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Public Bill Committee

FINANCE BILL

Fourth Sitting

Tuesday 9 June 2020

(Afternoon)

CONTENTS

PBC (Bill 114) 2019 - 2021

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Saturday 13 June 2020

The Committee consisted of the following Members:

Chairs: † SIOBHAIN MCDONAGH, ANDREW ROSINDELL

† Badenoch, Kemi *(Exchequer Secretary to the Treasury)*
† Baldwin, Harriett *(West Worcestershire)* (Con)
† Browne, Anthony *(South Cambridgeshire)* (Con)
† Buchan, Felicity *(Kensington)* (Con)
† Cates, Miriam *(Penistone and Stocksbridge)* (Con)
† Flynn, Stephen *(Aberdeen South)* (SNP)
† Jones, Andrew *(Harrogate and Knaresborough)* (Con)
† Millar, Robin *(Aberconwy)* (Con)
† Norman, Jesse *(Financial Secretary to the Treasury)*
† Oppong-Asare, Abena *(Erith and Thamesmead)* (Lab)
† Phillipson, Bridget *(Houghton and Sunderland South)* (Lab)
† Ribeiro-Addy, Bell *(Streatham)* (Lab)
† Rutley, David *(Lord Commissioner of Her Majesty's Treasury)*
† Smith, Jeff *(Manchester, Withington)* (Lab)
† Streeting, Wes *(Ilford North)* (Lab)
Thewliss, Alison *(Glasgow Central)* (SNP)
† Williams, Craig *(Montgomeryshire)* (Con)

Chris Stanton, Kenneth Fox, Johanna Sallberg, *Committee Clerks*

† attended the Committee

Public Bill Committee

Tuesday 9 June 2020

(Afternoon)

[SIOBHAIN MCDONAGH *in the Chair*]

Finance Bill

2 pm

Clause 27

Research and development expenditure credit

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

The Financial Secretary to the Treasury (Jesse Norman): It is a delight to see you in the Chair this afternoon, Ms McDonagh.

Clause 27 increases the rate of relief for businesses investing in research in development and supports the Government's ambition to drive up R&D investment across the economy to 2.4% of GDP. R&D tax credits are a key element of that support for innovation and growth. To assist businesses further, the Government will increase the rate of the R&D expenditure credit from 12% to 13%. In the interests of disclosure, I should mention that my wife, Kate Bingham, is the chair of the vaccines taskforce and is engaged in the R&D sector.

Investment in R&D is vital for increasing productivity and promoting growth. There are two schemes for claiming R&D task credits: the research and development expenditure credit—RDEC—and the small and medium-sized enterprise scheme. Businesses can benefit from R&D tax relief regardless of whether they make a profit in that year. As R&D is often risky or pays back years after the investment, this is a well-targeted and much-valued incentive. In 2016-17, the Government provided over £2.2 billion to businesses through RDEC, supporting almost £25 billion-worth of R&D activity.

The changes made by clause 27 will provide an additional £1 billion of support over the next five years. Increasing the RDEC rate will make the UK even more competitive for R&D investment and drive growth across all the UK's regions. I believe that the changes made by the Bill will give innovative businesses additional support and encourage further investment in R&D. I commend the clause to the Committee.

Wes Streeting (Ilford North) (Lab): Welcome back to the Chair, Ms McDonagh.

The Financial Secretary has outlined the impact that clause 27 will have on the generosity of RDEC by increasing it from 12% to 13%. The Opposition certainly have no qualms about that; it is estimated to benefit approximately 7,000 businesses, which is to be welcomed, and the incentives that he outlined are laudable. If I may, however, I will raise a couple of concerns.

The Financial Secretary mentioned the RDEC provision and the SME R&D scheme. As other stakeholders have said, it is disappointing that while the RDEC rate of credit is being increased from 12% to 13%, we are not seeing an increase in the generosity of the SME R&D scheme. Will the Minister address that in his reply? I think it is a big missed opportunity: SMEs are an important part of our economy, and their R&D potential should not be overlooked. That is why there is a provision specifically for them, after all, so it is disappointing that they seem to have been overlooked.

While we are debating clause 27, I will make a few points about research and innovation more generally. The UK is a global centre of excellence in R&I, but we should be even more ambitious, and the Treasury ought to be driving ambition in that respect. The latest figures from the Library put the UK's research and development spending at 1.7% of GDP—behind the USA, France and Germany. While I absolutely acknowledge that the Government intend to be more ambitious and increase the percentage of GDP spend on R&D, I do not think that there is any room for complacency, so it is disappointing that they have overlooked the SME dimension.

We have to ensure that any uplift in innovation investment also ensures value for money, and that we are more ruthless about returns for the taxpayer and our economy. It is the research that costs money and the development that brings in the financial and, crucially, industrial payback.

As I said only on Monday to a group of university leaders, we have world-class universities in this country. I am very proud of the UK's higher education sector and the contribution it makes. I hope that the plight of our universities is well understood by the Treasury and that, as the Chancellor is considering what more needs to be done to support different sectors of our economy through the crisis, he will look very carefully at what is happening in our higher education sector. It is the result not just of luck but of strong leadership from our universities that we have a world-class higher education sector in the UK, and we want it to go on being world-class. That applies not only to the teaching and the reputation of universities as a destination for students and academics, but to the world-class research output of our universities.

We still need to do much more as a country to bridge the so-called valley of death—to take academic ideas on to commercial success. It is a constant source of frustration to me, and I think more broadly, that our universities are places of outstanding research and innovation that is then capitalised on elsewhere. We end up paying double: we pay for the research up front and then we pay to buy back the benefits of that research, which has often been applied and commercialised by others.

Industrial researchers know that the cost of scale-up and commercialisation is an order of magnitude more than the cost of fundamental research, and they allocate their resources accordingly. The public sector in the UK has that ratio almost entirely reversed, spending 10 times more on research than on scale-up and development. While I absolutely celebrate and champion the research base of our universities and the importance of research and scientific discovery, and the arts and humanities as public goods in and of themselves, it is disappointing that the UK taxpayer often find themselves a benevolent funder of research for the world, hamstrung by a funding regime that has insufficient capacity to absorb and commercialise UK-funded research in the UK. I believe there is an opportunity for the Government to think about what more they can do to ensure that future growth in the science and innovation budget is targeted on development as well as research, ensuring that research carried out in the UK is commercialised in the UK, and that the economic benefits are captured in the UK.

We can also do much more around our research and technology organisations, which are an under-utilised and undervalued part of our science and innovation base. Funding development rather than research, using RTOs, would also support the Government's objectives, which I believe are shared cross-party, of levelling up and investing in those parts of the UK that too often in the past have felt overlooked or left behind. By ensuring that funding is targeted at development as well as research, we can ensure that a greater proportion of funding goes towards some of our industrial heartlands, particularly in the north of England, where many RTOs are located, rather than continuing to concentrate funding in the so-called golden triangle of universities in the south of England.

I hope that the Financial Secretary will take those points on board, and that when he has the opportunity to do so, with the Treasury, he will focus R&D investment appropriately. It would be particularly helpful if, this afternoon, he enabled us to understand why the Government have overlooked the importance of SMEs when thinking about our research and development tax incentives.

Jesse Norman: I thank the hon. Gentleman for his thoughtful comments and questions. Let me discuss the SME scheme first. It is worth reminding the Committee that the SME scheme is extremely generous as it stands. It has a 230%—2.3 times—corporation tax deduction on R&D spend and a 14.5% payable credit where losses are made; some £2.2 billion of support was claimed through the SME scheme in 2016-17. It is also true that some SMEs claim RDEC, and will therefore benefit from the increase of the expenditure credit we are discussing. In 2016-17, just under 3,500 small and medium-sized enterprises claimed a little over £200 million in support through RDEC.

I understand why the hon. Gentleman says we need more ambition, but it is important to realise that the increase now under way represents the largest increase in support for R&D for 40 years across all Governments, Labour, Conservative and coalition. It is an enormous investment that increases public investment in science, innovation and technology to £22 billion by 2024-5, so there is no absence of ambition from the present plans. Of course, it is always important to balance that ambition against cost-effectiveness and value for money.

The hon. Gentleman mentioned the situation of universities in the context of covid-19. I understand that point: I used to teach at University College London and at Birkbeck, and have been associated with several universities in my life. It is also true that an enormous body of work remains to be done within universities, which may in turn be stimulated by the present situation to address the third point he made, which is the importance of the "D" in R&D—improving commercialisation and development. That is often the part of the picture that is missing, and it is hard for Government to create the development side on their own; we need active, vigorous, energetic partners. When one looks at other countries that have been highly effective at the development side of R&D, one finds in many cases that it has been not just corporate-led, but led and supported by universities as well. The hon. Gentleman's points are therefore well made.

I remind the Committee that the ambition of this measure has been recognised by the Confederation of British Industry, which noted that these were

"powerful incentives to get businesses investing".

It has also been specifically supported by the Association of the British Pharmaceutical Industry, which has recognised that despite the difficult circumstances in which the Budget was delivered, there is a commitment to this sector and this kind of investment. With that in mind, I recommend that the clause stand part of the Bill.

Question put and agreed to.

Clause 27 accordingly ordered to stand part of the Bill.

Clause 28

Structures and buildings allowances: rate of relief

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

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

Clause 29 stand part.

