

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

FINANCE BILL

(Except clauses 5, 15 and 25 and certain new clauses and new schedules)

Sixth Sitting

Tuesday 24 October 2017

(Afternoon)

CONTENTS

CLAUSES 69 TO 72 agreed to.
New clause considered.
Bill, as amended, to be reported.
Written evidence reported to the House.

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

not later than

Saturday 28 October 2017

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The Committee consisted of the following Members:

Chairs: MR GEORGE HOWARTH, †MR CHARLES WALKER

† Afolami, Bim (*Hitchin and Harpenden*) (Con)
 † Blackman, Kirsty (*Aberdeen North*) (SNP)
 † Burghart, Alex (*Brentwood and Ongar*) (Con)
 † Cleverly, James (*Braintree*) (Con)
 † Creasy, Stella (*Walthamstow*) (Lab/Co-op)
 † Dodds, Anneliese (*Oxford East*) (Lab/Co-op)
 † Dowd, Peter (*Bootle*) (Lab)
 † Fernandes, Suella (*Fareham*) (Con)
 † George, Ruth (*High Peak*) (Lab)
 † Ghani, Ms Nusrat (*Wealden*) (Con)
 † Hopkins, Kelvin (*Luton North*) (Lab)

† Hughes, Eddie (*Walsall North*) (Con)
 † Lee, Ms Karen (*Lincoln*) (Lab)
 † Linden, David (*Glasgow East*) (SNP)
 † Maclean, Rachel (*Redditch*) (Con)
 † O'Brien, Neil (*Harborough*) (Con)
 † Smith, Jeff (*Manchester, Withington*) (Lab)
 † Stride, Mel (*Financial Secretary to the Treasury*)
 † Stuart, Graham (*Beverley and Holderness*) (Con)

Colin Lee, Jyoti Chandola, *Committee Clerks*

† **attended the Committee**

Public Bill Committee

Tuesday 24 October 2017

(Afternoon)

[MR CHARLES WALKER *in the Chair*]

Finance Bill

(Except clauses 5, 15 and 25 and certain new clauses and new schedules)

Clause 69

DATA-GATHERING FROM MONEY SERVICE BUSINESSES

2 pm

The Chair: We come to the dénouement of the Finance Bill in Committee. I hope the Government Whip liked my use of English—very evocative. I call Peter Dowd to move amendment 43.

Peter Dowd (Bootle) (Lab): I beg to move amendment 43, in clause 69, page 91, line 16, at end insert—

“(1A) In Schedule 23 to FA 2011, after paragraph 65, insert—

‘66 (1) No later than 30 September 2020, the Commissioner shall undertake a review of the exercise of the powers under this Schedule in relation to relevant data holders specified in paragraph 13D.

(2) The review shall consider in particular the number of appeals in relation to Data-holder Notices.

(3) The Chancellor of the Exchequer shall lay a report of a review under this paragraph before the House of Commons within one month of its completion.”

This amendment would require HMRC to review the exercise of its data-gathering powers in relation to money service businesses.

The Chair: With this it will be convenient to discuss clause 69 stand part.

Peter Dowd: It is a pleasure to serve under your stewardship, Mr Walker, notwithstanding the fact that you have just stolen my joke. I asked my daughter, who studied French, what the French for “dénouement” and “ambience” was, but she did not find that very amusing.

Clause 69 extends bulk data-gathering powers, which were given to HMRC in the Finance Act 2011, to money service businesses such as Western Union. The clause continues the Government’s plans to rapidly expand HMRC’s powers to collect bulk data from third parties. In the Finance Acts of 2011, 2013 and 2016, the powers were extended to merchant acquirers, and in 2016 they were extended to, to collect bulk data from providers of electronic stored-value payment services, also known as digital wallet transactions.

The powers are part of the Government’s strategy to tackle the hidden economy and reduce the tax gap. All Members agree that people operating within the hidden economy evade tax and gain an unfair competitive advantage over law-abiding, tax-paying individuals and businesses. Under anti-money laundering legislation, money service businesses are already required to conduct

due diligence checks on customers, in certain circumstances at least. HMRC supervises the majority of money service businesses for compliance with that legislation, so it can request limited information from them as part of its supervision for anti-money laundering purposes. It can also use any information obtained for tax compliance purposes but cannot currently request that information with the original intention of checking the tax position of their customers. This clause would change that by requiring money service businesses to become data holders, to collect data from their users, and to pass that data on to HMRC when requested.

It is important to be clear about how a money service business would hand over a customer’s data to HMRC. First, HMRC would issue a notice to the data holder requiring it to provide HMRC with information. The data holder can respond and, if it rejects the notice, can appeal to the tribunal. The tribunal then makes its ruling. Under these provisions, any money service business that does not comply will be issued with a financial penalty. Similarly, HMRC has the power under this measure to apply directly to a tribunal for approval at a hearing without notice being given to the data holder—effectively going over its head.

