look again at the earlier legislation.

If we could have broadened the clause to include men's incontinence products as well as women's, we would have done that. However, because the clause was titled "VAT: women's sanitary products", we could not. That is why we are broadening it to include only women's incontinence products. For clarity, we are talking about incontinence products that women are required to use but that do not fall into the exemption categories in the original VAT legislation.

Amendment 2 concerns products for the absorption of breast milk. I assume neither of the Ministers here has breastfed, so they may not know all the ins and outs

[Kirsty Blackman]

of how this works. I breastfed both my children for about three years in total, so I have some experience. The amendment proposes that

"products that are designed, and marketed, as being solely for use for absorbing breastmilk"

be zero-rated for VAT.

Breastfeeding is incredibly important and has huge health benefits for mother and child. It is completely and totally natural and is what a woman's body expects to happen after she has had a child. When breastfeeding a child, it takes a while for the milk supply and the child's feeding to balance. There is a period where the mother has too much or too little milk—usually too much, so there is an awful lot of leaking of milk. People do not usually talk about this in public, but there are stories about it all over the internet. In one case, a woman was at a job interview, at which somebody mentioned children, and suddenly there was a let-down, which means milk coming out at speed. Absorption products are absolutely necessary. It is vital for women to have breast pads that go inside the bra and absorb breast milk when that let-down happens. That happens not to all women, but to a huge number.

These products are required; they are not in any way a luxury. They are not something that women could do without, unless they were willing to bring several changes of clothes with them, which is not particularly practical when they are already doing absolute heaps of washing because they have a new baby.

12 noon

We tabled the amendment to highlight the fact that this is another anomaly where something that women need is not zero-rated for VAT. I am unsure whether we will press the amendment to a vote, but I would appreciate it if the Minister indicated whether he is willing to consider moving on this matter. If he is, we will consider withdrawing the amendment; if not, we will seriously consider pressing it to a Division. I stress the importance of breastfeeding, because women might be put off by the cost of these products. Anything we can do to make breastfeeding cheaper, easier and more convenient for women is a very good thing, so I would appreciate it if the Government considered the amendment.

Rebecca Long Bailey: Clause 115 is designed to implement the Government's pledge to abolish the so-called tampon tax, following a long-standing campaign by women's groups, as well as by my hon. Friend the Member for Dewsbury (Paula Sherriff) and other Members from all parties. As we have heard, among those other Members was the hon. Member for Glasgow Central, who represented the Scottish National party on last year's Finance Bill Committee, and whom I will describe as "the hon. sister" for today's purposes.

It has taken us some time to get where we are. The EU rules have allowed countries to keep VAT exemptions and reduced rates—including zero rates—where those rates and exemptions were negotiated at the point of their joining the EU. However, there were significant restrictions on removing goods and services from VAT, which meant that under existing rules the UK had been able to reduce VAT to 5% but not remove it altogether. That is what the previous Labour Government chose to do for women's sanitary products; following a campaign by women Labour MPs, the then Paymaster General, Dawn Primarolo, reduced the rate to the 5% minimum—but that 5% rate was left in force.

More recently, there was a grassroots campaign to remove the VAT. Prominent in that campaign was a petition, started by feminist campaigner Laura Coryton, that attracted hundreds of thousands of signatures. Similar campaigns have been run in other countries. The issue was raised in this place by the hon. Member for Glasgow Central in the Finance Bill Committee last year, and by my hon. Friend the Member for Dewsbury, who then tabled an amendment to the Bill on Report. That amendment attracted considerable cross-party support, including from several Conservative Members.

The Government announced some concessions, which included finally starting negotiations on the issue at European level. Nevertheless, the matter was largely ignored during the Prime Minister's EU renegotiation, as the Government focused on issues such as defending the interests of the City of London. The issue was finally addressed only when Ministers were staring into the face of defeat over the ultra-shambles Budget. I know that the Minister will appreciate my saying that the Chancellor became the first in history to accept not one but two amendments to his own Budget resolution: one was in my name, on green energy VAT, and the other was, of course, in the name of my hon. Friend the Member for Dewsbury. Do not worry, I have more to say on green energy VAT later in Committee.

The amendment to the Budget resolution led to the Minister raising the issue at the European Council and it being addressed in the Council communiqué. In April, the European Commission published an action plan on VAT. That was a move further towards a single European VAT system based on the destination principle—the principle that goods and services are taxed in the country where they are consumed. The European Commission also announced a consultation with member states on proposals to allow countries to vary their reduced VAT rates on items including women's sanitary products. One option would see the establishment of a list of goods and services on which reduced—including zero—rates could be introduced by any country. Another option would simply give member states complete freedom to select any goods they favour for reduced rates.

Of course, those steps at European level have been somewhat overtaken by the vote to leave the EU, although, as we know, European law may remain in force for some years to come. None the less, the EU VAT action plan anticipated concluding the reforms by 2018, even if we had not completed the process of leaving by that stage, so it would be helpful if the Minister could say whether the UK will now have a say on the options put forward in the EU VAT action plan and, if so, what option is favoured. I hope that he can confirm that in either case, the tampon tax would be abolished, full stop.

A pledge to abolish the tampon tax was made by the Vote Leave campaign during the referendum campaigning season. It was even suggested that that would be included in a mini-Queen's Speech following a Brexit vote. However, as we have the Bill before us today, we can take steps without that being strictly necessary; I am sure that the Minister understands the clear, basic point.

The explanatory notes, which were of course written before the referendum vote, state :

"This clause reduces the VAT rate on the supply of women's sanitary products from 5% to zero %."

