PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

FINANCE (NO. 3) BILL

(Except clauses 5, 6, 8, 9 and 10; clause 15 and schedule 3; clause 16 and schedule 4; clause 19; clause 20; clause 22 and schedule 7; clause 23 and schedule 8; clause 38 and schedule 15; clauses 39 and 40; clauses 41 and 42; clauses 46 and 47; clauses 61 and 62 and schedule 18; clauses 68 to 78; clause 83; clause 89; clause 90; any new clauses or new schedules relating to tax thresholds or reliefs, the subject matter of any of clauses 68 to 78, 89 and 90, gaming duty or remote gaming duty, or tax avoidance or evasion)

Third Sitting

Thursday 29 November 2018

(Morning)

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PBC (Bill 282) 2017 - 2019

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not later than

Monday 3 December 2018

The Committee consisted of the following Members:

Chairs: Ms Nadine Dorries, †Mr George Howarth

† Afolami, Bim *(Hitchin and Harpenden)* (Con)
† Badenoch, Mrs Kemi *(Saffron Walden)* (Con)
† Black, Mhairi *(Paisley and Renfrewshire South)* (SNP)
† Blackman, Kirsty *(Aberdeen North)* (SNP)
Charalambous, Bambos *(Enfield, Southgate)* (Lab)
† Dodds, Anneliese *(Oxford East)* (Lab/Co-op)
† Dowd, Peter *(Bootle)* (Lab)
† Ford, Vicky *(Chelmsford)* (Con)
† Jenrick, Robert *(Exchequer Secretary to the Treasury)*
† Keegan, Gillian *(Chichester)* (Con)
† Lamont, John *(Berwickshire, Roxburgh and Selkirk)* (Con)
† Lewis, Clive *(Norwich South)* (Lab)
† Reynolds, Jonathan *(Stalybridge and Hyde)* (Lab/Co-op)
† Smith, Jeff *(Manchester, Withington)* (Lab)
† Sobel, Alex *(Leeds North West)* (Lab/Co-op)
† Stride, Mel *(Financial Secretary to the Treasury)*
† Syms, Sir Robert *(Poole)* (Con)
Whately, Helen *(Faversham and Mid Kent)* (Con)
† Whittaker, Craig *(Lord Commissioner of Her Majesty's Treasury)*

Colin Lee, Gail Poulton, Joanna Dodd, *Committee Clerks*

† attended the Committee

Public Bill Committee

Thursday 29 November 2018

(Morning)

[MR GEORGE HOWARTH *in the Chair*]

Finance (No. 3) Bill

(Except clauses 5, 6, 8, 9 and 10; clause 15 and schedule 3; clause 16 and schedule 4; clause 19; clause 20; clause 22 and schedule 7; clause 23 and schedule 8; clause 38 and schedule 15; clauses 39 and 40; clauses 41 and 42; clauses 46 and 47; clauses 61 and 62 and schedule 18; clauses 68 to 78; clause 83; clause 89; clause 90; any new clauses or new schedules relating to tax thresholds or reliefs, the subject matter of any of clauses 68 to 78, 89 and 90, gaming duty or remote gaming duty, or tax avoidance or evasion)

Clause 14

DISPOSALS OF UK LAND ETC: PAYMENTS ON ACCOUNT OF CAPITAL GAINS TAX

11.30 am

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

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

Amendment 31, in schedule 2, page 171, line 18, at end insert—

'(4) The provisions in this paragraph may not come into effect until the Treasury has published the results of any consultation conducted by the Commissioners with representative bodies concerning awareness of the provisions among those who will be covered by them.'

This amendment would delay the commencement of the paragraph in Schedule 2 relating to the obligation to make a return in respect of a disposal to which the Schedule applies, until the Treasury has released details of HMRC's consultation with representative bodies concerning awareness of the provisions amongst those who may be covered by them.

Amendment 32, in schedule 2, page 176, line 21, at end insert—

'PART 1A

REVIEW OF EFFECTS ON PUBLIC FINANCES

17A The Chancellor of the Exchequer must review the revenue effects if the provisions in Schedule 2 were introduced from 6 April 2019, and lay a report of that review before the House of Commons within six months of the passing of this Act.'

This amendment would require the Chancellor of the Exchequer to review the revenue effects of the provisions of Schedule 2 if they were introduced in 2019/20.

Amendment 33, in schedule 2, page 176, line 21, at end insert—

'PART 1A

REVIEW OF EFFECTS ON PUBLIC FINANCES

17A The Chancellor of the Exchequer must review the expected revenue effects of the changes made to capital gains tax returns and payments on account in this in this Schedule, along with an estimate of the difference between the amount of tax required to be paid to the Commissioners under those provisions and the amount paid, and lay a report of that review before the House of Commons within six months of the passing of this Act.'

This amendment would require the Chancellor of the Exchequer to review the effect on public finances, and on reducing the tax gap, of the changes made to capital gains tax in Schedule 2.

That schedule 2 be the Second schedule to the Bill.

The Financial Secretary to the Treasury (Mel Stride): It is a pleasure to serve under your chairmanship, Mr Howarth. I wonder whether it should be the Opposition speaking to their amendments, as opposed to me proceeding, though I am happy to do so.

The Chair: The lead question is clause stand part. I assumed that the Minister would want to speak. If he prefers to wait, that is fine; the debate is open to those who want to speak to amendments.

Mel Stride: I am happy to proceed as you suggest, Mr Howarth, and to respond briefly to the Opposition speeches later.

The clause and schedule 2 introduce a requirement on UK residents to pay capital gains tax through payments on account when disposing of residential property. They also amend a similar requirement for non-residents. Parts 1 and 2 of the schedule bring all the main rules together in one place.

For income tax, employees are taxed throughout the tax year as part of the pay-as-you-earn system. Self-employed people pay their income tax liabilities in instalments known as payments on account throughout the tax year, making a balancing payment following the end of the tax year through the self-assessment system.

In contrast, capital gains tax, which also forms part of the self-assessment system, has traditionally been available only after the tax year has ended. That means that the taxpayer may pay their capital gains tax liability up to 22 months after making the gain. As gains on residential property can be significant, we think it right that any capital gains tax due is paid soon after the property is disposed of, to ensure that any liability is paid when the taxpayer is most likely to have the funds to do so.

The changes made under schedule 2 introduce new requirements on UK residents when they dispose of UK residential property on which capital gains tax is due, such as a second home or a buy-to-let property. The first requirement is that they must make a payment on account of their capital gains tax liabilities. In most cases, that will be payable within 30 days of the contract for the sale or disposal being completed.

The second requirement ensures that the payment is properly accounted for by Her Majesty's Revenue and Customs. Taxpayers must submit a simple tax return within the same 30-day window advising HMRC of the disposal and how much they are paying on account. How much tax is paid will be calculated according to the gain made and any unused losses and allowances that the taxpayer may offset at that time. It will work in much the same way as completing a self-assessment return. If at the end of the tax year a person has no further income tax or capital gains tax liabilities due, they will not then need to complete a full self-assessment return.

We have listened to representations made during consultation and therefore made changes to the legislation. Reasonable estimates of valuations and apportionments will be permitted without penalty when the correct amounts are unavailable in time. The changes will come into effect for disposals from 6 April 2020.

The schedule also makes two changes to an existing reporting and payment-on-account scheme that applies to non-UK residents disposing of UK property. First, it amends the scope of the scheme from 6 April 2019 to include the new interests chargeable to tax that we debated under clause 13.

Sir Robert Syms (Poole) (Con): I declare an interest: I have paid capital gains tax—a horrible tax—in the past. At the moment, there is an allowance for capital gains tax, so when the form goes in, the allowance is taken off. Will the full allowance be taken off the first-stage payment, or will the allowance taken off the payment be split? Let us say that I have a £30,000 capital gain; I might well take up all my allowance in the first-stage payment and pay a slightly larger second payment, or I could simply split the whole amount. There is also a cash-flow issue.

Mel Stride: My understanding is that the capital allowance will be applicable when the first payment is made in full, subject to the capital gain being equal to or exceeding the allowance. If there is any adjustment on a subsequent return, I imagine—I look to my colleagues—that if the gain has been less than the capital allowance initially, or in other words there is some excess available, that might be available to any balancing payment made subsequently. The officials seem to confirm that to be the case.