At no point in the process is the individual or the business who used the money service business and whose information is being passed to HMRC notified, as I understand it. It seems that the clause is not open to individual appeal at any point in the judicial process. In fact, it rests solely on the shoulders of the money service business to appeal when necessary.

The Opposition fully support measures to clamp down on the hidden economy—on individuals and on businesses using unsavoury and slippery practices to avoid paying their fair share of tax—but we are talking about third parties collecting massive amounts of data to hand over to HMRC. Money service businesses are effectively being asked to pick up the slack for HMRC, which, in our view, is increasingly underfunded and under-resourced. I have said it before, and I will say it again: Government statistics show that since 2010, there has been a 17% reduction in HMRC staffing levels. The Minister needs to address the resources available to HMRC to crack down on the hidden economy. It appears that once again the Government are ambitious in the powers they wish to give themselves—through the back door, some would say—but not so enthusiastic about funding and resourcing their commitments.

The Minister will be aware that although most money service businesses keep records of due diligence checks on customers, they do not have the time—or, I suspect, the inclination—for the pretty onerous task of sifting through the data to provide HMRC with individual records. I therefore find it unlikely that they would refuse or appeal a notice, which is the supposed judicial check on this broad, sweeping power. What does the Minister think is a reasonable notice period for a money service business to process and respond to HMRC? Does he accept that there may be hidden costs for money service businesses that have to comply with these measures?

In the Government’s consultation, there was much debate about the substance of the information that would be transferred between money service businesses and HMRC. According to the Information Commissioner’s Office,

“it is clear that some of the information that may be provided to HMRC for the purposes of extending data gathering powers to money service businesses will constitute personal data in instances where the customer is an individual, a sole trader or a partnership... It will therefore be an important data protection obligation for the MSBs under the scope of the proposed legislation to provide their customers with privacy notices... The minimisation of the collection of personal data of individual consumers is an important privacy protection principle in financial transactions.”

I suspect the Minister will need to consider those concerns as part of a wider discussion about the scope of HMRC's powers.

The privacy group Liberty has raised concerns that the practice of bulk data surveillance is suspicionless surveillance and constitutes a disproportionate interference with article 8 of the European convention on human rights, as enshrined in the Human Rights Act 1998: the right to respect for private and family life. Liberty's concern is that bulk data surveillance inverts the traditional relationship between suspicion and surveillance that exists in UK law, because suspicion comes first to justify subsequent surveillance.

In the light of these concerns, our amendment calls for a review of the exercise of schedule 23 powers, with a particular emphasis on how they relate to data protection. The Government have the right to ensure that HMRC has the necessary powers to tackle the hidden economy, but they are also obliged to ensure proper judicial oversight and the protection of people's rights.

I am reaching my *dénouement*. The Minister's case for new bulk data-gathering powers rests on the need for third parties to help HMRC to catch customers who participate in the hidden economy, which costs the Treasury £6.2 billion a year, as I recall. However, he has rejected our attempts to introduce a register for offshore trusts, our calls to crack down on tax avoidance by removing the exemption for offshore trusts in the Government's deemed domicile proposals, and any meaningful attempt to bring transparency and accountability to non-doms who abuse the UK tax system. I will not call it a double standard; that is not a fair assessment.

However, the Government are demanding all this information from money service businesses customers to ensure that they are not participating in the hidden economy—yet at the same time rejecting any sort of information being held on offshore trusts, which are used to shelter hundreds of billions from the UK Exchequer. As I said last week, there needs to be careful consideration of the balance between individual liberty and the powers of the state. Over the past few years, we have seen multiple Finance Bills whereby Government give HMRC sweeping data-gathering powers, from merchant banking to digital wallets. I believe there is a rational concern that though these powers can tackle criminality, they can also impede an individual's right to privacy. Any Government need to ensure that the balance is struck fairly and proportionately—and we are not convinced that this does so. Otherwise, there is a real fear that, increasingly, only those who can afford to secure their financial privacy, or to shelter and shield their wealth and financial transactions from the state, will have any privacy. The Government should give more thought to that.

The Financial Secretary to the Treasury (Mel Stride): It is a pleasure to serve again under your chairmanship, Mr Walker.

Clause 69 will extend HMRC's data-gathering powers to money service businesses, allowing it to better identify and take action against businesses and individuals operating in the hidden economy. Money service businesses, or MSBs, are entities that provide money transmission, cheque cashing, or currency exchange services. They provide valuable financial services that are relied upon by many tax-compliant customers. However, these services are vulnerable to exploitation by those who want to disguise their income. Under the clause, data provided by MSBs to HMRC will allow HMRC to better identify non-compliant customers who are exploiting MSB services to hide their income and operate in the hidden economy.