However, I hope that the Minister will acknowledge that that is not really the case. The clause does not zero-rate women's sanitary products; it merely provides the Treasury with enabling powers to do so, if it chooses to, at a time of its choosing. The clause leaves open the question of not only when it will do so, but whether it will so so.

That is the issue dealt with in amendment 5, which my hon. Friend the Member for Dewsbury tabled and which I have signed. There is no reason to leave the matter open-ended, given the possibility that Ministers will simply never get round to abolishing the tampon tax once the heat is off. The amendment would impose a hard deadline. If for any reason it could not be met—if we were still negotiating Brexit and the EU VAT action plan had not been concluded with the necessary reform—the Government would have to return the matter to the House by way of an amendment to a future Finance Bill, and explain why they had failed to follow through at that stage. A firm date will hold the Government's feet to the fire and set a clear objective and a legislative backdrop, to prevent sliding.

Sadly, my hon. Friend the Member for Dewsbury was of course not chosen for this Committee. I will not press the amendment to a vote if the Minister does not accept it, but I think my hon. Friend will want to raise the issue later, depending on the Minister's response. It is only fair to add that I suspect that the whole House will not provide the Government with a majority as solid as the one that the Minister has in Committee. I hope that he will give some sort of positive answer today, because the change was a key pledge of the Vote Leave campaign. Other pledges seem to be unravelling fast. I hope that Conservative Members who supported Brexit will at the very least feel an obligation to follow through on the pledge. Otherwise they will be judged very badly by constituents who voted in the referendum.

It would be helpful if the Minister would address another issue, although we have not at this stage tabled an amendment on it. It is about the women's charities that received funding from the tampon tax fund. It is understandable that many people criticised the use of a tax on women to pay for support that they often needed as a result of male violence. None the less, that money was still better than nothing while the tax continued. Now that it will be abolished, what consideration has the Treasury given to ensuring that there will in the future be stable funding for the vital work of the organisations in question?

My hon. Friend the Member for Dewsbury previously raised another issue with the Minister, and I want to press him on that again today. That is the fact that the benefit of zero rates is not always passed on to consumers in full. It depends largely on the market. There is evidence, for example, that in France a similar tax cut was not passed on to women, but simply bolstered the profits of retailers and manufacturers. When the rate of VAT on sanitary products was reduced to 5%, the Government said they would monitor whether the benefits were passed on to consumers here. It would be interesting, if possible, to compare the margins at that time with the margins now, to see whether that happened. Can the Minister give any information about that today, or by way of a written response later, and provide the full data from any assessment?

My hon. Friend the Member for Dewsbury, in her usual hands-on manner, has grasped the issue directly, and has herself negotiated a deal with leading retailers: they will pass on the cut in full. I understand, however, that some smaller retailers have yet to make that commitment, and there are others in the supply chain who could also benefit, theoretically. Will the Minister join me in urging these businesses to pass on the tax cut in full and to sign up to the arrangement that my hon. Friend has reached? Will the Minister also outline what he intends to do where companies do not pass on the benefits to women? Will he speak out against them and make it clear that the Government anticipate that this tax cut will benefit female customers, not big business shareholders, and will he consider tougher sanctions if they do not pass on the benefits? For example, is there an argument for including an enabling provision for a windfall tax in this Bill? Even if there is no current intention to use such a power, it might have a useful effect if companies know that the option to use it is in the Bill. It is sometimes easier for politicians to talk quietly if they carry a big stick. The Minister is a very effective talker, even though he does not have his stick with him this week. His thoughts on this issue would be very welcome.

We note that the Scottish National party has tabled two amendments, and the arguments for them were put forward articulately today. The amendments seek to expand the definition of "women's sanitary products" for VAT purposes. We start from a position of sympathy, and we will support any amendments on these matters that the SNP Members choose to push to a vote.

In conclusion, we will support the clause, which has come about largely as a consequence of the campaigning of Labour Members and other Members in this House. The Government are not right to say, "job done." On the contrary, this is a case of, "We now have the tools, and we may do the job later if we feel like it", and that really is not good enough to meet the promises made by European leaders, the Prime Minister, his Government and the winning side in the recent referendum. It is not good enough for women. I hope that the Minister will accept the amendment tabled by my hon. Friend the Member for Dewsbury. I look forward to hearing what he has to say on the other issues that I have raised.

Mr Gauke: Clause 115 makes provision to ensure that women's sanitary products will be zero-rated for VAT as soon as possible after the Finance Bill receives Royal Assent. Introducing a zero rate of VAT on sanitary products has been an issue raised and supported by hon. Members from all parties in the House. The Government have listened to their views, and we accept the argument put forward by many hon. Members that we should not apply VAT, even at the current 5% reduced rate, to these products.

We have been active in pursuing this change in the European Union. In the autumn statement in 2015, the Chancellor announced that while the UK sought to change the rules for the application of VAT zero rates with the EU, £15 million a year—an amount equivalent to the revenue accrued from VAT on these products—would be spent on supporting women's charities. So far, this

[Mr Gauke]

fund has supported 25 charities that are making a significant impact on the lives of women and girls in the United Kingdom.

The Chancellor announced in the autumn statement that initial donations from the tampon tax fund, totalling £5 million, would support the Eve Appeal, Safelives, Women's Aid, and the Haven. Further grants totalling £12 million were announced at the Budget this year to support a range of charities. This included £5.2 million allocated to Comic Relief and Rosa to disburse over the coming year to a range of grassroots women's organisations across the UK.