Sir Robert Syms: The capital gain might be split between two people. This is a slightly separate, tangential question, but let us say a husband and wife sell something and the capital gain is split between them. I presume that will be two allowances and two split payments. Is there a minimum amount for someone to have to fill in a form to put in? For a small capital gain—a few hundred pounds—is there a de minimis amount or will more bureaucracy be created for rather minor payments?

Mel Stride: I wonder whether my hon. Friend is about to sell a house and is simply after some discounted tax advice. He is right that there will be an allowance for each taxpayer under those circumstances. The sale of the property—let us say it is a property—will occur and, to the extent that there are capital gains at or below the allowance for each of the two parties, that may be offset at that particular point.

The context of the clause is not so much the way the relief of the capital allowance works—it remains as before—but the timing of the payment of the capital gains tax should there be any. It moves from what might be a 22-month delay, given the capital gain might have been assumed at the beginning of a particular tax year but payment will not be required until completion of the self-assessment in the January following, so this is about timing rather than the mechanics of how the capital gains allowance works.

Sir Robert Syms: I understand that, but quite often when people sell a property, they have an amount of money they have to pay, and they put it in a bank account and sit on the money for a few months in order to sort out their tax return. Currently, they do not get much interest on the money anyway, but I wonder whether, rather than have a split payment, someone will be given a small discount for paying the whole sum in the year rather than splitting it until they do their tax return. It seems to me that people will be happy to pay, but that if there is a little incentive they might pay the whole amount.

Mel Stride: The provisions of the clause change the regime such that they will be required to account for the capital gains within 30 days. In a sense, this has been done by changing the rules rather than providing an incentive, I am afraid. I thank my hon. Friend for his interesting interventions.

Amendment 31 proposes that the changes come into effect only once we can guarantee awareness of them. HMRC has engaged with stakeholders on the details of the change and the draft legislation. The Members who tabled the amendment will be pleased to know that the Government published a summary of responses to their consultation on 6 July.

Amendments 32 and 33 request a review of the revenue impact of the changes, including the impact on the tax gap. The latest estimates for the revenue impact of the measure, both with the original 2019 start date and the delay to April 2020, were published at the Budget 2018.

Alex Sobel (Leeds North West) (Lab/Co-op): The transition from diesel and petrol to electric cars is vital for us to meet our carbon budgets. Has the Treasury assessed the impact of the measure on the electric vehicle market, as well as the wider automotive sector?

Mel Stride: I assure the hon. Gentleman that in these tax matters—as with all tax matters—given our firm commitment to honour our climate change commitments, we are in regular contact with car manufacturers and those producing electric vehicles, through my hon. Friend the Exchequer Secretary.

As with all policy changes, the fiscal impact of the measure will be monitored by HMRC, and the Office for Budget Responsibility may request for it to be reviewed as the new out-turned data becomes available. The fiscal impact on taxpayer compliance has been considered and is included in the overall costing of the measure. HMRC publishes annual updates to its tax gap analysis, which will reflect the effect of capital gains tax policy changes. I therefore urge the Committee to resist the amendments and I commend the clause and schedule to the Committee.

Anneliese Dodds (Oxford East) (Lab/Co-op): It is a pleasure to serve on this Committee with you in the Chair, Mr Howarth. I am grateful to the Minister for his introductory comments and for his comments on our amendments.

[Anneliese Dodds]

As the Minister explained, the clause and schedule extend, from 6 April next year, the existing capital gains tax requirements in relation to reporting and payment for non-UK residents who are disposing of UK property, in order to include new interest that will henceforth be taxed. They also introduce, on the same date the following year, reporting and payment-on-account obligations for residential property gains for UK residents and UK branches and agencies of non-UK resident people.

The measure has been quite a long time coming. Back in 2015, the Government signalled their intention to introduce from April 2019 the requirement that capital gains tax on gains from selling or disposing of residential property be paid within 30 days of the disposal being completed. As the Minister intimated, that will be a payment on account towards the person's tax liability for the tax year in which the disposal is made. However, the measure was deferred until 2020, and the consultation on it undertaken earlier this year, as the Minister mentioned. As I understand it, there is already a payment-on-account scheme for non-UK residents, so these measures will just extend that approach to UK residents, as well as expanding the range of taxable interest for non-UK residents.

We have tabled two amendments. Amendment 31 would delay commencement of the provisions in paragraph 3 of schedule 2 until the Government have released further details of HMRC's consultation with representative bodies concerning awareness of those provisions among those who may be covered by them. The rationale for the amendment is that the proposed measures, as we have just discussed, introduce a new payment-on-account scheme for capital gains tax on residential property that requires filing of a return far earlier than is currently required, and far earlier than the potential 22 months to which the Minister referred, right down to 30 days after the disposal of that property.

During the consultation on the proposals, some respondents expressed their concern that taxpayers, not expecting that they needed to make such a return until the end of the tax year, might fail to inform their accountant and thus miss the deadline. Of course, in doing so they would incur interest on non-payment. Our amendments would enable details of HMRC's discussions with representative bodies to be asked for in order to ensure that potentially affected taxpayers were forewarned of the new measures and therefore did not fall foul of them and incur that interest on non-payment.

I understand why respondents to the consultation might have been concerned by that. Their responses were summarised in the consultation response document as concerning the fact that

"taxpayers may not be aware of the new rules until after the end of the tax year when they tell their accountants about their disposals, resulting in late filing penalties."

Some of those making that argument pointed out that HMRC charges interest for those filing late, set at 3%. That, of course, contrasts with the repayment interest of 0.5%. I completely understand why there is a difference in rates, but that difference surely adds some grist to the mill of needing to ensure that all potential taxpayers are definitely made aware of the change. After all, 30 days is not that long a period within which to act.

The Government's response to the consultation maintains that where information needed to be obtained from third parties for the purposes of calculating the capital gains tax that should be accommodated within the periods required for marketing and conveying any such property, and that estimated declarations could be corrected later, as the Minister mentioned. I am a little concerned by some of the ambiguity in the language used in the consultation response about what will happen if a taxpayer cannot make the payment on time. This is a question not of the amount of tax owed, but of the calibration of when it will be paid.

11.45 am

The document states:

"Any taxpayer who is concerned about their ability to pay should contact HMRC who will explore whether an alternative payment arrangement is appropriate."

It would be helpful if we heard more about the legal basis and the practical arrangements for that discretion. I am sure that the Minister and his colleagues are aware of my concerns, which we have already discussed in this Committee, about HMRC's capacity as things stand, let alone in the event of a no-deal Brexit. I am concerned that HMRC would not benefit from being overburdened with such requests for alternative payment arrangements. Nor would it be fair, surely, to give taxpayers false hope of being provided with them when they might not be available.

Concerns have also been expressed about HMRC's operation of other deferred payment approaches. The Minister will remember my written question asking him

"what criteria are used by HMRC when deciding whether to agree Time to Pay arrangements"—

arrangements that enable firms under temporary financial stress to defer the payment of tax. It would be interesting to find out whether HMRC will take a similar approach to requests for late payment of capital gains tax under the new arrangements, because its criteria for applying time-to-pay arrangements are actually quite sensible:

"TTP arrangements are entered into on a case-by-case basis.

TTP is only agreed where HMRC is satisfied that the customer cannot pay their liability on the actual due date(s).

The customer offers the best payment proposals that they can realistically afford. If their ability to pay improves during the TTP period then they must contact HMRC and increase their payments/ clear the debt.

TTP is only agreed where HMRC believes that the customer will have the means to pay the taxes included in the TTP arrangement and any other taxes outside the arrangement which become due during the TTP period.

The TTP period is as short as possible."

Sir Robert Syms: Another slight problem is that when someone is selling a property, it is not unusual for them to renovate it or do some work on it. When they report their CGT liability, they offset their legal fees, builders' fees and other fees. The 30-day reporting window is quite tight. With my solicitor, I tend to get a bill long after I have forgotten that I owe it.

I am sure the Minister will pick up on this question when he sums up, but is the 30-day period just for reporting the possibility of CGT, or is it for reporting the actual figures? It is quite a tight period to collect all the bills, work out the profit or offset the allowance and pay the right amount, given how people do business in this country.