The hidden economy is made up of those businesses that fail to register for tax, and individuals who fail to declare a source of income that should be taxed. By hiding their activity from HMRC, those operating in the hidden economy deprive the Government of vital funds to run public services. That places an unfair burden on the vast majority of people and businesses who pay their fair share of tax. Hidden economic activity also disadvantages compliant businesses. HMRC's operational experience shows that non-compliant businesses and individuals can exploit the services offered by MSBs to disguise or dispose of undeclared income. They can do this, for example, by cashing a cheque for undeclared work. HMRC's data-gathering powers allow it to collect data from certain third parties. Following public consultation and a Government response in 2016, the clause extends those powers to MSBs. It does that by introducing MSBs as a new category of data holder from whom HMRC may require data. MSBs are defined under the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017.

“Credit institutions”, or, practically, banks and building societies, are excluded. The term MSB is generally taken to mean a business that provides money transmission, cheque cashing or currency exchange services without transacting through a bank account or providing general banking services. The clause is intended to cover those businesses. Supporting regulations will be made at Royal Assent, using an existing power to make regulations contained in schedule 23 of the Finance Act 2011. Those will provide detail of the types of data that can be requested. A draft of the regulations was published for consultation last year and regulations will subsequently be laid before the House, subject to the negative resolution procedure. The clause does not impose any additional record-keeping requirements on MSBs. HMRC cannot request data that an MSB does not hold. That is an important point and relates to the concern raised by the hon. Member for Bootle.

HMRC will work collaboratively with MSBs to minimise the administrative burden of complying with the new law. MSBs can appeal against a data notice issued by HMRC on the grounds that it is unduly onerous, or if they consider that the notice asks for data that is outside the scope of relevant regulations. HMRC can request data necessary to detect and quantify hidden economy tax risks. That includes information needed to identify an MSB's customers and records that the MSB is required to keep under money laundering regulations. It also includes data about aggregate customer transactions. HMRC will not request data on individual transactions.

[Mel Stride]

The hon. Member for Bootle raised an important point—what data can HMRC request under these provisions? The answer is aggregated data, which will not include data on the value of individual transactions made by customers.

2.15 pm

The hon. Gentleman also raised the important issue of privacy, and the proportionality of these measures. The measure is not an invasion of privacy; the clause is carefully drafted to minimise any impact on the privacy of individuals and businesses, and HMRC will not be able to monitor the value of individual transactions made by customers through an MSB. It is already a requirement for MSBs to collect the data under many circumstances for anti-money laundering supervision purposes, so these new powers will allow HMRC to gather the data for tax compliance purposes. They do not allow for the collection of any data that MSBs do not already hold.

The hon. Member for Bootle also raised the issue of data safety, and whether we could handle this amount of information. HMRC takes its responsibilities to safeguard the security of customers' information and commercial data provided by third parties extremely seriously. HMRC's data-handling processes and the Government's arrangements are constantly reviewed and updated to minimise the risk of shared data becoming corrupted, misused or lost. Receiving and using data is fundamental to the way that HMRC collects tax and tackles non-compliance, and it already possesses large amounts of sensitive data and keeps that safe.

I welcome the opportunity to debate amendment 43, which proposes a review of the exercise of HMRC's data-governing powers in relation to MSBs no later than September 2020, with a particular focus on the number of appeals in relation to data holder notices. As I have said, MSBs can appeal against a data notice issued by HMRC if it is unduly onerous, or if it asks for data that are outside the scope of the relevant regulations. Therefore, there is already a mechanism in place for independent scrutiny through a tribunal, whose records are already available to the public. In addition, this measure has already involved consultation and engagement with the relevant sector. Proportionality has been a key consideration, and HMRC will work closely with MSBs to ensure that requirements are reasonable and to minimise the burden and the cost, so there are already adequate safeguards in place, and a review is not necessary. I therefore ask the Opposition to withdraw amendment 43.

Kelvin Hopkins (Luton North) (Lab): I want to respond briefly to what the Minister said. It is a pleasure to serve under your chairmanship yet again, Mr Walker, possibly for the last time during this Committee.

I have always had a concern about the money service industry, particularly since many of my constituents send money to family members overseas. There are large immigrant minorities from every part of the world in my constituency. Some of the transactions have been insecure—we have seen companies where money has been lost, and I have long thought that there ought to be a much higher degree of regulation of that industry.

There is obviously an issue around charges. I suspect that charges vary widely and are often very high. It seems to me that what we really want is at least a state company doing this business, either instead of or alongside these organisations, which would be properly regulated, have fair charges, and be open and transparent, apart from personal secure information about transactions, which my hon. Friend the Member for Bootle talked about. Bringing the state actively into that area would be a great advance. Perhaps I speak from a left position that might not find favour with the Government, but we ought to look forward to a much more regulated industry with a strong state sector in the future.