The Prime Minister took this issue to the European Council in March and secured the agreement of all EU Heads of State, who welcomed Commission action in this area, including giving member states the option of zero-rating sanitary products. In May, ECOFIN unanimously agreed that the Commission should bring forward proposals as soon as possible to allow member states to apply a zero rate to women's sanitary products. The next step in the process is for a proposal to be published by the Commission, which it has committed to do before the end of this year. We are working with the Commission to expedite that process, so that the proposal is brought forward as soon as possible. To ensure that there is no delay in zero-rating women's sanitary products for VAT at the earliest opportunity, we have included this clause in this year's Bill.

Let me turn to amendments 1 and 2, the case for which was argued today by the hon. Member for Aberdeen North. She proposes that the provisions in the clause be extended to pads used to absorb breast milk and other products. The Government have taken decisive action to gain agreement across the EU on bringing forward a proposal on VAT on sanitary products, but it needs to be remembered that VAT applies to the vast majority of purchases of goods and supplies, including everyday items such as toilet paper, and it makes a significant contribution to the public finances. Extending the relief in the way that the amendment proposes is not possible under any feasible proposal from the Commission. Seeking to extend the scope of any new zero rate would introduce further complications to what are already delicate and complex discussions with the European Commission.

12.15 pm

Our fundamental aim must be to ensure that we can apply a zero rate of VAT to sanitary products. Seeking to widen the scope at this point could compromise our capacity to deliver on what we have promised. I think all sides of the House would agree that while we remain a member of the European Union—of course, that will change in future—we have to comply with European Union law. We are making good progress when it comes to women's sanitary products, but trying to extend the scope at this point would, I fear, jeopardise that progress.

That brings me to amendment 5. As I have stated, we are supportive of the introduction of a zero rate for sanitary products and would like to see that as soon as possible, which is why we have legislated for it in clause 115. We have been working hard to ensure that the Commission agrees that member states should be able to apply a zero rate to sanitary products if they wish, and we want that proposal published as soon as possible. The Prime Minister secured agreement in the March European Council conclusions with leaders of all member states that the VAT action plan would signal an intention to allow member states to apply a zero rate to women's sanitary products. The action plan published on 7 April did not include any proposals but set out options for future discussion.

The Commission has yet to publish its legislative proposal on sanitary products. I wrote to European Commissioner Pierre Moscovici in May, seeking the early publication of a proposal that would set a date for introduction. He confirmed that a proposal would definitely be provided before the end of the year. Discussions continue between ourselves and our EU partners to ensure that a proposal is published as soon as possible, and we are confident about those assurances. Although the clause provides the power, I understand the concern to ensure that we have an end date. I am optimistic that we will have the measure in place by 1 April 2017; I am happy to put that on the record.

There is no disagreement between the Government and the Opposition on this issue. We all recognise that the UK remains bound by European obligations. We will pursue introducing a zero rating as soon as possible. Had the UK voted to remain in, I think our influence in these discussions might well have meant that we could have brought in the measure much earlier than 1 April, but we are where we are.

I note that the hon. Member for Salford and Eccles does not propose to press her amendment but may well come back to the issue on Report. By then, there may be further developments. Let me be clear that the Government have an open mind as to whether we would accept the amendment on Report, when we hope to have greater clarity. We are confident that by 1 April there should be no reason why the measure is not in place. It is possible that the Government will come forward with our own amendment, but we may well simply accept amendment 5.

I hope that I have provided some reassurance that we do not wish to kick this issue into the long grass. We think that the negotiations are leading to a satisfactory conclusion, and we do not wish to complicate the process. That is why I urge the hon. Member for Aberdeen North not to press amendments 1 and 2, but if she does, I urge hon. Members to reject them. We are, of course, sympathetic to the arguments she made. In the light of the new situation, a future Government may wish to return to this issue.

On the point raised by the hon. Member for Salford and Eccles about support for charities, I have explained the circumstances in which we introduced the £15 million fund when we were not in a position, legally, to introduce a zero rate. The Chancellor committed to that fund continuing for the duration of this Parliament, or until we could introduce a zero rate for women's sanitary products. We are in sight of introducing a zero rate for women's sanitary products. Once the measure is introduced, the Chancellor will decide whether to continue funding women's charities in that way.

I cannot provide any more clarity than that, as the decision will have to be made in the future. I hope that is helpful to the Committee. The differences between the various parties are not particularly significant. I think that there is an acceptance that we want to introduce a zero rate for sanitary products and that we need to do

so in a way that is compliant with EU law. There is every prospect that we can do both things by 1 April next year. I hope that clause 115 will stand part of the Bill.

Kirsty Blackman: I am not 100% sure of the protocol here. Given the Minister's suggestion that a future Government might look into the matter, and as he has listened to what we have said, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 115 ordered to stand part of the Bill.

Clause 116

SDLT: CALCULATING TAX ON NON-RESIDENTIAL AND MIXED TRANSACTIONS

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

The Chair: With this it will be convenient to discuss clause 121 stand part.

Kirsty Blackman: On a point of order, Sir Roger. We were sent a list of various territories to which these provisions apply. Some are for Scotland only, some are for Scotland and Northern Ireland, and some are for England and Wales. I am unsure how we proceed to consider this in terms of English votes for English laws. Any guidance you can give us, Sir Roger, would be hugely appreciated.

The Chair: I am advised that English votes for English laws does not apply in Committee. If such issues arise, they will be addressed on the Floor of the House. I hope that is satisfactory.