Anneliese Dodds: I am grateful for that intervention, which underlines the fact that in practice some of the calculations may be relatively complex. The response to the consultation sets out the Government's view that in practical terms it should normally be possible for those involved to come up with the appropriate figure, but if not, an estimate would be acceptable.

While the hon. Gentleman was making his very relevant point, I was wondering whether there might be room for people to proffer a low estimate, which would obviously have a financial benefit, and then correct it later on. Will HMRC genuinely have the capacity to understand whether such an estimate was bona fide—as he says, evidence such as relevant bills may not have been fully available at the time—or whether it was intended to reduce liability? I agree that a specific reply from the Minister to that pertinent point would be helpful.

Clearly, in this case the length of time for any deferral of capital gains tax beyond the 30-day period, up to 22 months, would presumably need to be quite a bit shorter than the length of time we are talking about in relation to time-to-pay agreements. It would be helpful if the Minister confirmed that and whether his Department will be setting out criteria similar to those I have just mentioned for time-to-pay agreements to guide HMRC on this matter. Were these matters covered in the existing consultation that occurred with interested parties and just not reported in the Government's response?

Amendment 32 would require a review of the effects on public finances if the provisions in this schedule were introduced from 6 April 2019. It would require the Secretary of State to

"lay a report of that review before the House of Commons within six months of the passing of this Act".

We believe that the amendment is necessary—first, because from what I can see there are two effective start dates in the schedule and it is quite unclear why; and secondly, because we need to understand the anticipated impact of the measures to a greater degree than is surely possible with the information supplied to us.

We have already had a little discussion about the payment on account system. Arguably, it enables the smoothing of outgoings for individuals and individual businesses, and of revenue for HMRC, so to that extent it can help with financial planning. However, we are surely talking about quite a different process when it comes to the payment of capital gains tax. We are not talking about someone who is self-employed, who is very unlikely to have payment just in one big lump sum; it is likely to be in a number of different sums or continuous payments.

One could argue there is more of a rationale for payment on account in those regards than potentially here, aside from the fact that these measures will ensure more security of revenue for HMRC. Surely they could potentially have a revenue impact because, as the hon. Member for Poole mentioned before, without this 30-day limit individuals could be keeping that sum, effectively earning interest on it and paying it later.

I appreciate what was said about the interest rate being low now, but that will not always necessarily be the case. Surely it would be useful for us to have a review on the effects on public finances of these provisions, as requested in amendment 32. Amendment 33 from the Scottish National party pushes in the same direction, so we also support that.

Mhairi Black (Paisley and Renfrewshire South) (SNP): It is a pleasure to follow the hon. Member for Oxford East; we are also happy to support the Labour party's very sensible amendments.

Our amendment would require the Chancellor of the Exchequer to review the effect on public finances and on reducing the tax gap of the changes made to capital gains tax in schedule 2. In 2016-17 the income tax, national insurance contributions and capital gains tax gap was 4.2%, or £13.5 billion—quite a significant amount of money for a Government to be short-changed on. It seems only sensible, then, that the Chancellor informs us of how he expects these changes to impact that tax gap. That would enable us to have a record of what the intentions are and what he expects to be the conclusion.

Only then can we coherently and clearly assess whether the measure is working or not. Especially given how unpredictable the current future is with Brexit and things, it surely only makes sense to put this stuff down in writing—"Here's what we think is going to happen"—so that we can then assess it. Ultimately, it cannot hurt to be more transparent, so I urge the Government to accept the amendment.

Mel Stride: I thank the hon. Members for Oxford East and for Paisley and Renfrewshire South for their contributions; I will just pick up on the points that have been raised.

On the question of timing, both in terms of bringing the measure before the Committee and the fact that it is coming in in 2020, I should say that we clearly consulted very carefully. The hon. Member for Oxford East mentioned consultation: we had an eight-week technical consultation, held between 11 April and 6 June 2018, and there were a number of responses to that.

On the issue of the date when the change will come in, it is important to mention that this is a significant change to the way the timing arrangements of this tax operate. The hon. Member for Oxford East drew on my observation that it is possible under the existing regime to have a 22-month delay between the sale of the asset concerned and payment of the tax. Of course, that is the maximum delay, which would occur in the event that the asset was disposed of at the very beginning of a tax year. In reality, the delay is likely to be shorter than that—as much as 12 months shorter if the asset is sold at the end of the tax year in question.

Vicky Ford (Chelmsford) (Con): I want to raise an issue about capital gains tax that was brought up by one of my constituents, who has taken the opportunity in retirement to travel overseas for a few years. They let their property using letting relief. I understand a consultation has been started to review letting relief. They are concerned that the loss of letting relief may make them liable for capital gains tax, which may mean they have to sell their family home despite the fact that they want to return to the UK. I will write to the Minister about that case, and I wonder whether he will look into it and write back to me.

Mel Stride: If my hon. Friend writes to me about that consultation, I will of course be very happy to respond to her.

The hon. Member for Oxford East also raised the possibility of someone not filing the information as a consequence of the shortening of the time period. Part of the purpose of the change is to concentrate the requirement to file the paperwork at the time the asset is sold, rather than leaving it in the distance. Where that requirement gets pushed into the distance, there is a possibility of people forgetting about it.

One should also bear in mind that, in the case of a property, a number of professional advisers—particularly solicitors—will be involved in the transaction. One would expect them, in the natural course of events, to discuss the tax implications of the transaction with the individual concerned.

Sir Robert Syms: If someone has a number of properties, it is important that HMRC knows which they elect as their main home. If, as in the case my hon. Friend the Member for Chelmsford mentioned, that has not always been their main home—if it started off as a second home or they rented it out, for example—the normal approach is to apportion certain years in the property for which they are liable for capital gains tax. I am still a little concerned about the 30 days. I have on occasions gone back through all my files to see when I told HMRC or my accountant, and it is possible to get into a long, involved thing about what percentage of a property is liable for capital gains tax.

I am just a bit concerned that the window of opportunity is too small. There are examples of people having multiple capital gains tax liabilities because they bought themselves more than one home in a year. Getting all the information and the bills together sometimes takes a little time—it can be easier to do that during the year-end process. I can understand the Treasury's wanting to get income in quickly, and many people would welcome that, but 30 days is pretty short if someone has to go through their strong boxes at home or contact their accountant or solicitor, who are often repositories of information. I hope the Minister thinks about this issue a little more.

The Chair: Order. I do not want to discourage interventions, because they are a useful way of eliciting information, but some of the interventions we have heard might have been better conducted as proper speeches. People should consider whether they might be better making a fuller case in a speech rather than an intervention. I say that not to discourage interventions but, I hope, to provide a bit of helpful guidance.

12 noon

Mel Stride: Thank you, Mr Howarth; I am sure the Committee has taken note of your guidance. I say to my hon. Friend the Member for Poole that there is another aspect to that, and while 30 days is 30 days—not a year or more as has been the case under current arrangements—there are two points that I will make.

One is that, clearly, there is typically a moment of exchange before property transfer completes, which is an additional period of time in which paperwork is brought together. The second point is that, to the extent that it is not possible to immediately complete the information with absolute certainty within the 30 days—perhaps because of third-party valuation issues, for example—it is possible, as I said earlier, to have a balancing arrangement further on down the line in the future. That could work either way: the Revenue might owe the individual money or vice versa. That is facilitated within the arrangements.

I point my hon. Friend to the HMRC website where, should he have any more specific questions about how CGT operates, there is a user-friendly interface. He can put in all the numbers and variables, and the website will provide him with the answers.

The hon. Member for Oxford East raised the time-to-pay arrangements. Clearly, where tax is due, the Revenue takes a measured and responsible approach towards those who find it difficult to pay any tax, perhaps for reasons of personal financial difficulty or otherwise. I know from conversations that those at a senior level at HMRC have always been very keen to ensure that it operates in a sympathetic and responsible manner to negotiate the very difficult line between being sympathetic, responsible and helpful, where appropriate, and equally, making sure that we are all treated the same and that, where tax is due, individuals and companies actually pay it.