Mel Stride: To reply briefly to the hon. Gentleman's point: the issue of MSB ownership and state involvement is probably slightly beyond the scope of this Bill, but his points are noted. If he continues to work very hard, who knows what might happen? Much to our horror and dread, the state may end up owning just about everything in this country, if he and his merry men and women have their way.

Peter Dowd: I have accepted previous assurances provided by the Minister and we have withdrawn amendments appropriately, in good faith and good spirit. The issue under discussion goes beyond the technicalities and reaches into the very nature of a state that does not interfere in people's affairs where it has no business to do so. That is not to say that the state has no business interfering; it does so with tax collection, which helps maintain the balance of society. It would not be appropriate for me to withdraw the amendment, because I think that many members of the Committee would like to err on the side of caution and accept it, even though they will not do so. We will therefore leave it hanging and I have no doubt that we will return to the issue of privacy at a future date.

Question put, That the amendment be made.

The Committee divided: Ayes 9, Noes 10.

Division No. 16]

AYES

Blackman, Kirsty	Hopkins, Kelvin
Creasy, Stella	Lee, Ms Karen
Dodds, Anneliese	Linden, David
Dowd, Peter	Smith, Jeff
George, Ruth	

NOES

Afolami, Bim	Hughes, Eddie
Burghart, Alex	Maclean, Rachel
Cleverly, James	O'Brien, Neil
Fernandes, Suella	Stride, rh Mel
Ghani, Ms Nusrat	Stuart, Graham

Question accordingly negated.

Clause 69 ordered to stand part of the Bill.

Clauses 70 to 72 ordered to stand part of the Bill.

New Clause 1

REVIEW OF RELIEF FROM CORPORATION TAX RELIEF FOR PFI COMPANIES

“(1) Within three months of the passing of this Act, the Commissioners for Her Majesty's Revenue and Customs shall complete a review about how corporation tax relief is given for losses, deficits, expenses and other amounts of PFI companies.

(2) For the purposes of this section, ‘a PFI company’ means a company which has entered into a contract with a public sector body under the Private Finance Initiative or the PF2 initiative.

(3) The Chancellor of the Exchequer shall lay a report of the review under this section before the House of Commons within three months of its completion.”—(*Stella Creasy.*)

This new clause requires a review to be undertaken of the corporation tax reliefs available to PFI companies.

Brought up, and read the First time.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 9, Noes 10.

Division No. 17]

AYES

Blackman, Kirsty	Hopkins, Kelvin
Creasy, Stella	Lee, Ms Karen
Dodds, Anneliese	Linden, David
Dowd, Peter	Smith, Jeff
George, Ruth	

NOES

Afolami, Bim	Hughes, Eddie
Burghart, Alex	Maclean, Rachel
Cleverly, James	O'Brien, Neil
Fernandes, Suella	Stride, rh Mel
Ghani, Ms Nusrat	Stuart, Graham

Question accordingly negatived.

New Clause 2

TAXATION OF CHARGEABLE GAINS: REVIEW OF TREATMENT OF COMMERCIAL PROPERTY HELD BY PERSONS WITH FOREIGN DOMICILE

“(1) The Taxation of Chargeable Gains Act 1992 is amended as follows.

(2) After section 14 (non-resident groups of companies), insert—

‘Review of treatment of commercial property held by persons with foreign domicile

(1) Within three months of the passing of the Finance (No. 2) Act 2017, the Commissioners for Her Majesty’s Revenue and Customs shall complete a review about the taxation of chargeable gains held by persons with foreign domicile.

(2) The review shall consider in particular the implications if the treatment of commercial property were to be the same as the treatment of residential property under section 4BB(2).

(3) The Chancellor of the Exchequer shall lay a report of the review under this section before the House of Commons within three months of its completion.’—(*Stella Creasy.*)

This new clause requires a review to be undertaken of the treatment of capital gains on commercial property disposed of by UK taxpayers with a foreign domicile.

Brought up, and read the First time.

Stella Creasy (Walthamstow) (Lab/Co-op): I beg to move, That the clause be read a Second time.

It is a pleasure to serve under your chairmanship, Mr Walker. I am conscious that several members of the Committee may wish to take part in the emergency debate on universal credit—a subject close to many of our hearts—so I do not intend to speak for a long time. However, we ought to get value for money out of these Committee sittings and, indeed, this Bill, so I hope that my new clause gives the Government some ideas about how we can solve the pressing problem of the public finances and the lack of funding.