Rebecca Long Bailey: Clauses 116 and 121 introduce changes to the way stamp duty land tax is calculated for non-residential property transactions and transactions involving a mixture of residential and non-residential properties. I do not plan to go into a lot of detail, but there are a few questions that I want to ask the Minister. According to the policy paper, the change is expected to increase Exchequer revenue by £385 million in this financial year, rising to £590 million by 2020-21. The paper states:

"There are approximately 100,000 non-residential and mixed property transactions per year… As a result of these changes over 90% of non-residential property transactions will pay the same or less in SDLT."

It also says:

"All non-residential freehold and lease premium transactions worth less than £1.05 million will pay the same SDLT or less compared to the current system. For leasehold…transactions, those with a NPV of up to £5 million will pay the same in SDLT as under the current system."

Will the Minister confirm what the Government expect the impact to be on the remaining 10% who pay more in SDLT? What assessments have been carried out?

Clause 121 makes minor consequential amendments and we are quite happy to accept clauses 116 and 121. However, the Chartered Institute of Taxation has highlighted that the changes made by the clauses were introduced without consultation. I understand that the measures are transitional provision, but perhaps the Minister will take the opportunity to ease stakeholders' concerns and identify what the consultative process entailed.

Mr Gauke: Clause 116 makes changes to the non-residential rates of stamp duty land tax. In the 2014 autumn statement the Government announced a radical reform of residential SDLT, which improved the efficiency of the tax by removing the distortive slab structure that led to large increases in SDLT when homeowners pay just £1 over a tax threshold. The changes to non-residential SDLT follow on from those successful reforms and also form part of the business tax roadmap, which sets out the Government's plans for business taxes over the Parliament and will give businesses the clarity they need to invest with confidence. Tackling the deficit is essential for businesses, which can only grow and thrive if we have economic security.

The UK's commercial property market was worth £787 billion in 2014, having experienced 15% growth in that year alone. As that market develops, the Government must ensure that non-residential SDLT is modern, efficient and helps the commercial property market to continue to grow. The clause improves the economic efficiency of SDLT and will provide a tax cut for the large majority of businesses purchasing commercial property. SDLT on non-residential property transactions contains two elements, depending on whether property is purchased or leased with payment upfront, or whether payment is via rental payments over time. The clause makes changes to both aspects and changes will raise just over £2.5 billion over the scorecard period.

Since 17 March, SDLT on freehold and lease premium non-residential transactions has been payable on the portion of the transaction value that falls within each tax band, rather than the tax being due at one rate on the entire value. The new structure has a nil-rate band up to £150,000; a 2% rate between £150,001 and £250,000; and a top rate of 5% above £250,000. SDLT on leasehold rent transactions has also changed to include the new 2% rate for transactions in which the NPV—net present value—of the rental payments is above £5 million. The new structure will have a nil-rate band of up to £150,000; a 1% band between £150,001 and £5 million; and a top rate of 2% for those high-value leasings with an NPV above £5 million.

As a result of the changes, over 90% of non-residential property transactions will pay the same or less in SDLT, as the hon. Lady has said. Businesses purchasing the most expensive properties have a contribution to make and the purchasers of the most expensive properties will pay more tax. However, the increase in SDLT at the top of the market is modest. The maximum tax increase from the reforms for a very expensive property is a tax rise of a single percentage point. In the context of the wider public finances and the performance of the commercial property market in recent years, I think that is reasonable.

With regard to consultation, the reforms to SDLT came into force from midnight following the Budget. That early introduction was needed to minimise any distortions in the commercial property market, including the impact on construction and development projects, that may have resulted from early announcement or consultation of a future change to non-residential SDLT.

[Mr Gauke]

Recognising that some purchasers will have entered into legal agreements to purchase property, and to further minimise any potential market distortion, the Government are putting into place transitional rules for purchasers who have exchanged contracts but not completed their purchase before 17 March in order to ensure they do not lose out. The legislation for those changes is receiving scrutiny today. I hope that the Committee will support the clause, which will improve the economic efficiency of non-residential rates and builds on the successful changes that the Government have previously made to residential rates of SDLT.

Question put and agreed to.

Clause 116 accordingly ordered to stand part of the Bill.

Clause 117

SDLT: HIGHER RATES FOR ADDITIONAL DWELLINGS ETC

Mr Gauke: I beg to move amendment 29, in clause 117, page 167, line 20, leave out from beginning to "at".

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

Government amendments 30 to 42.

Clause stand part.

Mr Gauke: Let me say a word about clause 117, which introduces higher rates of stamp duty land tax on purchasers of additional residential properties. Owning a home is an aspiration for millions of people in our country. The Government are committed to helping people achieve that aspiration by supporting those who want to work hard, save and buy their own home. Home ownership is also a key part of the Government's plan to provide economic security for working people at every stage of their lives.

In the previous Parliament the Government took significant steps to support housing supply and low-cost home ownership, and in the spending review and autumn statement in 2015 we went further by announcing a bold five-point plan for housing. The plan refocuses support for housing towards low-cost home ownership for first-time buyers. Alongside delivering 400,000 affordable housing starts by 2020-21, extending the right to buy to housing association tenants, accelerating housing supply and introducing the London Help to Buy scheme, the five-point plan includes the introduction of higher rates of SDLT on purchases of additional residential properties such as second homes and buy-to-let properties.

The higher rates are designed to help redress the balance between those people who are struggling to buy their first home and those who are able to invest in additional properties. The higher rates are 3% above the standard SDLT rate and took effect on 1 April 2016. The Government will use some of the additional tax collected to provide £60 million for communities in England where the impact of second homes is particularly acute. The tax receipts will also help towards doubling the affordable housing budget, which will help first-time buyers.