That schedule 4 be the Fourth schedule to the Bill.

New clause 10—*Structures and buildings allowances: review*—

"(1) The Chancellor of the Exchequer must review the impact on investment in parts of the United Kingdom and regions of England of the changes made by section 29 and Schedule 4 of this Act and lay a report of that review before the House of Commons within six months of the passing of this Act.

(2) A review under this section must consider the effects of the provisions on—

(a) business investment,

(b) employment,

(c) productivity, and

(d) energy efficiency.

(3) In this section—

'parts of the United Kingdom' means—

(a) England,

(b) Scotland,

(c) Wales, and

(d) Northern Ireland;

'regions of England' has the same meaning as that used by the Office for National Statistics."

This new clause would require a review of the impact on investment of the changes made to structures and buildings allowances in Schedule 4.

Jesse Norman: Clause 28 makes changes that increase the rate of relief provided by the structures and buildings allowance. It is interesting that this allowance was also singled out by the CBI when referring to the economic incentives for investment that the Government provided in the Budget. From 1 and 6 April, for those businesses chargeable to income tax and corporation tax respectively, the rate of SBA will increase from 2% to 3% per annum. Clause 29 and schedule 4 ensure that SBA operates as intended through six minor and miscellaneous amendments.

[Jesse Norman]

The Government remain committed to incentivising businesses to invest in capital assets that will drive and support future prosperity. By increasing the SBA rate from 2% to 3%, we are levelling up the international competitiveness of the UK's capital allowance regime. With a corporation tax rate of 19%, this country already boasts the lowest headline rate in the G20. Increasing the SBA rate helps us to go further, thereby reinforcing the UK's attractiveness as a place to invest and do business, and addressing concerns about competitiveness—indeed, more than addressing them—that have already been raised in this Committee.

2.15 pm

The changes made by clause 28 provide for a substantial increase in the rate of SBA relief from 2% to 3% per annum. This will apply to all expenditures eligible for SBA, including those already incurred on or since the announcement of the relief on 29 October 2018. Firms relieving any qualifying expenditure incurred from that date can now claim 3% per annum from the 2020-21 tax year onwards. Thus, the clause will help businesses to upgrade their farms, premises and factories, improving their cash flows as the UK bounces back from the effects of covid-19, so this accelerated relief represents support for business in the present economic conditions.

Clause 29 and schedule 4 make six miscellaneous amendments to the existing SBA legislation. The first amendment prevents double relief where research and development capital allowances are available, which maintains a long-standing principle of the tax system; the second clarifies the rules for allowances on contributions to public bodies; and the third ensures that relief is available from the first day that a structure or building comes into use, as was always the intention of the SBA legislation.

The final three amendments all ensure that the legislation simplifies compliance for taxpayers, which has been a long-standing request for the tax system in general and for the SBA in particular. The fourth extends aggregation of expenditure to simplify allowance calculations for persons who are not within the charge to tax; the fifth apportions expenditure for which an allowance can be made and other expenditure on a just and reasonable basis; and the final amendment eases the administrative requirement for firms by explicitly including oral construction contracts within the allowance statement.

New clause 10, which was tabled by the Scottish National party, would require the Chancellor of the Exchequer to review the impacts of clause 29 and schedule 4's miscellaneous amendments to the SBA legislation within six months of the passing of the Finance Act. Specifically, it would require the Chancellor to review the impacts on business investment, employment, productivity and energy efficiency in the constituent nations and English regions of the United Kingdom.

First, I assure Members that HMRC and the Treasury continue to monitor tax reliefs carefully, according to the level of risk posed. It is a fact about the construction of new buildings that often it can take many years to erect them, and SBA claims are ordinarily settled when businesses bring buildings into use and submit tax returns at year-end. Given that, it would be neither possible nor appropriate to attempt to draw conclusions on the productivity or the energy efficiency impacts of this change to legislation within such a short period of time. On that basis, I therefore urge the Committee to reject the new clause.

Increasing the SBA rate and making these technical amendments will ensure that the SBA functions as intended—as an important relief for businesses up and down the country that wish to invest. I therefore commend both these clauses and schedule 4 to the Committee.

Wes Streeting: In the case of clauses 28 and 29, I think we have to ask some questions about what the Government are trying to achieve, and some questions about the frequency with which they change the rules.

As the Chartered Institute of Taxation has said, taxpayers generally welcome any increase in a rate of relief, but as the institute has noted on many previous occasions, regular tinkering with rules and rates of capital allowances brings additional complexity and uncertainty; it also undermines investor understanding of and confidence in what is on offer at any one time. Most businesses cite certainty as one of the most important factors in their business planning, and as the institute has also said, it is perhaps more important than the precise amount of relief available.

When the SBA was introduced in 2018, it took an approach of introducing another type of asset classification required only for tax purposes—something that was previously identified by the Office of Tax Simplification in its review of capital allowances as a source of compliance costs. For most property investors, as there is a clawback on disposal of a structural building, the main benefit of the SBA is one of cash flow. As financial accounts will have to provide for a deferred tax liability, it is questionable how much this tax measure will act as a significant incentive to invest or will result in a significant impact on the UK's competitive advantage. The Financial Secretary ought to address that criticism.

One of the other issues I wanted to raise is something that the Chartered Institute of Taxation has mentioned. Broadly, the changes—particularly in clause 29 and schedule 4—can be described as making the SBA work as it was intended to. It is a relatively new relief, having been introduced in October 2018, and the need for these corrections may reflect the fact that the relief was introduced as a done deal for immediate implementation, with no prior consultation. I am sure the Financial Secretary will say in defence—he can correct me if I am wrong—that the Treasury considers this important to deter businesses that were planning expenditure immediately after the 2018 Budget from deferring it until a later date of introduction, to avoid people taking full advantage too soon. It prompts the questions of why we have a system that apparently requires constant fine tuning, and of whether this is really working to the extent that Ministers intend and to the advantage of the businesses that are supposed to benefit from the relief, if they face additional compliance costs as a result.

I move on to new clause 10. I am in danger of repetition, which I appreciate is not a novelty in this place, but it is repetition that could easily have been avoided, were it not for the same issues that I raised this morning in relation to the "amendments to the law resolution" that successful Governments of different political stripes would have tabled to enable a more wide-ranging political debate in the interests of Parliament and, most importantly, of the wider public.

Ms McDonagh, as you were not chairing this morning's proceedings, I think it is fair to say that the debate surrounding this Finance Bill, and the clauses that we are considering this afternoon and will consider into next week, is a little more dry and technical than perhaps any of us would have liked. There is a reason for that: it comes down to the fact that the Government are trying to restrict the ability of the Opposition, minor parties and dissenting Back Benchers to cause trouble. That would have been a little more understandable, if not noble, in previous Parliaments, when Governments operated under much tighter majorities or with no working majority at all. That is not to say that it was justified—the Opposition strongly argued against it in the past and would argue against Governments behaving in such a way in the future—but this Government have a significant majority. They do not need to worry about Back-Bench rebellions to the same extent as they once did, and none of us is well served by the Government failing to table the "amendments to the law resolution" alongside the Finance Bill, in order to allow the more wide-ranging political debate that our constituents would expect us to have.

Here we are with new clause 10, just as we were this morning, with an SNP amendment using the structures and buildings allowances review—I hope the hon. Member for Aberdeen South will not resent my characterising the new clause in this way—to shoehorn in some important wider considerations around what is happening to the UK economy on business investment, employment, productivity and energy efficiency, as outlined in the new clause, in a way that would not be necessary if Opposition parties or any hon. Members of the House were able to table amendments in the way we would have liked and our constituents would have expected. The Government would be richer for the scrutiny and would be forced to raise their game, and the Opposition parties would be encouraged to think more carefully about the changes that we propose to Government policy and would be under greater scrutiny to ensure that, where we oppose Government, we also suggest alternatives. Previously, we would have been able to demonstrate those alternatives more plainly by tabling amendments, but we are curtailed by the way the Government have gone about the process and procedure for amending this Bill. As a result, here we are, locked in Committee Room 14 on a moderately sunny afternoon, debating rather dry and technical details of the Bill, when our constituents, the Government and the process of government would have been better served by a more wide-ranging debate.

Stephen Flynn (Aberdeen South) (SNP): I look forward to serving under your chairmanship, Ms McDonagh. Before I start, I want to touch quickly on the remarks that the hon. Member for Ilford North made about why the new clause was tabled. This is the only opportunity available to us to highlight the issues that we seek to promote. Of course, that is not a criticism, and I would certainly welcome seeing a few more new clauses from Labour Members. Indeed, there is opportunity for all of us to discuss what we seek to discuss, but the key thing is that we need to move something first.

On the matter at hand, amending the tax system in order to incentivise capital investment is a good thing—it is something that we should all want—but when we take such actions we also need to ensure that good governance is put in place. We must also look at the effectiveness of those actions, particularly when we are dealing with the potential impact on business investment, employment, productivity and energy efficiency.

I want to focus on energy efficiency, because it is so important in combatting the climate crisis that we all face. Words mean only so much, so we need action too. We all want to understand how Government measures incentivise energy efficiency, and we want to see further detail behind that, but we also want to see how the Government could go further. For instance, I wrote to the Government—I am not sure whether I got a response—about VAT on building repairs. I appreciate that in the south-east of England, the need for energy efficiency in properties is perhaps not as urgent as it is in the Baltic north-east of Scotland, where I hail from, but that is not to say that it is not a hugely significant issue.