Another point that has been raised is HMRC capacity. The premise of those concerns is the assumption that, to a significant degree, the changes might generate lots of additional work for HMRC. I suspect the contrary, for the reasons that I have given. If, when the capital gain is crystallised, there is a shorter period for people to hand in the paperwork as required, it means that they will get on and do it, rather than delaying and discovering that, as a consequence, they have to contact HMRC to get involved in negotiations and discussions.

On the overarching point about HMRC and capacity, as the hon. Lady will know, we have of course invested an additional £2 billion in HMRC since 2010. We have 24,000 individuals or full-time equivalents in HMRC who are focused on tax collection. The total head count of HMRC, which stands at around 70,000, is the highest that it has been for some years. I commend the clause and the schedule to the Committee.

Anneliese Dodds: I am grateful to the Minister for his comments. We on this side do not oppose the measures and are willing not to press our two amendments to a Division. I will, however, make two points. It would help if the Minister provided some information on the criteria that would be used by HMRC for adopting deferred arrangements with individual taxpayers. Such criteria exist for time-to-pay arrangements, but none has been set out in relation to this clause, so it would be helpful to know what they are. I agree with him that there needs to be a balance between sympathy and responsiveness, to enable people to pay the tax that is due. On the other hand, there is the matter of equal treatment.

Peter Dowd (Bootle) (Lab): I know that my hon. Friend has been doing remarkable work on making connections with the representative bodies, and visiting offices all around the country. My constituency has about 2,700 members of HMRC staff. There seems to be incongruity between what the Minister says about capacity and resource in HMRC and my experience from speaking to my constituents. Does my hon. Friend feel the same in that regard?

Anneliese Dodds: I am grateful to my hon. Friend for making that point. I do agree. Certainly judging by the conversations that I have had in a number of different parts of the country where the consolidation programme for HMRC is occurring, there is enormous concern, particularly about the expertise that is being lost by HMRC in some very important areas.

I would hazard the argument, relating this to the previous point, that when one is talking about, for example, tax officials having appropriate discretion to offer slightly different payment plans and so on to individuals, one needs to have experienced staff who can make those kinds of decisions, but we are seeing many such staff leaving. HMRC currently has the lowest morale, I think, among its staff of any Department. That reflects concern about the regionalisation programme, but also about other matters.

As I mentioned, it would help if we were provided with the set of criteria for deciding to apply a slightly different approach and allow latitude beyond the 30 days. It would also help if we were given, perhaps in written form, more information in order to reassure us that, because the window is still open for a balancing payment to be made later, the issue that we were talking about before does not arise.

Obviously, the vast majority of taxpayers will wish to make a truthful and accurate return, but if that process is manipulated, it could default in effect to what we have already, so it would be useful to hear about some of the anti-avoidance aspects of this measure. However, as I said, we are certainly willing to withdraw the Labour amendments.

Mhairi Black: I appreciate everything that the Minister said. However, I think that our amendment is as sensible as it is transparent and therefore I still insist that it be part of the Bill.

Mel Stride: May I say to the hon. Member for Oxford East that I will, of course, be very happy to write to her on the criteria in relation to time-to-pay arrangements?

Question put and agreed to.

Clause 14 accordingly ordered to stand part of the Bill.

Schedule 2

Returns for disposals of UK land etc

Amendment proposed: 33, in schedule 2, page 176, line 21, at end insert—

"Part 1A

Review of effects on public finances

17A The Chancellor of the Exchequer must review the expected revenue effects of the changes made to capital gains tax returns and payments on account in this in this Schedule, along with an estimate of the difference between the amount of tax required to be paid to the Commissioners under those provisions and the amount paid, and lay a report of that review before the House of Commons within six months of the passing of this Act."—*(Mhairi Black.)*

This amendment would require the Chancellor of the Exchequer to review the effect on public finances, and on reducing the tax gap, of the changes made to capital gains tax in Schedule 2.

Question put, That the amendment be made.

The Committee divided: Ayes 7, Noes 9.

Division No. 11]

AYES

Black, Mhairi
Blackman, Kirsty
Dodds, Anneliese
Dowd, Peter
Lewis, Clive
Reynolds, Jonathan
Smith, Jeff

NOES

Afolami, Bim
Badenoch, Mrs Kemi
Ford, Vicky
Jenrick, Robert
Keegan, Gillian
Lamont, John
Stride, rh Mel
Syms, Sir Robert
Whittaker, Craig

Question accordingly negatived.

Schedule 2 agreed to.

Clause 17

Non-UK resident companies carrying on UK property businesses etc

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

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

Amendment 39, in schedule 5, page 204, line 29, at end insert—

"Part 1A

Annual report of non-uk resident companies

5A (1) The Chancellor of the Exchequer must publish details of non-UK resident companies to which corporation tax is chargeable due to the provisions of this Schedule.

(2) The details published under sub-paragraph (1) must list the name of each such non-UK resident company.

(3) The publication under sub-paragraph (1) must be published—

(a) in respect of the first such publication, within six months of this Schedule coming into force, and

(b) in respect of each subsequent publication, within 12 months of the date of the previous publication."

This amendment requires an annual report on companies to which corporation tax is chargeable due to the provisions of this Schedule.

Amendment 35, in schedule 5, page 210, line 45, at end insert—

"Part 2A

Review of effects on public finances

34A (1) The Chancellor of the Exchequer must review the revenue effects of this Schedule and lay a report of that review before the House of Commons within six months of the passing of this Act.

(2) The review under sub-paragraph (1) must consider—

(a) the expected change in corporation tax paid attributable to the provisions in this Schedule, and

(b) an estimate of any change, attributable to the provisions in this Schedule, in the difference between the amount of tax required to be paid to the Commissioners and the amount paid."

This amendment requires a review of the effects of this Schedule on the public finances.

Amendment 38, in schedule 5, page 210, line 45, at end insert—

"Part 2A

Annual review of effects of this schedule

34A (1) The Chancellor of the Exchequer must undertake an annual review of the effects of the provisions of this Schedule on corporation tax receipts.

(2) The report of the review under sub-paragraph (1) must be laid before the House of Commons before—

(a) in respect of the first review, within 12 months of this Schedule coming into force, and

(b) in respect of each subsequent review, within 12 months of the date on which the report of the previous review was laid before the House of Commons."

This amendment requires an annual review of the revenue effects of this Schedule, in each year following the Schedule coming into force.

That schedule 5 be the Fifth schedule to the Bill.

New Clause 4

Comparative review of the expected effects of Schedule 5

"(1) The Chancellor of the Exchequer must a review of the expected effects of the provisions of Schedule 5 on payments to the Commissioners, and lay a report of that review before the House of Commons within 6 months of the passing of the Act.

(2) The review under subsection (1) must in particular consider—

(a) the expected change in corporation tax receipts attributable to those provisions, and

(b) the expected change in corporation tax receipts if—

(i) the provisions in Schedule 5 were not brought into force, and

(ii) the rate of corporation tax were to be changed to 26%."

This requires a review of the effects of Schedule 5, and a comparison of the effects of that Schedule to an increase of the rate of corporation tax to 26%.

Mel Stride: Clause 17 and schedule 5 provide that a non-UK resident company that carries on a UK property business will be charged corporation tax, rather than income tax as at present. The provisions will deliver equal tax treatment for UK and non-UK resident companies that carry on UK property businesses. They will prevent persons from using the existing difference in treatment to reduce their tax bill on UK rental property or land through offshore ownership.

Until 1965 all companies were subject to income tax on their profits. When corporation tax was introduced in that year for UK resident companies and for non-resident companies trading in the UK through a UK permanent establishment, other non-resident companies remained chargeable under the income tax rules. From July 2016, non-resident companies that deal in or develop UK land were brought within the UK tax net under corporation tax, but for UK property businesses, two companies, one domestic and one offshore, currently have different rules for calculating tax from a UK property income, even if their property businesses are otherwise identical.

The clause provides for a more coherent and fair tax regime by bringing the UK property business income of non-resident companies into the corporation tax regime from 6 April 2020. The transition will mean that those companies will be subject to the recently implemented policies to combat tax avoidance, including the corporate interest restriction, hybrid mismatch rules, carried-forward income loss restriction and the carried-forward capital loss restriction announced at Budget 2018. The businesses will now be taxed at the corporation tax rate and, in combination with clause 24, they will be eligible for the loss relief rules available to companies and groups. The latest estimate by the Office for Budget Responsibility is that the changes will raise £365 million over the next five years.