Government Members often argue that Labour only wants to spend money, but my proposals very much seek to save money for the country. Indeed, they present a way to protect UK taxpayers and British businesses, generate potentially billions for the Exchequer, and address the pressures on the housing market. I am sure that none of us would want to lay claim to the magic money tree, but I believe that my new clause would provide for a concrete cash cow in which the Government could invest, and I hope to convince Ministers and Government Back Benchers to support it.

The new clause relates to a proposal by the previous Chancellor of the Exchequer—I am not sure how many jobs he has now, but he is currently the editor of the *Evening Standard*—about the way in which capital gains tax was applied to property sales.

Kelvin Hopkins: I am interested in the former Chancellor and how many jobs he has. It is particularly interesting to learn how much he is being paid for those jobs.

Stella Creasy: I am afraid that I do not have that figure to hand, but I do have figures relating to the amount of money that the new clause could raise for the public Exchequer. I hope that my hon. Friend will be as pleased with and as interested in those numbers as I am.

Historically, only UK residents or those with a permanent UK base have been subject to capital gains tax. In April 2013 that was changed to include the disposals of UK dwellings owned by non-resident companies, partnerships and collective investment schemes, which were subject to an annual tax on enveloped dwellings. In April 2015 that was extended to all non-UK residents disposing of UK residential property, and the critical point is that that was about residential property. The argument that non-doms should be paying capital gains tax on the disposal of property was put forward by the previous, and indeed current, Government. The question is: why did they make it apply only to residential properties? As I hope to prove, that has created a loophole through which some people have chosen to put their properties.

We are talking about a rate of tax that is between 18% and 28%, or 20% for corporates. The standard OECD double tax treaty expressly preserves the right of countries to tax non-residents on capital gains from the disposal of local real estate. Many of us will have seen at first hand in our communities the impact of this country’s over-inflated housing market and the connection between the residential and the commercial property market. The Adam Smith Institute reckons that there are 1 million non-doms in the UK, although only 110,000 are declared. Those people are part of our communities, but they are benefitting from an advantageous tax position because of this loophole.

The Bill tries to address issues relating to inheritance tax and holding property through UK companies, so the Government are interested in where people might be using companies to avoid paying tax. Indeed, that is one of the debates that we have been having. The new clause addresses another issue, which is the ability to designate a property as a commercial property to avoid paying the residential charge that this Government introduced in 2015. We know that that is hitting UK companies competing with non-UK companies. In tabling this new

[Stella Creasy]

clause, I am making a plea to the Minister to be on the side of British businesses that are being unfairly treated in our tax system. We know that people set up property holding companies to avoid those charges. By changing the loophole, we would be able to apply the charge fairly across the board. Indeed, it has to be asked why anybody would hold UK real estate through a foreign company except for tax purposes.

The Minister might say that this about a competitive tax advantage for the UK. Let me reassure him that almost nowhere else in the world exempts foreigners from tax on selling real estate. By closing the loophole, we would simply bring ourselves into line with Canada, Australia and indeed the rest of Europe. The Minister may claim that there are anti-avoidance rules that would take precedence, but if a non-resident company operates in the UK through a UK permanent establishment, the disposal will be subject to UK capital gains tax. That is not the requirement we are talking about; we are talking about organisations that hold property in the UK through offshore companies and designate that property as commercial property. It is the difference between the residential and the commercial that we need to deal with in terms of this loophole.

2.30 pm

In 2015, the then Chancellor predicted that the changes to the non-dom rules that included residential properties would bring forward £1.5 billion in the lifetime of the then Parliament, so we are not talking about an insubstantial sum, but if we properly closed the loophole and treated UK and non-UK businesses fairly in the sale of commercial property, I would wager there is a lot of money to be made. I have done my own sums, but the new clause is about getting the Government to do their sums to see how much tax is being avoided through the loophole.

I will give the Committee an example that I hope my hon. Friend the Member for Luton North will be interested in. There is £600 billion of commercial real estate in the UK. About one fifth of that commercial real estate is sold every single year. In 2015, £115 billion of sales was registered. Almost a quarter of all commercial real estate in the UK is held through offshore companies. Typically those companies are in tax havens or structured so that they pay no tax on the capital gain anywhere else in the world.

If we assume average real estate growth of around 8% a year, we are potentially missing out on £8 billion of tax revenue. The Minister may tell me that number is over-inflated, and that the real number is closer to £1 billion. I would be happy for him to prove me wrong, but the only way he can do that is by publishing the data on that quarter of properties. Through that we can understand how many are sold and how much capital gains tax this country is missing out on because we do not give British businesses the fair treatment they deserve when they are competing against non-dom companies.