Although we would like VAT to be reduced to encourage home owners, property developers and the like to improve the energy efficiency of older properties, that is not something that the Scottish Parliament can legislate on; the Scottish Government's hands are tied by the UK Government in that regard. I hope the Minister will take the opportunity to clarify why there has been no move on that issue. We want properties to be more energy-efficient, and reducing VAT on the essential repairs that they require would be a logical, practical and easy step. It is deeply frustrating that such matters are not within the Scottish Parliament's competence, and that we need to rely on a UK Government we did not vote for and do not support. So much good is happening in Scotland at the moment and the Scottish Government are doing incredible work, but their hands are tied. For instance, in December 2019, the Scottish Government's Housing Minister, Kevin Stewart, highlighted that, by the end of 2021, we will have allocated more than £1 billion since 2009 to tackle fuel poverty and improve energy efficiency to make homes warmer and cheaper to heat.

In my former life as an elected councillor in Aberdeen, I saw at first hand the good work that housing associations and local authorities have done to improve insulation, use newer windows to stop energy leakage and put better heating systems into homes. Moves are afoot to increase our energy efficiency, and they are all positive.

In Scotland, we are blessed that we will have legally binding standards for home energy efficiency from 2024 onwards, which will make things even better. However, we should not have to rely on the UK Government's approval to put in further measures. I again ask the Minister to clarify why the Government have been unable or unwilling to reduce VAT to date.

As I say, so much good is being done in Scotland to improve energy efficiency. It is only right that the UK Government agree to the new clause, in order to then assess their own actions and determine what more can be done to improve the situation, not only for those in Scotland but for those across the United Kingdom.

2.30 pm

Jesse Norman: I thank the two hon. Gentlemen for their questions and comments on the clause. The hon. Member for Ilford North raises the question of what he calls tinkering, and I of course recognise the concern.

[Jesse Norman]

I think it is fair to say that Governments of all kinds were given a masterclass in the dangers of tinkering by the Labour Government that was in power between 1997 and 2010. I will not bore the Chamber by rehearsing the highlights, but some would give anyone cause for concern. It is an inveterate potential risk, and the difficulty, in this case as in others, is in trying to balance the desire not to make change with the positive good that can be made by a particular change.

In the case of the SBA, on which there has been considerable discussion with stakeholders in different ways, the effect of increasing the generosity of the relief is that a business investing in a £10 million building will be able to deduct an extra £100,000 a year. That is not a trivial amount of money; any such business would surely welcome that amount. That illustrates the difficulty with a general worry about that tinkering. It is noticeable that, again, this has received a lot of support.

I mentioned the CBI. The National Farmers Union says that the increase will

"deliver more effective tax relief for farm buildings."

Interestingly, it also goes to the point raised by the hon. Member for Aberdeen South, by saying that this change

"will go some way to supporting farms investing in modern, efficient infrastructure which could help to improve productivity and deliver our net zero ambition."

That is a worthwhile and a good thing.

There are a variety of amendments in the clause. The difficulty is that these are minor but necessary technical changes to ensure that the SBA legislation is fair and equitable. As the hon. Member for Ilford North said, there is a general problem with forestalling on much new tax legislation. In the case of this measure, it is inevitable that, when there is change in a complex environment, different consequential changes will occasionally have to be made in order to improve the functioning of the legislation, to ensure that it works as anticipated. That is what these changes do.

We have already discussed the amendment of the law and I pointed out that, in some respects, proceeding directly with an income tax resolution has the effect of increasing overall transparency. It does not constrain debate in any degree. If the Labour party or any other party wishes to come forward and say that it wishes, on balance, to have SBA at 2%, 4% or 10%, it is fully entitled to say that in Committee now. That can then be evaluated and used to interrogate the position of the Government, and when we come to vote on it, the Government and colleagues can consider what an alternative might look like when they consider how to vote. That debate is not constrained—formal processes of amendment are not the same thing as the possibility of debating.

The hon. Member for Ilford North mentions his desire to avoid the dry and technical subject matter found in a Finance Bill Committee. He has chosen the wrong Bill about which to have that worry, because this is a dry and technical subject, and it is of its nature that it is like that and will always be like that. The idea that, before these procedures were in place, Finance Bills had wildly exciting and disco-like sessions in which Members of Parliament were able to propose exotic new ideas and debate was thereby enlivened is, I think, quite far from the mark.

The hon. Member for Aberdeen South raised a question about energy efficiency. He is aware that a vast array of measures have been put in place that are designed to bolster and improve the way in which we use energy. In due course, the Government will come forward with our own plans for net zero, which will do more in that regard. I think he called—or if he did not, he came close to it—for VAT to be, as it were, nationalised within Scotland. However, as I pointed out to the hon. Member for Glasgow North, I wonder whether the hon. Gentleman really wishes to overturn the fiscal framework that has been so carefully agreed over such a significant period and so much consultation between the then Government and the Scottish Government. If he really wishes to overturn the fiscal framework by demanding new powers, let him do so, but of course that upsets a much larger potential apple cart. On that basis, I commend clause 28 and urge the Committee to reject new clause 10.

Question put and agreed to.

Clause 28 accordingly ordered to stand part of the Bill.

Clause 29 ordered to stand part of the Bill.

Schedule 4 agreed to.

Clause 30

Intangible fixed assets: pre-FA 2002 assets etc

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

Jesse Norman: Almost as if it had been perfectly choreographed to illustrate the underlying nature of a Public Bill Committee on a Finance Bill, clause 30 concerns corporation tax intangible fixed assets relief for pre-Finance Act 2002 assets, thereby supporting UK investment in intangible assets.

Intangible assets include intellectual property rights such as trademarks, patents and design rights. The intangible fixed assets regime provides tax relief to companies for the cost of acquiring intangible assets. Relief is given either as the cost is written off in a company's accounts or at a fixed rate. Not all intangible fixed assets are in the regime; there is a restriction, known as the pre-FA 2002 rule, that excludes certain older assets so that relief for the cost of such pre-FA 2002 assets is usually deferred until they are sold and the capital gains rules apply. This deferral, along with the administrative cost to companies in identifying whether an asset is within the regime, reduces the UK's attractiveness, compared with other jurisdictions, as a location in which to hold intangible assets.

The changes made by clause 30 will make it more attractive for businesses to develop, manage and exploit intellectual property in the UK. They will simplify the taxation of such assets by bringing all intangible assets into the single regime where they are acquired on or after 1 July 2020. The clause will amend the commencement rules in part 8 of the Corporation Tax Act 2009, which prior to 1 July 2020 would have prevented pre-FA 2002 assets acquired by a company from a related party from coming into the regime. Intangible assets held by a company that is not within the charge to corporation tax as at 1 July 2020 will all be brought within the intangibles regime without distinction, should that company subsequently come into charge. The tax treatment for pre-FA 2002 assets already within the charge to corporation tax prior to 1 July 2020 will be preserved to protect those companies that already benefit from the existing rules.

There are further rules to apply the restriction to transactions that stop short of an outright acquisition of a pre-FA 2002 asset, but that nevertheless transfer its substance and value to a related party, such as in the form of a licence or some other new asset. The costs that can initially be relieved on such an acquisition will be restricted by reference to the market value of the asset; the company will not obtain full relief for the cost until it disposes of the asset. There are further rules to prevent arrangements between related parties that are intended to sidestep this restriction by creating or transferring what are notionally new assets instead of pre-FA 2002 assets.

The most immediate impact of this measure is likely to be on international businesses importing valuable intangible assets to the UK from overseas. These businesses will no longer have to perform the complex task of identifying excluded pre-FA 2002 assets, and will instead receive tax relief on all the assets that they acquire. Domestic companies, however, will also stand to benefit over the longer term from the reduced administrative burdens brought about by this measure. An estimated 1,000 companies a year acquire pre-FA 2002 assets. There will now be less need to distinguish between these pre-FA 2002 intangible assets and new intangible assets when companies enter into transactions involving such assets.

The clause enhances the availability of UK tax relief for the costs of acquiring intangible assets. It brings those acquired assets into a single tax code. That reduces the effects of an arbitrary distinction between older and newer intangible assets, and in so doing increases the attractiveness of the UK to innovative, IP-intensive businesses. I commend the clause to the Committee.

Wes Streeting: The Financial Secretary said that Finance Bills cannot be exciting and fun, but I am riveted by this particular clause—I have been looking forward to it all afternoon. I rise not to take umbrage at what the Financial Secretary said but to give voice to the concerns expressed by the London Society of Chartered Accountants and to ask the Minister to address those concerns.

As the society has acknowledged, this change will benefit many taxpayers. However, there will also be taxpayers who have capital losses or non-trading deficits and would have anticipated using them against any gain on pre-2002 intangible assets. There will be taxpayers who, having been through the transition to the new rules in 2002, are now quite happily running the two regimes side by side. For them, a compulsory change to the system would be more disruptive than maintaining the status quo, and as a result they might be disadvantaged. I wondered whether the Minister, speaking directly to that point, could clarify how those taxpayers will be impacted.

By way of slight digression, Ms McDonagh, and in response to the point that the Financial Secretary made during our discussion of the previous clause, I should say that I do not remember the Labour Government doing a great deal of tinkering between 1997 and 2007.