12.30 pm

The changes made by clause 117 introduce the new higher rates of SDLT on purchases of additional residential properties. Several groups will not generally be subject to the higher rates: purchasers buying their first property; those replacing their main residence, even if they own more than one property; and those buying an additional property worth less than £40,000.

The Government ran a consultation on these changes ahead of the Budget. Several aspects of the policy design have been amended in response to the view expressed during that consultation. I have listened to those respondents who said that a longer grace period was required before the higher rates apply to homeowners who experience a gap or an overlap in property ownership when moving from their main home. For example, a purchaser may buy a new main residence before having the opportunity to sell their old one. The consultation proposed an 18-month grace period to purchase a new main residence after a former main home had been sold, or an 18-month period to dispose of an old one. In that case the Government would offer a refund from the higher rate. We have doubled the grace period to 36 months, which will help those moving home, including those moving in difficult circumstances.

The consultation also proposed an exemption from the higher rates for significant investors. We have decided not to do this. A significant number of consultation respondents put forward the view that exemption for large investors would be unfair. The Government have accepted this. A single higher rate for all investors, regardless of scale, is simpler and more equitable than disadvantaging smaller participants. The Government's assessment is that this will have an insignificant effect on housing supply and we are confident that housing developments will remain attractive for corporate investors as well as potential homeowners. We are taking a wide range of steps to boost house building, resulting in an increase in the number of completions, from 102,570 in 2010 to 142,000 last year.

The Government have tabled three groups of amendments to rectify certain technical issues that have become apparent since the introduction of the higher rates. The first set, amendments 29 to 39, will ensure that so-called granny annexes will be exempt from higher SDLT when purchased with a main residence in the same transaction. We have decided that it would be unfair to change the higher rate when someone buys a main house that includes self-contained living space for an elderly relative. The Bill as drafted would usually but not always exclude that, so we are amending it to put this beyond doubt. An annex will be defined by objective criteria. It must be on the same site as the main home and worth no more than one third of the total transaction value to ensure that the regime remains robust against avoidance. I again thank my right hon. Friend the Member for Brentwood and Ongar (Sir Eric Pickles) for bringing this issue to my attention.

The second correction, in amendment 40, will allow the Government to ensure that those who use Islamic finance to purchase their main residence will not be unfairly caught by the higher rate. This will ensure that the Islamic finance provisions are consistent with those that already exist within SDLT legislation.

Finally, we are introducing a power to make wholly relieving changes by regulation in amendments 41 and 42. These will allow us to react quickly if another unintended consequence, such as the treatment of annexes, comes to light, and they will ensure that taxpayers are not disadvantaged unnecessarily while waiting for the changes to come into force.

In summary, clause 117 seeks to redress the balance between investment and home ownership and supports owner-occupation and first-time buyers. I hope that it has the Committee's support.

Rebecca Long Bailey: As we have heard, clause 117 implements the higher rates of SDLT, or the 3% surcharge, on the purchase of additional residential properties by individuals and the purchase of any residential properties by companies. The measure has effect from 1 April 2016. The Government's stated intention is to support home ownership and first-time buyers. The measure is expected to bring in £3.7 billion in additional revenues between this financial year and 2020-21. Clearly it is an important measure and we are broadly supportive. However, as ever, clarification on some points would be welcome.

The Government have stated that they will use some of the tax take

"to provide £60 million for communities in England where the impact of second homes is particularly acute"

and that the receipts

"will help towards doubling the affordable housing budget."

I would like to press the Minister on those points. As I am sure he knows, Labour Members are not impressed with the present and previous Governments' track records on housing. They have presided over six years of failure to tackle the crisis in the market. There are 201,000 fewer home-owning households than in 2010, and home ownership has fallen from 67.4% in 2009-10 to 63.6% in 2014-15. Most drastically, the number of under-35s who own a home has fallen by 20% since 2009-10.

The Government's record on affordable housing is equally disappointing. Last year the number of affordable homes built was the smallest in more than two decades: 9,590 homes for social rent, compared with 33,180 delivered during Labour's last year in office. This Government have failed to deliver one-for-one replacements for homes sold through the right to buy; instead, only one is being built for every eight sold. Their "affordable rent" is not affordable for many families, particularly in London, where it could swallow up to 84% of the earnings of a family on the average income and require a salary of up to £74,000. Will the Minister clarify how the doubling of the affordable housing budget will be used effectively to support home ownership across the country? Will he also identify specifically which communities in England are in line for the £60 million fund, and in what form?

The Government conducted a consultation on these measures from December 2015 to February this year, a process that the Chartered Institute of Taxation has labelled inadequate. Stakeholders are concerned that the consultation ran for only five weeks and that the draft legislation was not published until two weeks before the measure took effect on 1 April 2016. Can the Minister provide some assurance that due consultation has taken place on these big changes to the SDLT regime?

Furthermore, there have been queries about what will happen in cases of joint purchase. If a property is purchased by more than one buyer and the higher rates apply to any one of them, the surcharge will apply to the whole of the chargeable consideration. The Government say that the measure is meant to support home ownership and first-time buyers, but does this provision not bring parents assisting their children to buy a first home into the scope of the surcharge, as the Institute of Chartered Accountants has suggested?

While Labour Members welcome efforts to cool the buy-to-let market in favour of first-time buyers, the new legislation will make an already-complex tax even more complex. It would be sensible to keep the issue of joint ownership by parents and children under review, as their options for assisting each other to purchase property are significantly restricted by the new legislation. I would welcome the Minister's thoughts on that.