Ruth George (High Peak) (Lab): Does my hon. Friend think that the definition of commercial properties would include properties that were previously residential, such as those in my constituency in the Peak district? They were residential homes, but they were sold to owners who live outside the area and are now used primarily as second homes, although they are rented for a very small

number of weeks during the year. That has turned them into commercial properties, severely depleting the number of homes available to local people, particularly in rural areas of outstanding natural beauty.

Stella Creasy: My hon. Friend has shown how simple it is to evade the tax by avoiding the loophole—the previous Chancellor tried to close it by ensuring that non-doms paid capital gains tax on the sale of residential property—simply by repurposing a building as commercial property. Even given the rules on closed companies in existing legislation, people can get around the charge. I am suggesting that the figure could be as much as £8 billion. I certainly think that at least £1 billion of public revenue could come from closing the loophole and simplifying the way we treat non-doms with capital gains tax. The Minister may have a different number, but the point of the new clause is to get the number.

The Bill is about how we manage public finances. Giving this tax loophole to non-doms means that our British businesses are unfairly treated and our property market faces artificial pressure. We are missing out on vital funds that could go into our public services. The new clause is not a magic money tree; it is a concrete cash cow. If the Minister will not agree to publishing the data, will he commit to looking at how we can close the loophole?

Mel Stride: New clause 2—I think it is now known as the concrete cash cow clause—provides us with an opportunity to discuss the rules surrounding UK commercial property and those who are foreign-domiciled. As the hon. Member for Walthamstow explained, her new clause would require HMRC to review the taxation of capital gains on commercial property disposal by UK taxpayers with a foreign domicile.

There is no question but that all UK residents, whether UK-based or non-domiciled, are chargeable for tax on profits from selling UK land. That includes non-domiciles who are taxed on a remittance basis, where foreign income and gains are taxed only when they are brought into the UK. Our tax base is predominantly those who are resident in the United Kingdom. As the hon. Lady has drawn to our attention, recent changes removed non-residents into the UK tax base for the sale of UK residential property. The new clause raises the fact that that treatment does not extend to non-residents for the sale of commercial property in this country. While I understand why she suggests that extending the laws would raise revenue, I should point out that this is a very complex area, which needs to be carefully considered.

The 2015 rules were designed to catch individuals and ways in which a person may hold title over a dwelling such as via trusts and closely held companies. They do not apply to companies with lots of shareholders. The structures that are used to own commercial property are different from residential property, often more complex and involving corporates, joint ventures and specialist property vehicles. We would need rules that address such structures and get to the heart of the ultimate owner.

Will the hon. Lady consider this illustration? I might live in Canada and own 50% of a home in Walthamstow. I might easily conceive, if I did not know for sure, that selling my part of the house in the UK would mean paying some UK tax. However, imagine instead that I own a handful of shares in a fund of some kind, which

in turn owns half an office block in Walthamstow. Being such a minor shareholder, I may not even know how my money is invested. To send the tax man chasing round overseas for the little shareholder in a commercial building would hardly be cost-effective. We would need to design balanced rules that look at how the market works and what would yield the Exchequer the best return.

Extending the current rules to include any UK property is not a simple matter of striking through “residential property” and inserting “all UK property” into the current provisions, as this would not take into account the intrinsic differences in the way that commercial properties are owned and dealt with.

Ruth George: Does the Minister agree that now that we are seeing residential property increasingly acquired by such complex structures, and that by eradicating the omission for commercial properties, it would simplify the legislation? HMRC would not have to establish whether a property was commercial or residential because there are so many grey areas, as my hon. Friend the Member for Walthamstow pointed out.

Mel Stride: The point I was trying to make was not so much whether one classified a property as residential or commercial. My point was that where it is commercial, the ownership arrangements can be so complicated that this kind of approach is far from simple.

Stella Creasy: I think the Minister is making a strong case for the new clause and providing the data. He may want to update his colleagues on the fact that the closed company model is five or fewer participants. Were there to be six participants, that would extend the limitations he is talking about. I also want to ask him, now that we have the residential rules in place, whether he will commit to publishing how many properties that were previously cast as residential are now categorised as commercial use since that legislation came in. We might begin to get an understanding of whether people are using this loophole to evade the capital gains tax to which we are entitled.

Mel Stride: I am certainly happy to look into the issue of what data are available that might reasonably be released for those properties that might have changed from residential to commercial. My point is that the existing rules for residential property involve, for example, consultation with external experts over a period of two years. They are arguably, for reasons that we have been discussing, more simple and straightforward than the arrangements that would need to be in place for a commercial property situation. To ensure that legislation works effectively, HMRC would be able to collect taxes from overseas taxpayers.

The UK commercial property market is even more complex and inextricably linked to many other markets and investments both in the UK and overseas. Bringing non-resident companies into these rules would bring with them a whole tax code for corporates, which would need to be considered and applied consistently in the context of someone who may have no other UK tax footprint.