The Chair: Me neither!

Wes Streeting: The word that the Financial Secretary was looking for was "transformation".

Jesse Norman: That was an unexpected intervention from the Chair, Ms McDonagh, but no less welcome for that. I thank the hon. Member for Ilford North for his question. He slightly galloped through the particular concern, and I am afraid I did not fully catch it.

Wes Streeting: Sorry!

Jesse Norman: That is absolutely fine. What I will do is ask the hon. Gentleman to give me the letter; I will write to him separately with a response that addresses the detail of the concern.

I can say to the hon. Gentleman that we do not believe that companies will be worse off because of these changes, which will not affect IP already held by any company. If a company does dispose of its IP, it will be taxed on the same basis as it would have been before the changes. The company will still be able to make use of reliefs that they may have been expecting to use. Any tax change can have an impact in some particular cases, of course, but overall we do not expect companies to be worse off. I am very happy to take up and respond to the specific question that the hon. Gentleman raised, but I will do that outside this Committee Room, if I may.

Question put and agreed to.

Clause 30 accordingly ordered to stand part of the Bill.

Clause 31

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 that schedule 5 be the Fifth schedule to the Bill.

2.45 pm

Jesse Norman: This is another kaleidoscopically exciting measure alongside some of those that have already got the hon. Member for Ilford North so excited. I am happy to be able to titillate him further by discussing further changes to the non-UK-resident companies that carry on UK property businesses. Clause 31 and schedule five make amendments to legislation that provides that non-UK-resident companies carrying on a UK property business will be charged corporation tax from 6 April 2020.

In the Finance Act 2019, the Government legislated to bring non-resident companies that carry on a UK property business or who received other income from UK land within the charge to corporation tax from 6 April 2020. Until then, they are within the charge to income tax.

These changes make four minor amendments to the legislation that took effect in April 2020. They maintain the treatment of non-trading interest income of non-resident companies. They provide relief for interest expenses paid prior to the commencement of the non-resident companies' UK property business—a UK resident company can already obtain relief for this type of expense. The time limits for making certain elections in respect of

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derivative contracts will only start to run for a non-resident company from 6 April 2020. Finally, for all companies, there is an exception from the obligation to notify chargeability to corporation tax if the taxable incomes have an amount on account of tax withheld from it. The changes clarify that the amount withheld on account of tax must meet the tax due on that income before the exception can apply.

These changes will ensure that there is a smooth transition for non-UK-resident company landlords from the income tax regime into the corporation tax regime. I therefore commend the clause and schedule to the Committee.

Wes Streeting: As the Financial Secretary has outlined, the clause and schedule make minor amendments that have arisen as a consequence of the provision made by schedules 1 and 5 to the Finance Act 2019. There is not much for me to add, as it is very much a consequential and technical adjustment.

Question put and agreed to.

Clause 31 accordingly ordered to stand part of the Bill.

Schedule 5 agreed to.

Clause 32

Surcharge on banking companies: transferred-in losses

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

Jesse Norman: We now enter the lush hinterlands of the banking surcharge regime. Clause 32 makes changes to the regime that ensures that the surcharge operates as intended when it was introduced.

The Government believe that even as reliefs are provided to support the economy in response to the coronavirus, the tax rules should continue to operate fairly and consistently for all businesses within their scope. Previously, the Government have legislated so that banks make a fair tax contribution, which reflects the risks they pose to the UK economy. That is why the Government introduced the bank levy in 2011—a tax on banks and building societies' balance sheet equity and liabilities. It is also why banks have been subject to additional taxes above and beyond general business taxation ever since then.

In 2015, the Government made changes to the bank tax regime to ensure the sustainability of the tax base. They introduced the new bank levy rate, but offset that with the introduction of a new 8% surcharge on banks' profits over £25 million, on top of corporation tax. The surcharge applies to corporation tax profits of banking companies within a banking group.

For corporation tax purposes, companies are able to make a number of adjustments when arriving at their profits. That might include transferring losses from one group company to another or carrying forward losses to the next accounting period. However, to ensure that banks are paying tax on all their banking profits, some of these are disallowed when arriving at the profits subject to the surcharge.

One such disallowed adjustment is for capital losses that are transferred from a non-banking company to a banking company and set against the capital gains of that banking company. That transfer should be disregarded when calculating the surcharge profit for the banking company. Currently, where these capital losses are carried forward to a future accounting period, that transfer is disregarded.

However, under the legislation as it stands, such transferred-in capital losses are not disregarded when they are set against the capital gains of the banking company in the same accounting period. That could, counter to the original intention, mean banks using losses from non-banking companies in their group to reduce their surcharge profits. That cannot be right, and the changes that we are making in the Finance Bill will ensure that it cannot happen. The changes made by clause 32 will stop surcharge profits being reduced by all capital losses transferred in from non-banking companies, whenever they are utilised against capital gains.

The changes made by clause 32 will ensure that the surcharge operates in the way that was intended when it was introduced. They will ensure that banks cannot reduce their profits subject to surcharge by using losses from non-banking companies in their groups. Above all, they will ensure that banks pay the additional tax on all their banking profits.

Wes Streeting: We welcome clause 32 and the Financial Secretary's explanation of why the measure is necessary. It is important to emphasise, particularly for those in the banks who pay close attention to proceedings in Parliament, a couple of points that they should bear in mind, even a decade on from the financial crisis.

Across the House, we recognise and welcome—certainly this is true of Her Majesty's official Opposition—the fact that the UK is a global financial centre and that the financial services industry is an asset to our country. It generates jobs and employment, and provides the oil to grease the wheels of the economy. We can see now, in response to the present crisis, the importance of getting finance to where it is needed.

Whether we are talking about business or personal customers, business loans and lending, mortgages, pensions, savings or bank accounts, people in their day-to-day lives understand the importance of a strong financial services industry. Across the House we recognise the importance of the financial services industry to the economy as a whole. As we saw, painfully, back in the midst of the global financial crisis, when the financial services industry fails and suffers, the whole economy suffers, too. It is important to acknowledge the value that we place on it.

However, it is also important that the banks should continue to reflect on the fact that the financial crisis—which came about as the result of irresponsible and reckless actions, and greed—demanded a significant price that fell on the heads of taxpayers and citizens of this country and around the world, who had no part in the making of that crisis. For the past decade of cuts to public services and pain that has been felt by businesses and households across the country—although part of the blame rests with Government for policy decisions that were taken, which we have rehearsed many times in those 10 years—it is a fact that the decisions and choices faced by successive Governments were made all the more difficult because of the irresponsibility of the spivs and speculators in financial centres, who did not understand their responsibility to society as much as they understood their own reckless greed.

In that context it is right that over the past 10 years Governments have asked banks, through the bank levy and other provisions, to pay back the debt they owe to society, so it is disappointing when new ways are found to try to lessen their tax liabilities. It is important that when the Government identify gaps and loopholes in legislation that have unintended consequences, they act to close them.

I hope that my remarks will achieve two things, the first of which is to reassure the financial services industry that we value its contribution and see it as an important part of our economic success and national life. However, I also want to remind financial services of the responsibilities that they have to the society they serve. The clause goes some way to ensuring that the debt they owe to society is properly repaid.

Jesse Norman: I thank the hon. Gentleman for his remarks. I share his view: it is of enormous value to the UK to have a global financial sector between the City of London, Birmingham, Leeds and Edinburgh. The UK is a country with astonishing heft in global markets, which is a very good thing in many ways. As he said, however, it is also important that those institutions pay the full burden of taxation that is due. There is very little concern that they have not done so in this case, and the concern has now been addressed because a potential loophole has been removed.

If I have understood him correctly, the hon. Gentleman attributes the crash of 2007-08 to spivs and speculators in the financial markets. There was a lot of that, but it is important to recognise that it was also a function of incentives, law and culture. Those things were all, in some respects, out of control before 2007-08. We talked banteringly about the level to which the Government have attempted to tinker with the legislation. In that case, however, it is perfectly clear that there was a failure not of regulation, but of supervision. It was a failure that was extraordinarily costly to this country.

In the spirit of putting things on the record, it is important to remember that, as the Vickers report found, the level of aggregate bank leverage in the financial sector in this country remained roughly steady for 40 years between 1960 and 2000 at 20 times capital. Between 2000 and 2007, it increased to 50 times capital. The effect of that was that, when the financial crisis hit, the UK banking sector was vastly over-leveraged. I am thrilled that this Government, as I suspect other Governments would have done if they were in place, have taken steps to extract a proper level of taxation from the banking sector and thereby set incentives that restrain the tendencies to growth and periodic explosion in the banking sector, because such tendencies are often absolutely ruinous for the wider economy.

Wes Streeting: It is, of course, right to say, especially with the benefit of hindsight, that the supervisory arrangements governing financial services in this country and other countries were insufficient. That is why we have a much more robust supervisory regime in place, which has been implemented to a large degree with cross-party consensus over the course of the past 10 years. I would gently point out two things. The first is the global context, and the second is that, although the Financial Secretary may point to the apparent failure of the last Labour Government to put in place a greater degree of regulation, I would challenge him—he can write to me if he cannot answer immediately—to cite a single example of a Conservative shadow Chancellor or shadow Treasury Minister calling for greater financial regulation by the last Labour Government. In fact, I remember the charge against the Government being that we were too prone to regulation rather than too hands-off, but I stand to be corrected.

