PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Fifth Delegated Legislation Committee

DRAFT SCOTTISH RATES OF INCOME TAX (CONSEQUENTIAL AMENDMENTS) ORDER 2021

Wednesday 10 February 2021

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not later than

Sunday 14 February 2021

The Committee consisted of the following Members:

Chair: MRS MARIA MILLER

Andrew, Stuart *(Treasurer of Her Majesty's Household)*
† Chamberlain, Wendy *(North East Fife)* (LD)
Docherty, Leo *(Aldershot)* (Con)
† Fletcher, Colleen *(Coventry North East)* (Lab)
Fletcher, Mark *(Bolsover)* (Con)
† Freer, Mike *(Comptroller of Her Majesty's Household)*
Grady, Patrick *(Glasgow North)* (SNP)
† Harris, Rebecca *(Lord Commissioner of Her Majesty's Treasury)*
Lewell-Buck, Mrs Emma *(South Shields)* (Lab)
† Norman, Jesse *(Financial Secretary to the Treasury)*
† Phillipson, Bridget *(Houghton and Sunderland South)* (Lab)
Pursglove, Tom *(Corby)* (Con)
Throup, Maggie *(Lord Commissioner of Her Majesty's Treasury)*
† Tomlinson, Michael *(Lord Commissioner of Her Majesty's Treasury)*
Whitley, Mick *(Birkenhead)* (Lab)
Whittome, Nadia *(Nottingham East)* (Lab)
Williams, Craig *(Montgomeryshire)* (Con)

Abi Samuels, *Committee Clerk*

† attended the Committee

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Wednesday 10 February 2021

[MRS MARIA MILLER *in the Chair*]

Draft Scottish Rates of Income Tax (Consequential Amendments) Order 2021

2.30 pm

The Chair: Before we begin, I remind Members to observe social distancing and to sit only in the places that are clearly marked. I also remind Members that Mr Speaker has stated that masks should be worn in Committee, other than when Members are speaking. *Hansard* colleagues would be grateful if Members sent their speaking notes to the *Hansard* email address.

The Financial Secretary to the Treasury (Jesse Norman): I beg to move,

That the Committee has considered the draft Scottish Rates of Income Tax (Consequential Amendments) Order 2021.

It is a delight to see you in the Chair, Mrs Miller. This statutory instrument makes a small technical but consequential amendment to section 7 of the Finance (No. 2) Act 2005, "Charge to income tax on lump sum". It ensures that Scottish taxpayers, like those in the rest of the United Kingdom, pay income tax on the pension lump sum at the highest rate they pay income tax in the year in which the lump sum is received. It provides certainty that they will be taxed correctly on their social security pension lump sums and it eliminates ambiguity from the existing legislation, and therefore limits the risk of a legal challenge.

Colleagues will be aware that people who reach state pension age have long been able to defer the receipt of their pension pay-outs. Pensioners can decide to take their deferral amount as a higher weekly payment. Alternatively, those individuals who reach state pension age before 6 April 2016 can choose to take their deferred pension as a one-off lump sum when they finally claim.

The lump sum is made up of the pension that the individual did not claim during the deferral period plus interest at 2% above the Bank of England base rate. It is taxed at the highest rate that applies to an individual's other taxable income, after reliefs and allowances have been deducted. However, the value of the lump sum itself is not taken into account when calculating the individual's other taxable income.

After the devolution of further Scottish income tax powers to Scotland, the Government laid a statutory instrument that took into account Scottish rates of income tax when calculating income tax due on pension lump sums. When the Scottish Parliament introduced new income tax rate bands for non-savings and non-dividend income for the 2017-18 tax year—the starter and intermediate rates—this legislation was further amended to take account of the introduction of those new rates.

However, Her Majesty's Revenue and Customs have identified that the wording of that last change in the legislation is potentially ambiguous, because it refers only to the highest Scottish tax rate to which a Scottish taxpayer is liable. As such, this wording could be interpreted as suggesting that there is no need to take into account the Scottish taxpayer's savings or dividend income, as tax on those forms of income is not devolved.

This would mean that Scottish pensioners could end up paying less income tax on their pension lump sums in comparison with their counterparts across the rest of the UK, because their incomes would be incorrectly calculated and the tax due would be less. This of course was not what was intended by the legislation, but the ambiguity surrounding the wording could leave the Government, in principle, open to a costly legal challenge, and that would be a waste of taxpayers' money.

It is important to say that HMRC's self-assessment calculator takes into account people's total taxable income and is taxing the lump sum at the correct rate as intended, including savings and dividend income. As a result, pensioners have always been correctly charged tax at the appropriate rate on these lump sums when they file their tax returns, no matter where they live in the UK. The statutory instrument will go a step further to clarify the current legislation, and ensure that the legislation matches the tax calculation, but it is important to say that it will not alter the tax position of anyone claiming a social security pension lump sum. With that, I commend the instrument to the Committee.

2.34 pm

Bridget Phillipson (Houghton and Sunderland South) (Lab): It is a pleasure to see you in the Chair this afternoon, Mrs Miller. I thank the Minister for his explanation of the instrument. We do not intend to press the matter to a vote. The change seems very sensible and helpful, given the situation in which we find ourselves.

Making the tax system in every part of the UK straightforward for people to understand and comply with, both for taxpayers and those who enforce it, is a laudable aim. We believe strongly that as well as actively going after those who seek to avoid tax, the Government must have a clear focus on making it easier for those who play by the rules, who work hard and know that paying their tax in full is crucial, to work out easily what they should pay.

There does appear, however, to have been some avoidable confusion. Will the Minister comment on whether he feels there was adequate working between HMRC experts and Governments in both London and Edinburgh on the wording of the successor changes to the legislation? Will he say a little more about internal guidance and what steps have been taken or are being considered to prevent it from being necessary for us to agree these sorts of clarificatory changes more than is absolutely necessarily?

2.35 pm

Jesse Norman: I am grateful to the hon. Member for Houghton and Sunderland South for her comments, for her party's support and for her proper view that this is a sensible and helpful piece of legislation. I do not think there is any reason to think there is a lack of co-ordination between HMRC and the Scottish Government or their counterparts where tax is devolved. I do not think this arises from that. In this case, it was the interaction of the different systems and the possibility of legal parsing out of any expected order that created the ambiguity. For that reason, as soon as it was recognised that there was a potential for this change, the Government decided to correct a possible, rather than an actual, misinterpretation. It already exists in the HMRC calculator, and of course I will make sure that guidance appropriately reflects it, but I believe it already does.

Question put and agreed to.

2.36 pm

Committee rose.