Amendment 39 would require the publication of a register of named individual non-UK resident companies who are charged corporation tax rather than income tax as a result of the measure. The Government do not identify specific individuals or companies that are brought within the scope of particular tax charges, and it would be inappropriate to do so. Amendments 35 and 38 would require a review of the impact of schedule 5 on corporation tax receipts. The OBR certified impact of the measure on tax receipts is set out in table 2.2 of Budget 2018. It will be updated in table 2.2 of Budget 2019 before the schedule comes into effect on 6 April 2020, so the amendments are unnecessary.

New clause 4 would require the Government to undertake a review of the effects of schedule 5, specifically to consider the effect of not bringing schedule 5 into effect and increasing the corporation tax rate to 26%. If schedule 5 was not brought into effect, non-UK resident companies with income from UK property would remain chargeable to income tax. In that situation, raising the corporation tax to 26% would create a clearly enhanced incentive for companies with a UK property business to set up offshore in order to benefit from paying the basic rate of income tax.

I urge the Committee to reject the new clause, along with the amendments, and I commend clause 17 and schedule 5 to the Committee.

Anneliese Dodds: I am grateful to the Minister for that explanation of the clause and schedule. As he explained, they set out new arrangements for non-UK resident companies that carry on a UK property business or that have other UK property income. The clause and schedule will shift those companies from the income tax regime into the corporation tax regime. The Government appear to intend the measure to deliver more equal treatment for UK and non-UK resident companies in receipt of similar income, and to prevent those that use the difference to reduce their tax bill on UK property through offshore ownership.

The measures were subject to consultation from March last year and the Government released their response in autumn 2017. In that Budget the Government announced they would make the change in two years' time, in 2020. I anticipate that in our discussion we will return to some of the themes that characterised our discussion on clauses 13 and 14. The measure seeks to align the treatment of non-UK investors with that of UK investors in the field of real estate. On Tuesday we discussed some of the limitations that the Opposition believes there are with the Government's approach.

12.15 pm

We have tabled three amendments to this clause. First, amendment 38 seeks a review of the revenue effects of this measure within six months of Royal

Assent. It is similar to the SNP's amendment 35. Secondly, new clause 4 requires an analysis of the revenue effects of this measure, compared with the revenue that would be raised if the corporation tax rate for large companies was 26%. Thirdly, amendment 39 requires the Chancellor to publish a list of non-UK resident companies that are subject to corporation tax under the change within six months of this clause coming into effect, and annually thereafter.

I shall now explain the reasoning behind each of these amendments. First, as mentioned, we seek a more thorough review of the revenue effects of this measure, because of the lack of information provided to us thus far. The Government's assessment suggests that the immediate impact of the measure will be an additional £690 million in 2019-20, but the measure will flip into a loss to the Exchequer of £310 million from 2020-21 and of £25 million from 2021-22. No predictions are provided from 2022-23 onwards. It would be helpful if the Minister could indicate the basis of those projections. Are they related to his Government's determination to press ahead with lowering corporation tax rates, even though the lowerings they have already undertaken have not resulted in the increase in business investment that we so desperately need?

The gulf between corporation tax rates and income tax rates has become wider over recent years, and it is set to grow even more. Colleagues know that in the summer Budget 2015, the Government announced a reduction in corporation tax from 20% to 19% for the financial years beginning 1 April 2017, 1 April 2018 and 1 April 2019, with a further reduction to 18% from 2020. Then we had the announcement that that would be accelerated, so that from 2020 the corporation tax main rate will be down to 17%.

In the Government's own tax information and impact note on that reduction in corporation tax, there was an acknowledgement that that would have a negative impact on revenue. The Office for Budget Responsibility analysis that was presented there rather contradicted the claim—we have heard it in our debates on the Bill—that a reduction in rate will lead to an increase in tax take. That claim is not supported by the TIIN for the reduction in the corporation tax rate.

I should mention that the OBR's assessment that the policy will reduce the size of the public purse includes

"a behavioural response to account for changes in the incentives for multinational companies to invest and to shift profits in and out of the UK."

It also includes the impact of the measure on encouraging incorporation, which we know is already occurring to a greater extent than one might have anticipated, or indeed desired. Forced incorporation has been identified by many tax experts as a significant problem.

New clause 4 pushes in a similar direction by requiring Government to analyse the revenue that is likely to be lost as a result of this measure, in comparison with the situation that would have existed if the Government had not cut corporation tax so extensively, but had maintained a rate of 26%. That is, of course, Labour's policy, albeit with a differential rate for small businesses. We believe that that approach is sensible, especially when many businesses are concerned about the sunk costs that they face, from business rates to insurance premium tax, the apprenticeship levy and many more, as well as about factors such as the availability of skilled labour or the quality of local and transport infrastructure, which require sustainable public finances if they are to be paid for. Those factors are often far more of a concern than the corporation tax rate, which is scaled to profits and therefore not a sunk cost.

Finally, amendment 39 requires the publication by Government of a list of those affected by the change, in the absence of sufficient information from Government about the ownership of property by non-UK residents. As we have discussed before in this Committee, although the Government have finally committed to introducing a register of foreign-owned property, the timetable for that has been substantially delayed, even though we in the Opposition have indicated that we strongly support the measure and would not oppose it. Therefore, it could be brought in expeditiously. That is not happening, so we need to use every mechanism possible to derive an understanding of the true size and impact of non-UK property ownership. The amendment would help us in that endeavour.

I understand from the tax information and impact note for the clause and schedule that the measures are

"expected to affect approximately 22,000 non-resident company landlords".

It would be very helpful to know who they are or, if not that, at least where they are located. HMRC will need to identify them anyway. It would not mean additional work, because I understand that HMRC will write to them next summer to tell them about the change of tax regime and let them know their new reference number for corporation tax.

The response to a similar previous Opposition amendment—the Minister has used a similar form of words this time around—was that from the Government's point of view it is a matter of principle that those subject to specific taxes should not be put on a register. However, is not clear to me how that differs in kind from the Government's commitment to a foreign-owned property register. Also, I gently draw the Government's attention to the fact that we are talking about companies, not individuals. I doubt whether any arguments about privacy would apply to any extent.

Kirsty Blackman (Aberdeen North) (SNP): It is a pleasure to take part in the debate with you in the Chair, Mr Howarth. It is good to take part in this interesting debate on the changes that the Government propose.

We are happy to support Labour amendments 39 and 38. If it is pushed to a vote when the time comes, we shall support new clause 4, but I make it clear that it is not our position that corporation tax should be changed in the way the Labour party suggests. However, the new clause asks for a review of the effect of the potential change and we think it is reasonable that Opposition policies, as well as the Government's, should be scrutinised. It is, I think, fairly reasonable for us to support the review on that basis.

Our amendment 35, as the hon. Member for Oxford East said, is similar to one of the Labour amendments. Its aim is to have a review of the effect on public finances of the expected change, including in relation to the tax gap. I do not want to contradict the hon. Lady, but the Government have put out two sets of contradictory figures on the revenue implications for the Exchequer. The Government's 29 October policy document links to the original numbers she cited. It gives a link to more information and then provides figures contradictory to those in the policy document.

[Kirsty Blackman]

The policy document does not have the £690 million figure; it predicts an increase of £700 million in 2020-21, a reduction of £300 million in 2021-22, a reduction of £15 million in 2022-23 and, crucially, a reduction of £20 million in 2023-24. The previous set of figures said that the impact would be negligible in the fourth year. Now the Government are suggesting that there will be a decrease in the amount of money coming into the Exchequer as a result of the change. Presumably, we may imagine that the reduction will continue in future years, whereas the Government previously argued that their previous figures were correct, when they predicted not much of an increase or decrease either way in future years.

I was slightly confused by the information that the Government provided, and it would be useful to have clarity about which figures are correct, and why the policy document contains one set of figures but links to a different set on the website. Possibly a change needs to be made there, as the link to more information takes people somewhere that does not give more information—it contradicts the original information provided. I found it quite difficult to wade through that. Given what I have outlined, it is even more important that our amendment should be accepted. We need clear information from the Government, and a clear idea of what revenue effects are, or are not, expected.