Jesse Norman: I do not think there is any doubt at all that MPs and politicians across the political spectrum were taken by surprise and were not as alert as they should have been to the expansion in bank leverage that took place. I was merely putting those facts on the record. Inevitably, the responsibility lies with the Government in power at the time, as it would do in other crises, and it is for posterity to decide how it wishes to judge. I just mean that this is a proper response to a crisis that is much worse than it should have been; if those in charge at the time had taken the measures and spotted the crisis in advance, it would not have happened, notwithstanding all the ameliorative points that the hon. Gentleman has made in opposition to that.

Having said that, let me move on to points of greater overlap and agreement, and recommend to the Committee that the clause stand part of the Bill.

Question put and agreed to.

Clause 32 accordingly ordered to stand part of the Bill.

Clause 33

CT PAYMENT PLANS FOR TAX ON CERTAIN TRANSACTIONS WITH EEA RESIDENTS

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

The Chair: With this it will be convenient to discuss that schedule 6 be the Sixth schedule to the Bill.

3 pm

Jesse Norman: Clause 33 and schedule 6 would make changes to UK corporation tax payment plan rules so as to provide a deferred payment option for tax on certain transactions with EEA residents. Again, this is a small and technical matter.

A recent decision of the tax tribunal found that the requirement for a taxpayer to pay tax immediately following certain transfers of assets from a UK company to an EEA company within the same group did not conform with EU law. UK rules provide for tax-neutral transfers of assets between two group companies within the charge to UK tax, meaning that there is no immediate tax charge. If assets are sold or transferred otherwise, tax is payable immediately based on a disposal of the assets at market value.

The risk to the Exchequer arises from the fact that the tax tribunal decided that these rules could only be justified if transfers to group companies in the EU did not give rise to an immediate tax charge. In the absence

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of any mechanism for deferral, the tribunal decided that tax-neutral treatment must be applied to such transfers. Effectively, that would mean that the UK would completely lose its right to tax any profits on such assets. The case is under appeal, but resolution could be some years away. In response to that decision, the Government are acting to provide taxpayers with the option to pay tax on such transfers in instalments, which the judgment says would ensure compatibility with EU law. The effect of this is to remove the uncertainty caused by the decision and provide protection to the Exchequer.

This new facility to defer payment of part of a company's corporation tax bill for an accounting period is modelled on an existing scheme for so-called exit taxes. Schedule 6 provides that corporation tax due on transfers of assets from a company in the UK to an EU company in the same group can be paid in instalments over five years, subject to interest at the usual rate for late-paid tax. We are making this change not to comply with European law, but to provide certainty to UK businesses and ensure that there is no risk to the Exchequer while the case before the UK courts remains unresolved. Once the risks and the uncertainty are resolved, this deferred tax payment facility will no longer be required.

Certainty could come either through a successful conclusion to the litigation in favour of Her Majesty's Revenue and Customs, or at such time as the EU treaty freedom of establishment rules no longer apply to the UK. To that end, schedule 6 includes a power for the Treasury to repeal this facility by regulation; the Government intend that this power should be used once there is no need for the facility. These changes will provide greater flexibility for UK businesses, remove uncertainty and protect Exchequer revenues. I therefore commend both the clause and the schedule to the Committee.

Wes Streeting: Clause 33 and schedule 6 represent a welcome and sensible response to the decision taken by the first-tier tribunal in the case of Gallaher *v.* HMRC. The only question I have for the Financial Secretary is about the fact that the Treasury can withdraw the facility to enter into CT payment plans by statutory instrument, as he alluded to at the end of his remarks. The explanatory notes to the Bill state that the power of repeal

"is intended to be used if the Government determines that CT payment plans are no longer required."

Could the Financial Secretary give us some sense of the circumstances in which the Government may determine that CT payment plans are no longer required?

Jesse Norman: I am grateful for the question. If we get certainty in the legislation, the effect would be that the provision was no longer required. Certainty could come, as I said, at the successful conclusion to litigation in favour of Revenue and Customs, or when the EU treaty freedom of establishment rules no longer apply to the UK. Those are the circumstances under which we would expect the Treasury to repeal the facility. It is done by regulation simply because it is completely uncontroversial and would be much better handled that way, rather than through the primary legislative process.

Question put and agreed to.

Clause 33 accordingly ordered to stand part of the Bill.

Schedule 6 agreed to.

Clause 34

Changes to accounting standards affecting leases

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

Jesse Norman: Again, this is a minor and technical amendment that makes a change to the Finance Act 2019 to remove a potential ambiguity in the spreading rules for businesses adopting the latest lease accounting standards.

The Finance Act 2019 made changes to the income and corporation tax rules for businesses leasing assets in order to allow rules to work following the introduction of international financial reporting standards 16. That legislation was designed to ensure equitable treatment for businesses by spreading the tax effects of adopting IFRS 16 over the average remaining terms of asset leases. Consequently, the Exchequer impact of those changes would also be spread out.

It was subsequently brought to the Treasury's attention that minor aspects of the legislation did not work as originally intended. To address that, this clause makes minor amendments to the legislation, clarifying how the rules ought to be implemented. The Government published the amendments in draft on 11 July 2019, and they were well received by stakeholders.

The changes made by clause 34 clarify that firms ought to spread the tax effect of changes in adopting IFRS 16 over the average remaining term of asset leases. The changes are to be treated as having always had effect from 1 January 2019. They will affect only businesses, and they will have no novel impacts. They provide for only modest amendments to deliver on the policy intent agreed by hon. Members in the Finance Act 2019.

Making these clarificatory amendments will ensure that the legislation introduced in the Finance Act 2019 operates as intended, and therefore that there is fairness, certainty and stability for all businesses when applying the relevant accounting rules. I therefore commend the clause to the Committee.

Bridget Phillipson (Houghton and Sunderland South) (Lab): It is a pleasure to welcome you to the Chair, Ms McDonagh, and to take up the case for the Opposition on what my hon. Friend the Member for Ilford North described as the more technical aspects of the Bill. I am sure we will continue to enjoy debating these clauses none the less.

The Opposition do not object to the principle behind this clause, which appears straightforward and achieves its aim. Bringing leases on to the balance sheet is a welcome step in achieving greater transparency in our system. The Opposition believe that there is a very important need for the Government to continue to do more in this area. I simply ask the Minister why this was not done sooner.

I am keen to raise the broader issue of tax transparency and tax fairness in our system as a whole. Our small and family-run businesses are operating in a very difficult climate due to the ongoing pandemic, and they want to have confidence that everyone is playing by the rules and that there is fairness across the system. We know from various documents that we continue to have an ongoing problem with tax avoidance and the broader tax gap in our country.

I am always grateful to the House of Commons Library for providing additional material in this area. It is a wonderful source of useful information, research and analysis, especially for Opposition Members; our ability to undertake some of this research ourselves is a bit more limited, as we do not have access to the fine officials who the Minister has the privilege of working with on a daily basis. The Library has put to us that the wider tax gap for income tax, national insurance contributions and capital gains tax was estimated at £12.9 billion in 2017-18, based on HMRC documents; there are other assessments, of course.

I am sure that the Minister will want to make sure that we do everything in our power to ensure that there is fairness right across the system, particularly at this time. We believe that income must be more tightly tied to tax treatment, with tax liability going up with income, so that the Government can fund, and can ensure that we have revenue available to fund, our vital public services—not least now, at this very trying time for our country.

We hope that this change and the future legislation that the Government might seek to bring forward will be developed in the same spirit of creating greater transparency within our system. We also hope that the pressures that Ministers and officials are under at this time will not divert them from the necessary action that they must continue to take, to ensure that we have greater transparency and that everyone pays their fair share. We also want to make sure that HMRC has all the resources and staffing it needs to do this work to the best of its ability.

Jesse Norman: I am very grateful to the hon. Lady—what an effortless tag team she and the hon. Member for Ilford North make! It is good to see them in action.

The hon. Lady's points are very well made, and I hope she recognises that the Government take these issues seriously—not just avoidance and evasion, and, in a separate category, fraud, but the wider question of fairness. It is absolutely right that we should do so. In an environment where the vast majority of taxpayers pay tax as due, in good time and do not become subject to any enforcement proceedings, it is all the more vital to maintain that consent and recognition of the public fairness of the system. She is absolutely right about that.

I hope that the hon. Lady will see that some of the issues that we have been facing in this Finance Bill and its predecessors, be they the loan charge or IR35, have reflected a persistent desire of the Government to see fairness through, despite some pretty strong headwinds. Also important is the ability to strike a fair balance within each of those schemes; we have discussed the loan charge and the Amyas Morse review, which is designed to ensure the right balance, even within that area.

However, I also draw attention to other important aspects. As the hon. Lady will be aware, we have announced a consultation on a strategy that takes a much more vigorous approach towards tackling the promoters and enablers of tax avoidance. I hope she will note that there continues to be a robust enforcement process within HMRC—one that has been carefully modulated and restrained in the context of coronavirus, but has not been in any sense left off thereby.