Finally, before I turn to Government amendments 29 to 42, clause 117(16)(1) provides that ownership of a dwelling outside the UK shall be taken into account in deciding whether the surcharge applies to the purchase of a dwelling in the UK. The Chartered Institute of Taxation highlighted some practical difficulties with determining ownership of a property in certain jurisdictions, and whether it is a main residence. I am therefore concerned about compliance. As we know, there is a large problem in the UK property market, especially in London, where non-UK nationals buying property are pushing up house prices. Will the Minister therefore confirm what measures are in place to ensure compliance by overseas property owners?

I note that Government amendments 29 to 39 take action to address the tax treatment of dwellings with annexes or granny flats, as discussed. The changes mean that the surcharge will not be applicable when a granny flat is the only reason the higher rate would apply. I am aware of what stakeholders say and of wider reports in the media about the issue, and I am pleased that the Government have taken steps to address it.

Government amendment 40 clarifies the situation for dwellings purchased under alternative finance arrangements, so that where the surcharge is applicable the higher rates apply to the person occupying the property, not to the financial institution. Again, that is sensible, and it mirrors the situation with annual tax on enveloped dwelling. Finally, Government amendments 41 and 42, according to the explanatory note, will give the Treasury powers to change the rules on what is a higher rates transaction for the purpose of removing transactions from the higher rates.

To conclude, we support all the measures in this group, although we do have some concerns, which I have highlighted. I hope that the Minister will provide assurance.

Mr Gauke: The hon. Lady made a number of points about housing that we could spend a long time debating. I will try to resist that temptation, but let me make one point: in the previous Parliament, more council homes were built than in the whole period of the previous two Labour Governments. We are committed to delivering a large number of affordable homes. Annual housing starts are at an eight-year high, and last year housing completions rose by more than 10%. A £1 billion loan

[Mr Gauke]

fund will provide funds to small and medium-sized enterprises, such as small house builders. I could say more, but I will resist the temptation.

A number of technical points were made about the measures covered by this group. First, there was a point about how we deal with joint purchasers. We were asked why we do not use an apportionment approach for joint purchasers. A move to an apportionment system would increase complexity in the tax system and increase the risk of non-compliance. The Government's approach is simpler than an apportionment system and has been settled on after careful consideration. Where a property is purchased jointly, the higher rates will apply if the property is an additional property of one or more purchasers.

As to whether that is unfair to parents trying to help their children on to the property ladder, I do not think so. Parents may help their children on to the property ladder without being subject to the higher rates of SDLT—for example, a parent can offer direct financial support, or become the guarantor of the child's mortgage—but if the parent purchases a property jointly with the child, the transaction may be subject to the higher rate if the purchase is an additional property for the parent. Offering exemption for properties purchased jointly with children would add complexity to the tax system, reduce revenue and increase compliance risks.

On the impact on the buy-to-let market, the policy is not expected to have an effect on rents. SDLT will be paid only once, when the property is purchased. I was asked why the consultation period was short. Let me reassure the Committee that the consultation process was full and open, and that respondents' views were taken into account. I accept that the consultation period was shorter than 12 weeks, but that was so that we could properly analyse the responses in time for the final policy design to be confirmed, and for the policy to be in force, by 1 April. We recognise the effects on the property market of pre-announcing changes to SDLT rules, so there was a careful balance to be struck between providing stakeholders with the chance to have their say and not prolonging market disruption.

On treating homes abroad in the same way as homes in the UK, SDLT is a self-assessed tax, and those making returns need to complete returns honestly. It would be unfair to treat those with first homes abroad more beneficially than those with first homes in the UK. Her Majesty's Revenue and Customs monitors compliance and will check returns carefully.

The Department for Communities and Local Government is consulting on how the £60 million will be spent in communities with a large number of second homes. I am not sure that there is much more I can say on that at this point. It is a matter DCLG is leading on. I hope that those points are helpful to the hon. Member for Salford and Eccles and the Committee. I hope the clause and the amendments to it will stand part of the Bill.

Amendment 29 agreed to.

Amendments made: 30, in clause 117, page 167, line 21, at end insert

"meet conditions A, B and C"

Amendment 31, in clause 117, page 167, line 22, leave out

"Condition A is that the portion"

and insert

"A purchased dwelling meets condition A if the amount"

Amendment 32, in clause 117, page 167, line 25, leave out "Condition B is that" and insert

"A purchased dwelling meets condition B if"

Amendment 33, in clause 117, page 167, line 30, at end insert—

'(4) A purchased dwelling meets condition C if it is not subsidiary to any of the other purchased dwellings.

(5) One of the purchased dwellings ("dwelling A") is subsidiary to another of the purchased dwellings ("dwelling B") if—

(a) dwelling A is situated within the grounds of, or within the same building as, dwelling B, and

(b) the amount of the chargeable consideration for the transaction which is attributable on a just and reasonable basis to dwelling B is equal to, or greater than, two thirds of the amount of the chargeable consideration for the transaction which is attributable on a just and reasonable basis to the following combined—

(i) dwelling A,

(ii) dwelling B, and

(iii) each of the other purchased dwellings (if any) which are situated within the grounds of, or within the same building as, dwelling B."

Amendment 34, in clause 117, page 167, line 36, leave out from beginning to "one" and insert "only".

Amendment 35, in clause 117, page 167, line 37, after "dwellings" insert

"meets conditions A, B and C".

Amendment 36, in clause 117, page 167, line 38, leave out from "dwelling" to "is" in line 39 and insert "which meets those conditions".

Amendment 37, in clause 117, page 167, line 48, at end insert—

'( ) Sub-paragraphs (2) to (5) of paragraph 5 apply for the purposes of sub-paragraph (1)(c) of this paragraph as they apply for the purposes of sub-paragraph (1)(c) of that paragraph."