Another thing that was mentioned in an earlier consultation document is the expectation that it will cost HMRC £160,000 to make the changes necessary to put the new system in place. That also needs to be teased out in the information provided. The amendment would reduce the effect on public finances, and that would include any additional spend required by HMRC staff as a result of the suggested changes.

I am concerned that there is a lack of transparency about the conflict between the two sets of figures provided, and that the Government have not been particularly clear about their intentions behind the change. I understand that they feel that making the change would put everyone on a more level playing field, but surely they should do that only if they expect a change to have a positive impact. There is no point in moving people from being liable for one tax to being liable for another tax to reduce the impact on the Exchequer, if that is the only predicted change.

Perhaps the Government want the extra money in year one, because they feel that Brexit will be such a disaster that we could do with extra money in year one, and they are willing to take the hit in future years. Given the potential impact on future years, the change will not be revenue-neutral in future. If the Government think that it will be, it would be useful to know that.

Having said all that, I am not clear about the Government's intentions behind the change; it would be good if they could explain the rationale behind what they are doing. I have looked at the explanatory notes and they do not make it much clearer. The Government may think that this system is fairer. If that is their view, it would be useful for them to explain that.

I am not sure whether we will press the amendment to a vote; that depends a lot on the Minister's response, the information he provides and any follow-up information he commits to providing.

Mel Stride: I thank colleagues for their contributions. The hon. Member for Aberdeen North asked about the rationale for making this change, and whether it was simply to treat everybody equally—there is clearly a point to that, but is it sufficient to justify the change? Equality of treatment has its merits, but, as I explained in my opening remarks, there is the issue of bringing into the corporation tax regime those who hitherto have been engaged in activities that fall due to income tax rather than corporation tax. With that come all the anti-avoidance measures, including the corporate interest restriction, the hybrid mismatch regime, the carried-forward income loss restrictions and the capital gains and loss restrictions that were set out in the recent Budget. That is quite an important point.

Kirsty Blackman: I thank the Minister for attempting to explain. Pulling those people into all those anti-avoidance measures still results in a negative impact on the Exchequer. I contend that there may be no point in pulling them into these different measures if there is no positive benefit to be had from doing so.

Mel Stride: The latest OBR estimate is that the changes will raise £365 million across the forecast period, although I will come to the issue raised by the hon. Member for Oxford East about the timing of the figures. She referred to the consultation that we carried out between March and June 2017; we came back with our report on 1 December 2017. Draft legislation for the UK property income measure was published on L-day on 6 July, and the technical consultation was run until 31 August 2018. Responses were received from representative bodies from the property retail sector and accountancy firms. The measure was consulted on pretty thoroughly.

On the timing issues raised by the hon. Lady, the way in which the Office for National Statistics tax accounting treatment works means that increased corporation tax receipts are scored in the year of implementation, but the corresponding reduction in income tax receipts is scored in a subsequent year. There is a mismatch between the moneys coming in under the CT arrangements and the moneys that have been transferred into that regime, which do not go into the scorecard until a year later. That would largely explain the profile to which she referred.

12.30 pm

With new clause 4, we seek to analyse the impact of not going ahead with the measure, assuming at the same time that corporation tax was at the 26% rate that the Labour party is suggesting, were it to be in government. In the absence of the measures, those currently under the CT regime would be allowed to escape that regime by going offshore. Putting up tax rates to 26% would simply increase the incentive for them to do precisely that. Businesses facing a rate of 26% instead of our rate of 19%, going down to 17%, would say, "Ah—there is an element of treatment here that I can benefit from. I will go offshore and I will fall within the income tax regime." That would be the effect.

The hon. Member for Oxford East also mentioned the register of the businesses that would come within the scope of the measure. She raised the figure of 22,000 businesses. There is a general principle about going out and publicly holding up those who fall within the scope of particular taxes, but there is also an element of proportionality. She raised the figure of £160,000, as the cost of making the technology changes that would be required to introduce the measure. *[Interruption.]* I apologise—the hon. Member for Aberdeen North made that point. Perhaps I can unite the Opposition parties by saying that clearly there has to be an element of proportionality when it comes to getting all this information together, then getting the register together and keeping it up to date, and asking the question, what is the particular value of doing so?

Anneliese Dodds: The Minister is trying to suggest that it would be a great cost, but I made it clear that HMRC would have to compile a list of these individuals anyhow in order to inform them of their tax liabilities. There would not be a collation cost. There may be a cost from other aspects of it, but not from the collation.

Mel Stride: The hon. Lady is right that HMRC will be privy to the information, but there is a difference between being privy to the information and treating with individuals and companies in terms of their tax return. Collating all that information and presenting it in the form that she envisages is a distinct activity.

I undertake to write to the hon. Member for Aberdeen North about the online number that she discovered and the numbers that were provided in the policy document. I wish I was so good that I just knew all the answers and was over the detail to that degree, but I will certainly write to her on that, and on the cost of making the changes to the system. I am happy to have a look at the £160,000 figure that she raised and see how it breaks down.

Kirsty Blackman: If possible, it would also be useful to know before we come back on Report whether the Government expect the revenue impact for the Exchequer to be negative in future years, beyond the four-year timescale that is predicted. That makes a difference in terms of whether it is, as the Minister says, a good measure across the four years or a really bad measure across 10 or 12 years.

Mel Stride: I think I am right in saying that over the longer term, in revenue terms the measure is likely to be broadly neutral. The OBR, of course, will only cast out across the scorecard period. It will not analyse the fiscal impacts beyond that, but if the hon. Lady would care to write to me with any questions on that, to the extent that I can answer them of course I will do so.

I commend the clause and the schedule to the Committee.

Anneliese Dodds: I am grateful to the Minister for his comments, but we will press amendment 38 to a vote. Although I took on board his responses, I am concerned that we have a lack of clarity about the revenue impact of a measure, which means that as a Committee it is difficult for us to make a judgment on it. When he tried to explain why there might be a negative amount on some projections of the impact in subsequent years, he stated that that was due to the different timing of reporting of corporation tax revenue and income tax revenue. That would explain a difference for one year, but not for subsequent years, so I am still concerned about why there might have been a negative suggested figure into subsequent years.

In addition, it is not clear to me whether the figures that have been set out, whether that is one set or another, take into account the impact of coming within the scope of anti-avoidance measures and so on. That would obviously just be a projection in any case, but we surely need to have more information before we can take an informed view.

Peter Dowd: On a slightly wider but, I think, pertinent point, in the Red Book for this year, corporation tax for 2019-20 is £60 billion and by 2023 it is £66 billion. Does the hon. Lady find that her concerns about this specific thing are compounded by the uncertainty about, for example, the deal we will be debating in the not-too-distant future?

Anneliese Dodds: I agree with my hon. Friend. When we are talking about this sector in particular, we must always bear in mind the impact not only on revenue but overall on investment and the need to ensure that high-quality infrastructure is provided. I know that that is enormously important and something that the Minister is concerned with and working on. For the reasons I have set out, we will press amendment 38 to a vote.

On new clause 4, I say in response to the hon. Member for Aberdeen North that there may be some agreement on some issues, but on corporation tax rates there is a difference to the extent that Labour feels that we need to work with other countries to prevent a race to the bottom. That is something we have already been doing. A race to the bottom is damaging, particularly when many businesses tell us that the corporation tax rates do not drive their decision to locate in the UK; they may be one of a basket of factors, but other matters, particularly sunk costs, are important. Therefore, we are happy for our proposals to come under scrutiny at every point, and we hope that in doing so we might persuade the SNP to come to our view as well.

Kirsty Blackman: To be totally clear—I am sure the hon. Member for Oxford East did not mean this—we do not support a race to the bottom either. Our manifesto position was that we supported no further reductions in corporation tax, which is slightly different from the Labour party position.

In the spirit of trying not to take up too much of the Committee's time and the fact that amendments 35 and 38 are broadly similar and we have covered the ground of both amendments quite a lot during the course of the debate—although the answers we received could have been clearer—we are happy not to press amendment 35 and to support Labour party amendment 38.

Question put and agreed to.