I will also say a couple of other things of which the hon. Lady may be less aware. One is that because of the concern about the balance of powers, which has been raised in part by the Lords Economic Affairs Committee and others, we now have a customer experience committee within HMRC. It has also brought in a series of experts who understand what might be called effective and successful customer and taxpayer treatment, bringing them in from other sources across the private sector to make sure that people do feel well treated and well handled, and that it is not a bruising process to have an interaction with HMRC. That sense of the importance of maintaining consent, and of Revenue and Customs not being oppressive while remaining highly effective in ensuring that people pay the right tax due, is a balance that both HMRC and the Government are constantly seeking to strike.

Question put and agreed to.

Clause 34 accordingly ordered to stand part of the Bill.

Clause 35

ENTERPRISE INVESTMENT SCHEME: APPROVED INVESTMENT FUND AS NOMINEE

3.15 pm

Stephen Flynn: I beg to move amendment 4, in clause 35, page 34, line 3, at end insert—

"(13) The Chancellor of the Exchequer must, no later than 5 April 2021, lay before the House of Commons a report—

(a) analysing the fiscal and economic effects of Government relief under the Enterprise Investment Scheme since the inception of the Scheme, and the changes in those effects which it estimates will occur as a result of the provisions of this Section, in respect of;

(i) each NUTS 1 statistical region of England and England as a whole,

(ii) Scotland,

(iii) Wales, and

(iv) Northern Ireland;

(b) assessing how the Enterprise Investment Scheme is furthering efforts to mitigate climate change, and any differences in the benefit of this funding in respect of—

(i) each NUTS 1 statistical region of England and England as a whole,

(ii) Scotland,

(iii) Wales, and

(iv) Northern Ireland; and

(c) evaluating the lessons that can be drawn from the effects of the Enterprise Investment Scheme with respect to the encouragement of both private and UK Government-backed venture capital funds in the devolved nations of the UK.".

This clause would require the Chancellor of the Exchequer to analyse the impact of the existing EIS and the changes proposed in Clause 35 in terms of impact on the economy and geographical reach; to assess the EIS's support for efforts to mitigate climate change; and to evaluate the Scheme's lessons for the encouragement of UK Government-backed venture capital funds in the devolved nations.

[Stephen Flynn]

The amendment is, hopefully, straightforward and one on which Members can agree. As things stand, as we all know, the enterprise investment scheme facilitates investment firms by offering a tax relief to individual investors of up to £5 million a year, and £12 million over a company's lifetime. Scotland has an extremely strong financial services sector: a recent EY survey showed that we attract more foreign direct investment than any part of the UK outside London. Indeed, my own city of Aberdeen is well known for securing investment, and regularly battles ahead of cities of a far greater scale.

However, with little financial services power, we are unable to fulfil Scotland's potential in respect of domestic venture capital. Venture capital in the UK is highly concentrated in the golden triangle—London, the south-east of England and the east of England—which received 73% of all venture capital between 2016 and 2018, according to the British Venture Capital Association. That disparity is also reflected in the EIS. Between 2015 and 2018, only 210 Welsh firms benefited from the EIS, receiving only 1.3% of the total investment. In contrast, the golden triangle received 67% of all investment, with the average UK angel investment per firm being 40% higher than in Wales.

We support Plaid Cymru's attempts to get Westminster to own up to its failure to get investment into Wales. The amendment would force the UK Government to officially consider the unsustainable concentration of private investment in one region of the UK at the expense of all devolved nations. As the UK Government narrow the applicability of the EIS, they need to consider how that will affect the ability of firms in other areas of the UK economy; how EIS—a tax really funded by taxpayers—could benefit us all by addressing climate change; and how they can encourage the establishment of venture capital funds, and therefore private investment, in the devolved nations.

I will focus briefly on climate change once again. As I said, we cannot escape the climate crisis in front of us. If we have the opportunity to do more, and if we have the ability to leverage investment in a way that allows us to combat the climate crisis, that is surely something that we should all seek to achieve. With that, I bring my remarks to a close. I hope that Members will be minded to support the amendment.

Bridget Phillipson: We welcome the Government's attempt to draw from their capital review with industry lenders on the enterprise investment scheme. I will come on to our response to amendment 4.

The Government have listened and are not offering further tax relief, instead providing additional flexibility for fund managers to make subscriptions in shares for investors over the years in which the relief is given. However, the difference between adding further tax relief and additional flexibility in this policy is not clear.

We are sympathetic to the position that the hon. Member for Aberdeen South has outlined. We know that there is a big imbalance across the nations and regions of the United Kingdom. The Government talk a lot about the need to level up; we hear about it all the time. It has not always been entirely clear to me what that means—not least because, over the past 10 years, what we have seen has involved precisely the opposite.

I look forward to the days when the Government will provide investment in parts of the country such as the north-east of England, which will enable us to contribute our fair share and play our full role in economic recovery more broadly. We are therefore sympathetic to the amendment proposed by the hon. Member for Aberdeen South.

The requirement to release a report on the effects of the enterprise investment scheme will enhance scrutiny of this policy and ensure that its results are fruitful and target the right causes. It is important to ensure that it starts benefiting regions that need it the most. I am sure the Minister will understand why I put in a particular plug for the north east of England, but we want to see this right across the country and the nations of the UK as well.

The amendment also raises the important issue of the climate emergency, which has not simply vanished because we are currently focused on the pandemic. The climate emergency is still with us and the longer we take to tackle it, the faster we will start to feel the effects of global warming. Research and investment must go towards tackling the climate emergency and we need to encourage the responsible and relevant use of Government funds for knowledge-intensive companies to benefit from them.

In the broader sense of the clause, it is not quite clear to the Opposition what the outcome of adjustments to the enterprise investment scheme detailed in the clause would be. The clause lacks some detail and clarity. We worry that it may be open and liable to exploitation, so I would like the Minister to say a little more when he responds. We have seen problems in recent years in this area and we do not want to see them repeated here.

Research conducted by Ipsos MORI for HMRC in 2016 showed that income tax relief was the main driver for investors to use the enterprise investment scheme: eight in 10 considered the income tax relief element of the scheme to be very important, and 32% essential, to their decision to invest; more than half also considered capital gains tax exemption to be either very important or essential. While many investors decide to invest in the enterprise investment scheme for philanthropic reasons, the financial incentive remains important none the less. The concern is reflected in the scepticism of some universities reported in the Government's consultation back in March 2018. It is in all of our interests that academic institutions, entrepreneurs and fund managers are aligned, but it is clear there are some issues around greater cohesion between them as part of this scheme.

The hon. Member for Aberdeen South referred to the disparity. The Government's own figures show that London and the south-east accounted for the largest proportion of investment, with companies registered in those regions receiving 65% of all enterprise investment scheme investment in 2018-19. London and the south-east of England does not have a monopoly on talent, innovation or research. If the Government's levelling-up agenda is to mean anything in practice, we have to see much more support targeted to those regions so they are able to take part in the wealth of our nation and they can contribute more. We have wonderful universities, pioneering companies both large and small, and a wonderful and flourishing supply chain.

I put it to the Minister that the hon. Gentleman is quite right. We require greater scrutiny to be confident that we are pushing in the right direction and that the

Government are making sure that where measures are introduced, they are targeted on the areas of the country where additional Government support could lead to much better outcomes for residents of those communities, who want the opportunity to contribute more broadly to the economic health of our nation. Especially as we start to emerge from this crisis, we will need targeted support that allows every nation and region to contribute to our economy, both in terms of skills and broader investment. For that reason, we are sympathetic to the amendment.

Jesse Norman: I am glad to be able to address clause 35 and the questions the hon. Members for Aberdeen South and for Houghton and Sunderland South have raised.

Clause 35 changes the approved enterprise investment scheme fund rules to focus investments made through such funds on knowledge-intensive companies. It provides additional flexibility for fund managers to make subscriptions in shares and for investors to claim relief. Fund managers will have more time to deploy capital raised, and investors will be able to claim relief one tax year earlier than previously when using an approved fund. The EIS encourages investment in smaller, higher risk trading companies by offering tax reliefs to individual investors who subscribe for new shares in qualifying companies.

A knowledge-intensive company is defined as a company that has spent a defined proportion of its operating costs on innovation and/or R&D and either creates intellectual property or has a defined proportion of its employees with advanced degrees. The intention to change the existing approved fund structures to focus on knowledge-intensive companies was announced at autumn Budget 2017 as part of the Government's response to the patient capital review.

The Government consulted on new rules and outlined its response at Budget 2018, which set out planned additional flexibilities for fund managers and investors using this structure. The changes made by clause 35 set out the requirements that must be met for investments to be considered as made via an approved knowledge-intensive fund. They include investing at least 80% of capital raised into knowledge-intensive companies and deploying the majority of capital raised within two years.

Amendment 4 would require the Government to review the economic and geographical impacts of the existing EIS and the changes to approved fund structure, and how far they support wider efforts to mitigate climate change. I understand and appreciate the intention of hon. Members to use EIS more strategically to help with mitigating climate change and to ensure that the benefits of EIS are spread more widely across the country, but I put it to the Committee that the amendment is not necessary.

It is worth reminding ourselves of the principal purpose of EIS. It is designed to address a specific market failure, which is that younger, innovative companies across the UK struggle to get access to patient and long-term equity finance to grow their businesses and to develop the innovative products that consumers may want in future. It is not designed specifically to help certain types of companies—for example those that operate in certain parts of the country or certain sectors. The scheme operates on a neutral market basis, and there is no requirement for that companies use EIS funds in specific ways, such as to develop products linked to the fight against climate change.