Of course, there are existing exemptions and reliefs for the UK investor that would need to be considered to see whether and how they might apply to an overseas

equivalent and whether such exemptions could be used to undermine the idea as a whole. Any change to further broaden our base would require consultation with the public, tax experts and affected sectors, particularly those involved with funds and pensions, to ensure they were clear, enforceable, robust to avoidance, and achieved their intention. I assure the hon. Member for Walthamstow that we keep all taxes under careful and continuous review to ensure that the tax system works effectively for the taxpayers of this country.

Stella Creasy: Again, the Minister makes a compelling case for the new clause, which would enable exactly such an information-gathering exercise. As he points out, this may be a complex area. I note, however, that the Bill deals with overseas companies and their inheritance tax positions. I fail to understand why Ministers accept that we need to address the use of commercial entities to avoid inheritance tax but do not accept that we need to address their use to avoid capital gains tax. Will he say a little about that?

Mel Stride: As I have said, I assure the hon. Lady that we keep all taxes under careful review to ensure that the tax system works effectively for the taxpayers of this country. I favour that, rather than requiring HMRC by statute to conduct reviews, as the best way to develop tax policy. I heard what she had to say about those taxes, and I will certainly consider the questions that she raised, but I urge the Committee to reject the new clause.

Stella Creasy: I am afraid that I am not satisfied that the Minister has made a strong enough argument against his own argument that this is a complicated area in which we need information. The new clause would not commit the Government to closing the loophole; it would simply start the process of asking how much the loophole costs us and recognising that, where we create a category for one type of property and people can apply it to another, that may generate a loophole that is exploited to the detriment of the UK taxpayer. With that in mind, and in full support of the British businesses that are being penalised as a result of the Government's failure to address that loophole, I wish to test the will of the Committee on this matter.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 9, Noes 10.

Division No. 18]

AYES

Blackman, Kirsty	Hopkins, Kelvin
Creasy, Stella	Lee, Ms Karen
Dodds, Anneliese	Linden, David
Dowd, Peter	Smith, Jeff
George, Ruth	

NOES

Afolami, Bim	Hughes, Eddie
Burghart, Alex	Maclean, Rachel
Cleverly, James	O'Brien, Neil
Fernandes, Suella	Stride, rh Mel
Ghani, Ms Nusrat	Stuart, Graham

Question accordingly negatived.

New Clause 3**DEEMED DOMICILE: REVIEW OF PROTECTION OF OVERSEAS TRUSTS**

“(1) Within fifteen months of the passing of this Act, the Commissioners for Her Majesty’s Revenue and Customs shall complete a review about the operation of the provisions for the protection of overseas trusts in relation to deemed domicile.

(2) The review shall in particular consider—

- (a) the effects of those provisions on the Exchequer,
- (b) the behavioural effects of those provisions, and
- (c) the effects on the matters specified in paragraphs (a) and (b) if those provisions were repealed.

(3) For the purposes of this section, ‘the provisions for the protection of overseas trusts’ means the provisions inserted by paragraphs 18 to 38 and 40 of Schedule 8 to this Act.

(4) The Chancellor of the Exchequer shall lay a report of the review under this section before the House of Commons within three months of its completion.”—(*Peter Dowd.*)

This new clause requires a review to be undertaken of the effects of the provisions for protecting overseas trusts from the new provisions in relation to deemed domicile.

Brought up, and read the First time.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 9, Noes 10.

Division No. 19]**AYES**

Blackman, Kirsty	Hopkins, Kelvin
Creasy, Stella	Lee, Ms Karen
Dodds, Anneliese	Linden, David
Dowd, Peter	Smith, Jeff
George, Ruth	

NOES

Afolami, Bim	Hughes, Eddie
Burghart, Alex	Maclean, Rachel
Cleverly, James	O'Brien, Neil
Fernandes, Suella	Stride, rh Mel
Ghani, Ms Nusrat	Stuart, Graham

Question accordingly negated.

New Clause 5**ANNUAL REPORT ON POWERS IN RELATION TO THIRD COUNTRY GOODS FULFILMENT BUSINESSES**

“(1) The Commissioners must prepare a report on the operation of the provisions of Part 3 of this Act in relation to each tax year after their commencement within six months after the completion of that tax year.

(2) The Chancellor of the Exchequer shall lay a report under subsection (1) before the House of Commons.