Clause 17 accordingly ordered to stand part of the Bill.

Schedule 5

Non-UK resident companies carrying on UK property businesses etc.

Amendment proposed: 38, page 210, line 45 [Schedule 5], at end insert—

"Part 2A

Annual review of effects of this schedule

34A (1) The Chancellor of the Exchequer must undertake an annual review of the effects of the provisions of this Schedule on corporation tax receipts.

(2) The report of the review under sub-paragraph (1) must be laid before the House of Commons before—

(a) in respect of the first review, within 12 months of this Schedule coming into force, and

(b) in respect of each subsequent review, within 12 months of the date on which the report of the previous review was laid before the House of Commons.”—*(Anneliese Dodds.)*

This amendment requires an annual review of the revenue effects of this Schedule, in each year following the Schedule coming into force.

Question put, That the amendment be made.

The Committee divided: Ayes 8, Noes 9.

Division No. 12]

AYES

Black, Mhairi
Blackman, Kirsty
Dodds, Anneliese
Dowd, Peter
Lewis, Clive
Reynolds, Jonathan
Smith, Jeff
Sobel, Alex

NOES

Afolami, Bim
Badenoch, Mrs Kemi
Ford, Vicky
Jenrick, Robert
Keegan, Gillian
Lamont, John
Stride, rh Mel
Syms, Sir Robert
Whittaker, Craig

Question accordingly negatived.

Schedule 5 agreed to.

Clause 18

DIVERTED PROFITS TAX

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

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

Amendment 46, in schedule 6, page 220, line 2, leave out paragraph 11.

This amendment removes the proposed extension of the review period to 15 months.

Amendment 37, in schedule 6, page 220, line 26, at end insert—

“13 The Chancellor of the Exchequer must review the expected change to payments of diverted profits tax and any associated changes to overall payments made to the Commissioners arising from the provisions of this Schedule, and lay a report of that review before the House of Commons within 6 months of the passing of this Act.”

This amendment would require the Chancellor of the Exchequer to review the effect on public finances of the diverted profits tax provisions in this Bill.

Amendment 40, in schedule 6, page 220, line 26, at end insert—

“13 The Chancellor of the Exchequer must review the expected revenue effects of the changes made to diverted profits tax in this Schedule and lay a report of that review before the House of Commons within six months of the passing of this Act.”

This amendment would require the Chancellor of the Exchequer to review the effect on public finances on the provisions in Schedule 6.

Amendment 41, in schedule 6, page 220, line 26, at end insert—

“13 The Chancellor of the Exchequer must review diverted profits tax against its policy objectives and lay a report of that review before the House of Commons within six months of the passing of this Act.”

This amendment would require the Chancellor of the Exchequer to review DPT against its policy objectives.

Amendment 42, in schedule 6, page 220, line 26, at end insert—

“13 The Chancellor of the Exchequer must commission a review comparing diverted profits tax against a Digital Services Tax and lay a report of that review before the House of Commons within six months of the passing of this Act.”

This amendment would require the Chancellor of the Exchequer to review DPT against the Government’s proposed Digital Services tax.

Amendment 43, in schedule 6, page 220, line 26, at end insert—

“13 (1) The Chancellor of the Exchequer must commission a review on the matter specified in subsection (2).

(2) That matter is the effects on the public finances of the the provisions in this Schedule coming into effect in the tax year 2019-20 compared to previous or subsequent tax years.

(3) The Chancellor of the Exchequer must lay a report of the review under subsection (1) before the House of Commons within six months of the passing of this Act.”

This amendment would require the Chancellor of the Exchequer to review the impact of introducing this measure in 2019-20.

Amendment 45, in schedule 6, page 220, line 26, at end insert—

“13 After section 105 insert—

105A Public register of diverted profits tax payments

(1) The Commissioners must provide information to the Treasury listing those companies that have made payments pursuant to a charge of diverted profits tax, and the amounts of those payments.

(2) The Treasury shall publish a register of companies paying diverted profits tax based on the information provided by the Commissioners under subsection (1), and shall make that register available to the general public.”

This amendment requires the publication of a public register of those companies that pay diverted profits tax.

That schedule 6 be the Sixth schedule to the Bill.

Mel Stride: Clause 18 makes changes that will ensure that the diverted profits tax continues to prevent multinationals from diverting profits from the UK to artificially and unfairly lower their tax bill. The Government have created a tax system that rewards entrepreneurship, drives growth and is based on low corporation taxes, but does not tolerate any company or person exploiting the rules to avoid paying their fair share. In 2015 we therefore introduced DPT, which counters aggressive tax planning by multinationals. It is targeted at particular behaviours and arrangements, not at particular taxpayers or sectors.

DPT has been a success. Every year, HMRC publishes statistics on the revenue that it has raised, and every year they show that it has raised more than originally forecast. Last year alone, it raised £388 million—40% more than in 2016-17. Clause 18 will ensure that DPT continues to prevent multinationals from exploiting our tax system and continues to raise money for our vital public services.

When Parliament introduced DPT, it was intended that diverted profits would be subject either to DPT or to corporation tax, but not both. Concerns have been raised by some commentators that the current legislation does not make that clear. Clause 18 will put it beyond doubt by clarifying that diverted profits subject to DPT are not also liable to CT.

When DPT is charged, companies are required to pay up front before they can lodge a dispute with HMRC during the DPT review period. DPT incentivises companies to agree adjustments to their CT return during the DPT review period and thus pay the correct amount of corporation tax on their diverted profits, thereby removing such profits from the DPT charged. That reduces the likelihood of costly and time-consuming litigation, while ensuring that companies pay the right amount of corporation tax in the UK. Clause 18 will reinforce that incentive by allowing taxpayers to formally amend their tax return to bring diverted profits under corporation tax during the first 12 months of the review period.

The arrangements to which DPT applies are often complex, and in some cases the current 12-month review period is insufficient to reach a resolution. At present, taxpayers are able at any point during the 12-month period to provide HMRC with information that it must take into account in determining the final tax charged. Clause 18 will extend the DPT review period by three months, ensuring that HMRC has enough time to tackle even the most contrived and complex arrangements. The final three months will be reserved for HMRC alone to consider the arrangements and determine the right amount of tax to be paid.

Amendment 46 would remove the proposed extension of the review period. Because companies pay DPT up front, it is in their interest to resolve cases quickly during the DPT review period. Furthermore, the time available to a company to amend its tax return will remain at 12 months. The extension of the review period is necessary to ensure that HMRC has enough time to tackle complex tax-driven arrangements used by businesses in an attempt to unfairly reduce their UK tax bill. This modest extension provides no new power or relief for taxpayers.

12.45 pm

Finally, we have become aware that in a limited number of cases, the current DPT legislation might allow DPT to be inappropriately reduced after the end of the review period, which would undermine the purpose of the regime. To date, no tax has been lost as a consequence of this, and the changes made by the clause would ensure that tax is not lost going forward.

Amendments 37 and 40 would require the Government to lay before the House a report on the impact on the DPT revenue of the changes made by the clause. I am pleased to inform Opposition Members that we have already prepared and published such an assessment as part of the Budget process. We do not expect the clause to have an Exchequer impact, because these changes would protect yield that is already accounted for.

Amendment 43 would require the Government to assess the effect of the clause on public finances by comparing this year with previous and subsequent tax years. This is unnecessary. As I have already stated, we do not expect the clause to have any material impact on public finances.

Amendment 41 would require the Government to publish a report that reviews DPT against their policy objectives. I do not believe that such a report is necessary. As I have said before, as part of their online policy maintenance, the Government keep all taxes under review. More importantly, HMRC already publishes annual statistics on the amount of revenue that DPT has raised.

Amendment 42 would require the Government to compare DPT with the recently announced digital services tax. As I have already said, DPT is targeted not at a particular sector but at multinationals that undertake aggressive tax planning. By contrast, DST is targeted at certain digital businesses. It is not focused on aggressive tax planning; it is designed to ensure that businesses pay an amount of tax in the UK that reflects the value they derive from UK users. The Government are still consulting on the design of the digital services tax, which is due to be legislated for in next year's Finance Bill. I am not convinced of the need to compare DPT with DST; nor, given that we are still consulting on the design of DST, do I see that any value in such an exercise.