I completely understand that Opposition Members would like us to collect more information about how attractive EIS is to companies in different parts of the country. HMRC already publishes statistics about where fundraising companies have their registered offices and where EIS investors have their main household. However, it is also worth reiterating the limits of what we know.

Her Majesty's Revenue and Customs knows where a company's registered office is, but companies that benefit from the scheme are free to place their registered offices and places of establishment for EI purposes wherever they please in the UK. A registered office in the south-east may not mean that that investment is going into the south-east, because a registered office does not need to be in the same place as where the bulk of the staff are employed.

The hon. Member for Houghton and Sunderland South is concerned that there might be a lack of clarity in the structure, so let me shed some light on that. The measure limits approved fund status to companies that invest 80% of their capital into knowledge-intensive companies and extends the period in which approved knowledge-intensive fund managers must subscribe for shares in those companies from 12 months to 24 months, provided that 50% of the qualifying individual investment is invested within the first 12 months and 90% within 24 months. It allows the investor to carry back the claim for income tax relief to the tax year preceding the tax year of the fund closure. I would suggest that, within the limits of a description within legislation, that is relatively clear.

The hon. Lady also raised a question about regional investment. Again, I fully share her concern, and the Government's levelling-up agenda is designed to address that very issue. I must say that across my different ministerial jobs, I seem to spend most of my life investing in the north-east of England, one way or another—the massive pivot towards offshore wind has been nothing but good to that area, and I remember making a substantial investment in the Tyne and Wear Metro and the A19 when I was at the Department for Transport—so I hope that the hon. Lady does not feel that there is any lack of love for or investment in that part of the world from this quarter.

3.30 pm

Let me say one final thing. Hon. Members want us to review the EIS more generally, and I am happy to confirm that we are going to do that. As with all tax reliefs, the EIS is kept under review to ensure that it meets its policy objectives, but it is also a state aid whose current status expires in 2024. We therefore have a specific cause and purpose to conduct a full review of the EIS and how it is used, ahead of decisions on whether to renew it. I am happy to give that comfort to Committee members.

Clause 35 provides additional support for knowledge-intensive companies seeking long-term growth finance through the EIS. It seeks to encourage fund managers to specialise in knowledge-intensive investments. I therefore urge the Committee to reject amendment 4, and I commend the clause to the Committee.

Stephen Flynn: There are a few points that I think are incredibly important to pick up on. The first relates to the Minister's remark that the EIS is and needs to be a neutral fund. It does not need to be a neutral fund; that is a choice. If we seek to combat climate change and put our words into action, we can make those decisions and make them now—the gift to do that is in the Minister's hands. It is incredibly important that we focus on that point: that it does not have to be how it is at the moment.

I respect the commitment to review before 2024, but that is a significant time away. I am not overly comfortable with the idea that we can allow that time to pass before we assess whether the scheme is working as we feel it should.

Jesse Norman: May I say what a joy it is to have the boot on the other foot and to be able to intervene on another member of the Committee? Of course the hon. Gentleman is right that legislation can be changed, subject to the will of Parliament, but this measure cannot be changed without distorting its essential character. Its purpose is to implement a reform that addresses, and hopefully cures, a market anomaly.

To address the real and important wider concern that the hon. Gentleman raises, the real question is therefore whether there are other measures outside the EIS that could achieve some of the aims he describes. The EIS cures the anomaly, which is about investment—as we know, we cannot deduce effectively where the investment goes from where the head offices are—but there may be other measures that the Government can take, and that the Scottish Government may want to take, to address more widely the concerns that he describes.

Stephen Flynn: I look forward to the UK Government coming forward with such proposals; that would certainly be of much interest to me and to colleagues across the UK.

I want to home in on the climate situation in Aberdeen. It would be remiss of me not to highlight the fact that Aberdeen is the oil and gas capital of these islands, and indeed of Europe, and has been so for a significant time. However, we are extremely conscious of the situation in Aberdeen due to the oil and gas sector downturn—we heard earlier about the support that the UK Government put in place during the downturn, although I was not quite sure which downturn was being referred to since we are currently in the midst of perhaps the sharpest downturn of the North sea basin—but we are very cognisant that we need to make a sustainable transition to a net zero future.

If we look to the possibilities of the north-east of Scotland—hydrogen technologies, carbon storage, alternative fuel gas turbines, subsea and offshore energy—there is a wealth of opportunity. We are blessed with unbelievable natural resources in Scotland. If we can have a fund that channels money into exploiting such research and talent, we should be willing to do so.

Ultimately, amendment 4 is very clear: it is about

"analysing the fiscal and economic effects of Government relief under the Enterprise Investment Scheme since the inception of the Scheme".

We are talking about analysing the scheme and whether it is doing the job it should be doing. As I have said on a number of occasions, the Government should not be afraid of looking at whether their schemes are effective. We should all retain a firm commitment not just through our words but—I repeat—through our actions to combat the climate emergency and the amendment is one way in which we could do that.

The Chair: Mr Flynn, do you wish to press your amendment to a vote or to withdraw it?

Stephen Flynn: I will press the amendment.

Question put, That the amendment be made.

The Committee divided: Ayes 6, Noes 9.

Division No. 2]

AYES

Flynn, Stephen
Oppong-Asare, Abena
Phillipson, Bridget
Ribeiro-Addy, Bell
Smith, Jeff
Streeting, Wes

NOES

Badenoch, Kemi
Baldwin, Harriett
Browne, Anthony
Buchan, Felicity
Cates, Miriam
Jones, Andrew
Millar, Robin
Norman, rh Jesse
Rutley, David

Question accordingly negatived.

Clause 35 ordered to stand part of the Bill.

Clause 36

Gains from contracts for life insurance etc: top slicing relief

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

Jesse Norman: The clause introduces the gripping topic of top-slicing relief on life insurance policy gains. It makes changes to ensure that the calculation of top-slicing relief on life insurance policy gains operates fairly and prevents excessive relief from being claimed. This measure supports the Government's objective, already discussed in the Committee today, of promoting fairness in the tax system by ensuring that the relief is calculated in a fair and consistent way.

Life insurance policy gains arise, for example, when an investment bond is surrendered or matures. In this case, the gain accrues over the lifetime of the policy but is taxed in one year, which can result in gains being taxed at the higher rate. Top-slicing relief, or TSR, was introduced in 1968 as a mechanism to mitigate the impact of that higher tax charge. The principle behind TSR is simple: a taxpayer should not pay a higher rate of tax on their life insurance gain just because all of that gain falls to be taxed in a single year. Instead, the rate of tax on the gain should reflect the fact that it was accrued over the lifetime of the policy, assuming it rose in even amounts over the years during which the policy was held.

The calculation for TSR was intended to be straightforward. However, changes to the personal allowance from 2010 have led to unintended complexity. A recent first-tier tribunal case brought into question how TSR interacts with the restriction to the personal allowance for higher rate taxpayers, creating uncertainty for taxpayers and a significant administrative burden for HMRC. It is for those reasons that we are making a change and a clarification to TSR in the Bill. I turn to both of those things.

The change made by the clause will permit personal allowances that have been reduced because the gain arises in one year to be reinstated in the TSR calculation. The gain will now be treated as if it arose in even amounts over the years during which the policy was held when determining the availability of the personal allowance in the TSR calculation. The change comes at an estimated cost to the Exchequer of £15 million per annum, but it provides a fairer result for those taxpayers who would otherwise have been taxed on their gain only because that gain has fallen in one year and reduced their personal allowance.

The clause will also put beyond doubt the principle that taxpayers cannot set their gain against their personal allowance first, in preference to their other income, in the TSR calculation. That will ensure that higher-rate taxpayers cannot get the benefit of the relief by effectively taking the benefit of the personal allowance more than once when calculating TSR. That will prevent excessive relief from being claimed and, in turn, protect £240 million of revenue.

The measure is estimated to affect around 2,000 of the 45,000 taxpayers who are entitled to top-slicing relief every year. The clause ensures that the taxpayers receive all the relief that they are entitled to and makes clear that taxpayers who seek to claim excessive relief will no longer be able to do so. It will ensure that top-slicing relief continues to operate in line with its original policy intent, and will therefore provide a fair and consistent outcome for those taxpayers who are entitled to claim the relief. I commend the clause to the Committee.

Bridget Phillipson: Before I turn to the substance of clause 36, and without dwelling on it too much, I will take slight exception to the Minister's comments around the so-called levelling up agenda and the last 10 years. First, though, I must commend him—he is one of the few Ministers I have come across who understands how to pronounce my constituency name properly. He has great north-east knowledge, which will stand us in wonderful stead for the years ahead, when we can make sure that Sunderland and the wider north-east get their fair share of Government investment.

On clause 36, we note the Government's stated objective of creating fairness in the UK tax system, ensuring that top-slicing relief is calculated in a fair and consistent way, and of seeking to provide legislative clarity. However, there are some issues that still remain around the language of the clause, regarding the treatment of gains before 11 March 2020.

In response to the clause, the Chartered Institute of Taxation noted:

> "The amendments made by clause 36 have effect…from the tax year 2019/20. It is not clear why the amendments, which are clarificatory in nature and in accordance with the original policy intent, should not be extended to years prior to 2019/20 to provide the same clarity for taxpayers in respect of earlier gains."