Amendment 38, in clause 117, page 168, line 9, leave out from beginning to "at".

Amendment 39, in clause 117, page 168, line 10, at end insert

"meets conditions A and B.

'( ) Sub-paragraphs (2) and (3) of paragraph 5 apply for the purposes of sub-paragraph (1)(c) of this paragraph as they apply for the purposes of sub-paragraph (1)(c) of that paragraph."

Amendment 40, in clause 117, page 171, line 8, at end insert—

"Alternative finance arrangements

14A (1) This paragraph applies in relation to a chargeable transaction which is the first transaction under an alternative finance arrangement entered into between a person and a financial institution.

(2) The person (rather than the institution) is to be treated for the purposes of this Schedule as the purchaser in relation to the transaction.

(3) In this paragraph—

"alternative finance arrangement" means an arrangement of a kind mentioned in section 71A(1) or 73(1);

"financial institution" has the meaning it has in those sections (see section 73BA);

"first transaction", in relation to an alternative finance arrangement, has the meaning given by section 71A(1)(a) or (as the case may be) section 73(1)(a)(i)."

Amendment 41, in clause 117, page 173, line 23, at end insert—

"Power to modify this Schedule

18 (1) The Treasury may by regulations amend or otherwise modify this Schedule for the purpose of preventing certain chargeable transactions from being higher rates transactions for the purposes of paragraph 1.

(2) The provision which may be included in regulations under this paragraph by reason of section 114(6)(c) includes incidental or consequential provision which may cause a chargeable transaction to be a higher rates transaction for the purposes of paragraph 1."

Amendment 42, in clause 117, page 174, line 7, at end insert—

'( ) Paragraph 14A of Schedule 4ZA to FA 2003 does not apply in relation to a land transaction of which the effective date is, or is before, the date on which this Act is passed if the effect of its application would be that the transaction is a higher rates transaction for the purposes of paragraph 1 of that Schedule."—*(Mr Gauke.)*

Clause 117, as amended, ordered to stand part of the Bill.

Clause 118

SDLT HIGHER RATE: LAND PURCHASED FOR COMMERCIAL USE

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

12.45 pm

The Chair: With this it will be convenient to discuss clauses 119 and 120 and 123 to 125 stand part.

Mr Gauke: Clause 118 to 120 and clauses 123 to 124 extend the reliefs available from the annual tax on enveloped dwellings—ATED—and the 15% higher rate of stamp duty land tax. Clause 125 corrects a minor technical amendment. ATED and the 15% rate of SDLT were introduced as part of a package of measures to tackle tax avoidance. They will ensure that individuals who envelope residential properties by owning or purchasing them through corporate structures without a commercial purpose pay a fair share of tax. The intention is to discourage future enveloping and encourage those who have enveloped to take the properties they own out of those structures. The 15% higher rate is charged on the enveloping of the property, and ATED is charged annually for as long as the property remains within the envelope.

There are a series of reliefs from ATED and the 15% rate, aimed at genuine commercial use of the property. If the conditions for any particular relief are met, the 15% rate is reduced to the rate of SDLT that would ordinarily apply, and the ATED charge can be reduced to nil. Initially, when these taxes were introduced, they applied to properties valued at more than £2 million. However, legislative changes introduced in the Finance Act 2014 reduced that threshold to £500,000 from 1 April 2016. Following that reduction in the threshold, certain legitimate business activities have been identified where these taxes can apply. The clauses intend to provide relief for those cases.

Clause 118 resolves a problem that arose only in relation to the 15% rate of SDLT. Currently, where a residential property is acquired with the intention of using it for business premises—for example, as offices from which to run the trade or business—or for conversion or demolition or use for one or more relievable purposes, the 15% rate applies. The clause will relieve those types of business activity from the 15% rate to guard against abuse. If, within a three-year period, the property is no longer held exclusively for a relievable purpose, relief is withdrawn.

Clauses 119 and 123 provide relief from both the 15% rate and ATED in situations where a residential property is acquired or held exclusively for the purposes of an equity release scheme, referred to as a regulated home reversion plan. Those plans are typically offered by insurance companies to older people. The company buys all or part of their property in exchange for an annuity and a lifetime tenancy. The result of that can be that by having an interest in a residential property, the insurance company can become liable to the 15% rate and ATED where the value exceeds £500,000. Clauses 119 and 123 relieve home reversion plans from the charges. However, in order to protect against abuse, where the conditions are no longer met, relief will not be available.

In relation to clauses 120 and 124, relief is currently given where a property is made available to an employee of a trade, or where a property is rented out. However, no relief is available where a property is used by an employee of a property rental business or where a tenant-run flat management company permits one of the flats to be occupied by a caretaker. These clauses extend the current reliefs to remove those gaps. Similarly, where the conditions are no longer met, relief will no longer be available. For the 15% rate, it will be withdrawn if the property is no longer held exclusively for a relievable purpose. Those changes came into effect on 1 April 2016.

Clause 125 ensures that the ATED regime continues to function effectively following the introduction of the land buildings transaction tax in Scotland.

Roger Mullin (Kirkcaldy and Cowdenbeath) (SNP): Very briefly, I want to commend the Minister. We fully support clause 125.

Mr Gauke: I am grateful to the hon. Gentleman for putting that on the record.

These reliefs ensure that the 15% rate of SDLT and ATED work together effectively as intended to tackle avoidance, while supporting genuine businesses. I hope that these clauses can stand part of the Bill.

Question put and agreed to.

Clause 118 accordingly ordered to stand part of the Bill.