Amendment 45 would require the Government to publish a public register of companies paying DPT and of the amounts that they pay. The Government believe that we should continue to uphold the long-standing policy that we do not disclose taxpayer information. Taxpayer confidentiality helps to ensure that taxpayers trust HMRC to protect their data appropriately. That trust encourages taxpayers to work with HMRC, increasing its effectiveness in enforcing the law. Therefore confidential information should be disclosed only when it is clear that the benefits of doing so outweigh the disbenefits. We do not believe that such disclosure is warranted in this instance.

Clause 18 and schedule 6 make amendments to ensure that DPT continues to prevent multinationals from pursuing aggressive tax planning that diverts profits, and hence tax, from the UK. I commend the clause and schedule to the Committee.

Anneliese Dodds: I am grateful to the Minister for his explanation of the clause and schedule. Colleagues will be well aware that DPT was introduced back in 2015, following enormous pressure from campaigners, the Public Accounts Committee and the Opposition to ensure that large, multinational companies pay their fair share of tax. DPT focuses on two forms of tax avoidance. The first is where

"a company with a UK taxable presence uses arrangements lacking economic substance to artificially divert profits from the UK."

The second is where

"a person carries out activities in the UK for a foreign company that are designed to avoid creating a Permanent Establishment"

and becoming taxable through that route.

As the Minister set out, the Bill makes a number of changes to DPT. First, the changes attempt to ensure that the rules work more effectively to prevent avoidance arrangements giving rise to planning opportunities from October this year. The changes clarify that diverted profits will be taxed under only DPT or corporation tax from 1 April 2015 onwards; obviously, this is a retrospective tax.

The measures also extend to 38 months the period in which HMRC can issue a preliminary notice stating that it intends to apply DPT in the first category of cases —that is, where taxpayers are believed to be using arrangements lacking economic substance in order to expatriate profits. The Opposition will certainly support that change. As mentioned, however, the measures also extend very

[Anneliese Dodds]

substantially—by 25%, from one year to 15 months—the review period for HMRC to work with a company to examine how much profit has been diverted.

Finally, the measures enable the amendment of corporate tax returns to include diverted profits during the first 12 months of the review period, and to allow the inclusion of diverted profits on the corporation tax return of the affected party for the first 12 months of the review period, in cases where a foreign company is believed to have attempted to avoid permanent establishment through artificial methods.

We have tabled a number of amendments to clause 18 and schedule 6. Amendment 45, as was mentioned, would require a public register of firms that have paid the diverted profits tax. Colleagues will remember, I am sure, that when that tax was introduced, it was widely described by the Government as a Google tax. Indeed, journalists were briefed by Government spokespeople using that term. The Minister has argued that DPT is not targeted at any particular sector; that is not how it was described and promoted at the time.

It is not clear to the Opposition whether Google has actually been covered by DPT. Back in January 2016, the then Chancellor of the Exchequer maintained that DPT provided the context for HMRC's £130 million settlement with Google. Of course, that was announced to great fanfare, but very quickly there was a lot of concern that it was actually a very poor deal for taxpayers, because Google's settlement with HMRC in January 2016 covered a whole 10 years, from 2005 to 2015, and constituted £117 million in back taxes and £13 million in interest. Fairly obviously, it was not the Google tax, DPT, that led to that settlement, because it had applied for only a twentieth of the time for which the settlement was achieved—just six months of that time. Also, the so-called Google tax had not led to any appreciable unwinding of complex tax structures. Of course, we need to put the £130 million settlement in the context of the then £4.6 billion-worth of UK sales by Google. I appreciate that that is comparing apples with pears, but it does put things in context.

In concluding the deal, HMRC accepted Google's claim that its UK staff only supported their colleagues in Ireland—something that the PAC discussed at length and which I will not go into here. Suffice it to say that it is contested. Interestingly, that great radical Rupert Murdoch stated that the tax payments by Google were

"token amounts for PR purposes".

Our amendment is designed to shine a light on which taxpayers have actually been subject to this tax, given the way in which it was presented when it was introduced, so that the public can judge its effectiveness for themselves. It would also provide a first step towards the country-by-country reporting for multinational companies that the Government were forced to accept as a possibility through an amendment to the 2016 Finance Bill, although they have not yet enacted that. They have the power to enact it through that amendment, but have not yet gone ahead with it. This amendment would at least take us a step along the way.

Amendment 40 would require a review of the diverted profits tax against its stated aims; that would include the extent to which it has raised revenue for the Exchequer. It is very similar to amendment 37 from the SNP. The Minister intimated that the revenues coming from DPT were higher than forecast, and that does appear to be the case, but it would be helpful if the Minister could delineate for us the different components of his Department's assessment of the value of DPT. That is because, as I understand it, there are two components to its reported value: the direct tax take from DPT itself and the additional tax resulting from altered company tax practices. It is not clear to me whether that is just about the extra corporation tax or something else, so perhaps the Minister can illuminate it for us.

It would also be helpful if we could understand why there has been such an increase in the projected number of taxpayers coming under the measure. Anecdotally, many tax practitioners have told me that they do not think that it is necessarily covering the very biggest firms—many had anticipated that it would do so—particularly digital firms, but it is covering a large number of other firms. To that extent, it seems to be quite different from the initial prospectus, so can the Minister explain why, on this issue, George Osborne seems to have got things wrong? I admit that that was not an isolated occurrence, but it would be helpful if the Minister could explain it.

George Osborne, when DPT was introduced, said that it would also act as a catalyst for the restructuring of companies that were seeking to avoid permanent establishment in the UK and to claim false economic substance in low or no-tax jurisdictions to avoid UK corporation tax. We have not, from what I can see, had any evaluation of DPT's impact in connection to that. I have not heard of many significant changes in corporate structure that can be specifically attributed to DPT. They may well exist, but we need to know about them in order to have an appropriate understanding of the efficacy or otherwise of the measure. That is what is called for in amendment 41. Related to discussion around our previous amendment, if increased tax from alterations in corporate structure is counted as part of the revenue from DPT, surely it is important for us to know what those alterations in corporate structure are in the first place. I think that would be helpful for the Committee.

Amendment 42 requires a review of DPT's effectiveness as against the Government's proposed digital services tax—DPT versus DST, as it were. Colleagues will, of course, be aware that DST has not been included in the Bill; it is only being consulted on. Strangely, at the same time as saying that that tax would impel other countries to implement similar provisions by starting a conversation on the merits of novel approaches to taxing digital giants, the tax includes some weaknesses that, it seems to me, do not apply to the European approach. It is set at 2% of revenues, rather than at 3%. It also includes the so-called safe harbour provision, which means that it is not paid by companies that do not indicate that they are making profits. That is exactly how many of them have avoided corporation tax, so how such a measure would catch many of those companies is unclear to me.

Our amendment would ask for an explicit comparison of DPT with DST. That is surely necessary given that they embody fundamentally different assumptions about the appropriate basis for corporate taxation. DPT assumes that transfer pricing is still alive and kicking, and a tenable basis for assigning taxing rights, while DST obviously uses a particular form of revenue as the taxable quantum, rather than profit. That is surely necessary in a context where there are many discussions ongoing at an international level about the appropriate basis for corporate taxation, including whether there should be a greater focus on value derived from branding. I understand that has some support on the US side.

I will briefly describe our two additional amendments in the three minutes that remain. Amendment 46 removes the extension of the review period during which the taxpayer can make representations to HMRC about why its assessment is invalid. Despite what the Minister said, I do not think that we have been provided with sufficient evidence about why that is necessary. If there is a problem with companies providing evidence towards the end of that review period and HMRC is having difficulty crunching that evidence, surely it would be more helpful for those companies to be required to provide the evidence a bit earlier in the process. If evidence being provided later on in the existing review period was causing problems for HMRC, surely that would be one way of dealing with it.

Finally, as the Minister mentioned, amendment 43 would consider the impact of introducing the measures within this specific time period as against another. Again, we feel that we have not been provided with a sufficiently clear rationale for the timing, so it would be helpful to learn more about the implementation schedule set out within the Bill.

Ordered, That the debate be now adjourned.—*(Craig Whittaker.)*

12.58 pm

Adjourned till this day at Two o'clock.