It also comments that,

> "as clause 36 is not retrospective, an individual who is liable to tax in respect of gains from chargeable events before 2019/20 and who wishes to reinstate the personal allowance within the calculation for TSR will instead need to rely on the basis agreed in *Silver v HMRC*. Decisions of the First-tier Tribunal do not create a legally binding precedent."

It argues that it is

> "not clear whether or not HMRC will accept claims for repayment from taxpayers with gains in years prior to 2019/20."

The Minister touched on this point in introducing the clause, but I would be grateful if he could clarify whether he intends for HMRC to accept repayment from taxpayers with gains in years before 2019-20. If he does not, as the language stands, do the provisions of the clause still affect taxpayers fairly?

The Chartered Institute of Taxation also notes that the approach is different from the approach in clauses 100 and 101, which we will come to later, which put

> "beyond doubt that the relevant rules work as designed and intended but apply both prospectively and retrospectively."

What assessment does the Minister make of that point?

The institute also draws attention to the fact that clause 36 specifies how reliefs and allowances are set against life assurance policy gains:

> "The personal savings allowance does not operate as a typical allowance. It is a nil rate band of tax that does not extend the basic or higher rate bands. The draft legislation should specify that the personal savings allowance is not an allowance for this or any other purpose."

It regards the term "allowance" as "an unhelpful misnomer". I would be grateful if the Minister would address that point.

HMRC also notes that the clause will only really affect those with above-average earnings. We have considered that point more broadly in other aspects of the Bill; it points to something of a pattern in the measures that the Government are bringing forward. Over a significant period—over the last decade—we have seen that the impact of changes, whether that is spending reductions or the broader impact of Government policy, has fallen more sharply on those with less ability to make a contribution. Earlier in proceedings, we discussed the distributional impact of Government measures after 2010. We have seen a disproportionate impact on those from lower and middle-earning backgrounds. That cannot be sustained, not least in the current situation.

3.45 pm

We hope the Government will continue to keep that under review, so that we can ensure that our public services have the funding they need, and that those who need additional support to make a contribution do not see themselves penalised as a result. However, we understand the intent behind the clause—the objective that the Government seek to promote—and I hope that the Minister will address the issues to provide some clarification on specific points.

Jesse Norman: I thank the hon. Lady for her questions. Let me respond. She will understand that top-slicing relief has been around for a long time. It is therefore something that we have come to for specific reasons. As she will be aware, a concern is arising that the judgment, coupled with challenges from taxpayers, suggests that more clarity is needed in the legislation and, therefore, that we need to review the relief.

The review highlighted that some payers were paying tax on their gain at the higher rate only because they lost the personal allowance due to a gain being included

[Jesse Norman]

in their income. That is why the conclusion was for the reinstatement of the personal allowance, solely for purposes of the top-slicing relief calculation, to address that and to bring it back in line with the policy intent.

Of course, as the hon. Lady says, the changes work in both directions—there is a cost to the Exchequer, which comes from allowing the gain to be treated as though it arose in even amounts over the years, but, at the same time, there is also a return from the Treasury, which prevents excessive relief from being claimed. That points to the essential fairness of the approach, because it is designed to restore fairness in the spreading of gain, but also to ensure that there can be no funny business, if you like, in the way in which the gain is treated with regard to the personal allowance that might allow it to be manipulated to the detriment of the taxpayer or the system.

The hon. Lady also asked about timing. HMRC will calculate the relief for affected taxpayers and advise them of changes in the relief calculation. For self-assessment returns submitted for the 2019-20 tax year, that calculation will be performed manually. For subsequent tax years, the calculation will form part of the automatic self-assessment process. Detailed guidance has been put on gov.uk setting out the changes in full. I hope that will put the matter beyond doubt.

Question put and agreed to.

Clause 36 accordingly ordered to stand part of the Bill.

Clause 37

Losses on disposal of shares: abolition of requirement to be UK business

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

Jesse Norman: Again, this is a small and technical clause. It widens the scope of share loss relief for income tax and corporation tax so that it applies to shares in companies carrying on a business anywhere in the world and not just in the UK.

Share loss relief is available where an investor or investment company makes an investment in qualifying shares that are later disposed of at a loss. The relief enables the loss to be set against taxable income, rather than against capital gains under the normal rules. Qualifying shares are shares to which the enterprise investment scheme, EIS, or the seed enterprise investment scheme, SEIS, are attributable, or in a qualifying training company, as defined in statute, which can be summarised as a small or medium unlisted trading company that carries on its business wholly or mainly in the UK.

The measure will change the existing statute so that investors can claim relief no matter where the business is based, providing added protection for those investing in high-risk enterprises. It will be backdated to proposals made after 21 January 2019. A change will be made to the reporting requirements so that HMRC can identify the tax residency of the company that issued the shares.

The UK has now left the EU and has agreed to follow its rules for the duration of the transition period. On 24 January 2019—hence the date—the European Commission issued a reasoned opinion arguing that applying SLR to shares only in UK companies contravened the free movement of capital principle. The Government accepted that the legislation as drafted was too narrow and agreed to introduce legislation to expand the rules and, thereby, comply with the principle.

The change made by clause 37 widens the relief so that it applies to shares in qualifying businesses worldwide, not just in the UK. The proposed changes are expected to increase the cost of the relief to the Exchequer by £5 million in 2020-21, increasing to £15 million per year thereafter.

The Government consider that this legislation strikes the right balance between supporting overseas investment opportunities for UK-based investors and meeting our residual obligations to the European Union for the free movement of capital. I therefore commend the clause to the Committee.

Bridget Phillipson: The Opposition welcome the intention behind this clause, and the statement of the Minister seems straightforward in terms of what the Government are seeking to achieve in this area. For future trading to be as streamlined as possible, it is important that the Government introduce this measure to ensure compliance with article 63 of the treaty on the functioning of the European Union after the end of the transition period.

However, on the transition period—we touched on this this morning, and my hon. Friend the Member for Ilford North raised this issue—we have, sadly, not had the kind of regular updates we would like in the House around ongoing negotiations. We all want the Government to succeed, and we want to secure a great deal for our country, but we want to be confident that the Government are making progress and are on the right track.

Some of the reporting we have seen lately suggests that—for a number of reasons, some of which are entirely fair, given the unprecedented crisis in which we find ourselves—Ministers and officials have found things hard. I understand how difficult it must be to operate during this time, but the pandemic has highlighted how important it is that we ensure everything is properly aligned at the end of the transition period and that we secure an excellent deal, because so much depends on it—workers' rights, businesses and our ability to export.

We want to avoid any further disruption to our economy. We have been through a very difficult time—we are still going through a very difficult time—for businesses large and small, and not least for our manufacturing sector and our world-class exporters. We want to avoid any further disruption to the economy, at the border or in people's lives.

The Government have variously described the deal they will secure as

"a great new deal that is ready to go",

"ambitious", "broad", "deep", "flexible", "a balanced economic partnership" and "oven ready"—that is one I recall particularly well from the recent general election campaign. Given all of that, I am sure that we will have no difficulty at all, notwithstanding the big challenges we face around the pandemic, and that we can ensure we do not have tariffs, fees or charges, so that our world-leading industries can continue to do well.

On clause 37, especially, businesses will, according to HMRC, need to familiarise themselves with tax changes, make the decision on whether to claim for the loss, determine the tax residency of the company that issued that shares and inform HMRC of this information. I would be grateful if the Minister could assure us that there is no prospect of exploitation in this area and that the Government will do all they can to ensure fairness across the system, so that we do not end up with companies potentially claiming this relief in a way that was perhaps not intended in the scope of the legislation and in the measures that Ministers are quite sensibly seeking to set out here.

Jesse Norman: I feel almost sad to be winding up on the final clause of this very good day. I thank the hon. Lady very much for her questions. Regarding the transition period, she has said she is sure the deal will be smooth and tariff-free. In that, she shares the Government's high hopes and expectations for a deal with the EU. There is not much more I can add to that.

On the prospect of exploitation, I cannot give her, I am afraid, the guarantee she seeks, because if there is anything that my five years on the Treasury Committee and one year as Financial Secretary have taught me it is that there are no limits to human ingenuity in exploiting aspects of the tax code contrary to expectation, so there is some possibility of exploitation. The comfort I can give her is that, as this change is mandated as a result of compliance with an EU procedure, once we are free from the transition period, we will have the ability to make a sovereign change to our own legislation that remedies any concerns that are raised and any risks to the Exchequer that thereby arise.

Question put and agreed to.

Clause 37 accordingly ordered to stand part of the Bill.

Ordered, That further consideration be now adjourned.—*(David Rutley.)*

3.55 pm

Adjourned till Thursday 11 June at half-past Eleven o'clock.

Written evidence reported to the House

FB14 An individual who wishes to remain anonymous

FB15 Nick Pennington

FB16 Anonymous

FB17 Tim Brain

FB18 John Clarke

FB19 Anthony Johnson

FB20 Chartered Institute of Taxation Clause 72 IHT excluded property

FB21 Chartered Institute of Taxation Clauses 95-96 Priority on insolvency

FB22 Chartered Institute of Taxation Clause 97 Liability of company directors etc

FB23 Chartered Institute of Taxation Clauses 100-101 HMRC Administration and Compliance