Clauses 119 to 121 ordered to stand part of the Bill.

Clause 122

SDLT: PROPERTY AUTHORISED INVESTMENT FUNDS AND CO-OWNERSHIP AUTHORISED CONTRACTUAL SCHEMES

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

The Chair: With this it will be convenient to discuss that schedule 16 be the Sixteenth schedule to the Bill.

Rebecca Long Bailey: This clause and schedule introduce a relief from SDLT for certain property funds and co-ownership schemes. The relief aims to remove barriers to the use of particular ways of investing in property. The transfer of property into property authorised investment funds and co-ownership authorised contractual schemes is currently subject to stamp duty.

As set out in the HMRC policy paper, this clause and schedule introduce a 100% relief from stamp duty land tax for the initial transfer, or seeding, of properties into an authorised PAIF or COACS. The measure also introduces changes to the SDLT treatment of COACSs, so that there will not be a SDLT charge on transactions in units.

In the 2014 Budget, the Government announced that they would consult on the SDLT treatment of the seeding of property authorised investment funds and the wider SDLT treatment of co-ownership authorised contractual schemes. That was in reaction to stakeholder suggestions that relieving stamp duty

"in certain circumstances could encourage more property funds to set up in the UK and facilitate greater collective investment in UK property."

The Government therefore carried out a consultation in July 2014, to seek views on the case for action on design features for a potential seeding relief and targeted stamp duty rules for co-ownership authorised contractual schemes. Subsequently, in the 2014 autumn statement, it was announced that those changes would be made subject to the resolution of potential avoidance issues.

The explanatory note to the clause states:

"The legislation includes anti-avoidance measures to limit the application of the relief to authorised funds with a broad base of investors and a sizeable portfolio of seeded properties. This aims to minimise SDLT avoidance via the 'enveloping' of properties within such funds."

We do not seek to divide the Committee on this measure, but I would like the Minister to expand on that point. Can he explain what safeguards are in place to prevent the avoidance of stamp duty through this relief? What is the Treasury's estimate of the risk of avoidance through this relief? Are there any plans in place to review the relief after a given time to assess whether the safeguards are working?

According to HMRC's policy paper, this measure is expected to cost £10 million in this financial year, rising to £15 million next year, and then dropping to £5 million by 2019-20. The expected impact is minimal, other than on

"life and pension companies, charities and other tax exempt investors that invest in property. They will all benefit as a result of SDLT cost reductions which may subsequently be passed on to beneficiaries of these organisations."

However, accountants Smith & Williamson noted that the measure is likely to affect only substantial property portfolios. It stated:

"it will be interesting to see whether it will be extended to other tax-favoured property investment vehicles such as real estate investment trusts".

Do the Government have any plans to extend the relief in any way?

We do not oppose this clause and schedule, but I hope the Minister can assure me that this new relief will not be used as a tax-avoidance scam, and that the Government have taken all possible action to ensure that it will not be.

Mr Gauke: As we have heard, clause 122 makes changes to ensure that the tax system supports UK competitiveness and makes the UK a more attractive location for fund management and domicile. The UK investment management industry is an important and successful part of the economy. It is a significant employer that accounts for 1% of GDP and is a key part of the wider financial services sector.

Property funds are an important part of the industry, so it is right that they are taxed fairly and appropriately, and in a way that supports the aim of the Government's investment management strategy. The Government have received many representations from the industry saying that SDLT rules do not work for two types of property funds: property authorised investment funds and co-ownership authorised contractual schemes.

Under current rules, an SDLT liability can arise even when economic ownership of properties has not changed and properties have not been bought or sold. That discourages the use of funds and is a barrier to UK competitiveness in this important area. The changes made by clause 122 and schedule 16 will ensure that property authorised investment funds and co-ownership authorised contractual schemes are treated fairly in the SDLT system.

A SDLT relief for property that is transferred into a new fund will be introduced where the underlying property has not changed economic ownership, and there will not be a SDLT charge when investors transfer units in a co-authorised contractual scheme. Those funds will continue to pay the appropriate levels of SDLT when purchasing property, but these changes will mean that SDLT will not be due when the underlying economic ownership of the property has not changed. That is an appropriate and fair outcome, costing £40 million over the scorecard period.

Under the previous Government, an SDLT exemption for the initial transfer of property to a unit trust scheme was repealed due to widespread tax avoidance and abuse of the rules. This Government are committed to addressing that kind of tax avoidance, and there are a number of crucial safeguards as part of the rules. For example, the property portfolio must be of a certain size and value to qualify for this relief. If units in the fund are sold to third-party investors within a three-year period, the SDLT relieved will be paid back to the Exchequer.

Those safeguards were not in place for the previous exemption for unit trusts and will minimise any potential tax avoidance issues. Of course, all taxes are kept under review in the normal way and the costings for this take into account the risk of avoidance.

An argument is sometimes made for extending such a measure to real estate investment trusts. Our view was that there was a clear benefit to the investment management industry and the wider economy from making these changes for the two types of funds that benefit. Evidence that similar effects would occur if the changes were extended to REITs has not yet been presented but, again, we keep all taxes under review.

In summary, the clause improves UK competitiveness in an important industry, encourages property funds to be managed and domiciled in the UK and to invest in UK property assets, and makes the UK tax system fairer. I hope that this clause and schedule can stand part of the Bill.

Question put and agreed to.

Clause 122 accordingly ordered to stand part of the Bill.

Schedule 16 agreed to.

Clauses 123 to 125 ordered to stand part of the Bill.

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

12.59 pm

Adjourned till this day at Two o'clock.