(3) Each report under subsection (1) shall cover in particular—

- (a) prosecutions for an offence under section 53,
- (b) penalties imposed under Schedule 13,
- (c) the effects on the operation of Part 3 of the United Kingdom’s withdrawal from the European Union or (as the case may be) preparations for that withdrawal,
- (d) implications of the matters specified in sub-paragraph (c) for the activities and resource requirements of HMRC in connection with the provisions of this Part,
- (e) implications of the matters specified in sub-paragraph (c) for the exercise of the powers to make regulations under Part 3, and

- (f) HMRC’s assessment of the extent to which the operation of, or changes to the operation of, comparable provisions in other countries affect businesses in the United Kingdom.”—(*Peter Dowd.*)

This new clause requires HMRC to produce an annual report on the operation of Part 3 relating to third party goods fulfilment businesses and specifies some of the information to be included in that annual report.

Brought up, and read the First time.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 9, Noes 10.

Division No. 20]**AYES**

Blackman, Kirsty	Hopkins, Kelvin
Creasy, Stella	Lee, Ms Karen
Dodds, Anneliese	Linden, David
Dowd, Peter	Smith, Jeff
George, Ruth	

NOES

Afolami, Bim	Hughes, Eddie
Burghart, Alex	Maclean, Rachel
Cleverly, James	O'Brien, Neil
Fernandes, Suella	Stride, rh Mel
Ghani, Ms Nusrat	Stuart, Graham

Question accordingly negated.

2.45 pm

Question proposed, That the Chair do report the Bill, as amended, to the House.

Mel Stride: Mr Walker, having rocketed through this Bill, efficiently and I think in near-record time, it is only right that I say “thank you” to all those who have made our rapid progress possible. I start with yourself, Mr Walker. I thank you for your patience, good humour and of course for teaching us the right pronunciation of “schedule”. I also thank your co-Chair, Mr Howarth, for his sagacity, which is unrivalled on the Panel of Chairs, with perhaps the exception of yourself, Mr Walker.

I thank all members of the Committee. I thank Opposition Members for their pursuit of their duty of scrutiny of the Bill, although ultimately they were, rather pleasingly, unsuccessful in all the Divisions that we have had. However, we will not hold that against them; they did their job very thoroughly and very effectively indeed. I want to particularly and personally thank the hon. Members for Bootle, for Oxford East and for Aberdeen North for the very good-natured and decent way in which they have dealt with me personally and all the Government Members of the Committee; and, yes, I want to thank the hon. Member for Walthamstow as well, from the bottom of my heart. I genuinely respect her eloquence and determination, and I have enjoyed the mental contortions that she has put me through during the Committee.

I thank the Government Members of the Committee. Their contributions were slightly limited, but when they came they were of a quality that was unrivalled and unparalleled in the history of Committees. I thank the Whips on both sides: my hon. Friend the Member for Beverley and Holderness and the hon. Member for Manchester, Withington. As a former Whip, I know that often they are in the background but what they do really matters and they have ensured that this Committee has run in a very efficient and effective manner.

I thank those who gave evidence to the Committee, the Clerks, *Hansard* and the Doorkeepers. Most especially, I thank my own officials at the Treasury and HMRC, who in the short time that I have been a Minister have impressed me immensely with their knowledge, guidance and overall their patience and kindness towards me, in many, many hours of trying to explain what has been an extremely technical Bill.

Finally, on a personal note, if I might be indulged, I thank my two young daughters, Ophelia and Evelyn, who, in the last couple of weeks, while their father grappled in his dreams with this highly technical Bill, managed to stay out of their mother and father's bed and to give them some sleep.

I look forward to Report. Of course, as someone has already mentioned, we have the delights of a further Finance Bill after the Budget, which I know we can hardly wait for.

Peter Dowd: May I completely concur with the sentiments of the Minister? I thank all my colleagues and Government Members for their patience and forbearance. I will just

leave on this note because I am quite stunned: I have visions of the Minister grappling in bed. [*Laughter.*] Best to leave it on that note.

Mel Stride: On that, we can all agree.

The Chair: I am afraid that we cannot. I call Kirsty Blackman.

Kirsty Blackman: I thank you, Mr Walker, and Mr Howarth for your chairmanship of this Committee. It has been excellent, as ever. I also thank all hon. Members—in particular, my hon. Friend the Member for Glasgow East, who has sat through his first Finance Bill. It will possibly be the first of many. I think he hopes not, but we shall see. I would like to give special thanks to Miriam Brett, our researcher, who provided me and my hon. Friend with a huge amount of useful information, which we used during the Committee.

Question put and agreed to.

Bill, as amended, accordingly to be reported.

2.50 pm

Committee rose.

Written evidence reported to the House

FB 21 Chartered Institute of Taxation further submission
(clauses 63, 64, 65 and 67)

FB 22 Low Incomes Tax Reform Group further submission
(clause 64)

FB 23 Low Incomes Tax Reform Group further submission
(clause 63 and schedule 15)

FB 24 Low Incomes Tax Reform Group further submission
(clauses 60 to 62)

FB 25 Unite

FB 26 An individual who wishes to remain anonymous