

FINANCE BILL 2009

LOBBY NOTES

PART 1

CHARGES, RATES, ALLOWANCES, ETC

Income tax

Clause 1 imposes the income tax charge for 2009-10 and sets the basic rate of income tax at 20 per cent and the higher rate at 40 per cent.

Clause 2 sets the basic rate limit for income tax at £37,400 for 2009-10.

Clause 3 sets the personal allowance for income tax at £6,475 for 2009-10.

Clause 4 applies reductions from 2010-11 to the amount of an individual's personal allowance, where their income exceeds £100,000.

Clause 5 and Schedule 1 provide for the withdrawal of personal allowances and reliefs from income tax for individuals not resident in the UK who have entitlement to those allowances or reliefs solely because they are Commonwealth citizens.

Clause 6 and Schedule 2 include the provisions for an additional rate of income tax and an additional rate for dividends and consequential amendments including increases to the trust rate and dividend trust rate. There are other consequential amendments including changes to the income tax charges applying to registered pension schemes. From tax year 2010-11 there will be a new additional rate of income tax that will apply to taxable income in excess of £150,000. A new 42.5 per cent dividend additional rate will alternatively apply where dividends form part of an individual's taxable income in excess of £150,000. This will provide three main rates of income tax: the basic rate, the higher rate and the additional rate. There will be three rates of tax applying to dividends: the dividend ordinary rate for dividends otherwise taxable at the basic rate, the dividend upper rate for dividends otherwise taxable at the higher rate and the dividend additional rate for dividends otherwise taxable at the additional rate.

Corporation tax

Clause 7 charges corporation tax for the financial year beginning 1 April 2010 and sets the main rate of corporation tax at 30 per cent on ring fence profits of North Sea oil companies and 28 per cent on the profits of other companies.

Clause 8 sets the small companies' rate of corporation tax for the financial year beginning 1 April 2009 at 21 per cent for all profits apart from "ring fence profits" of North Sea oil companies and 19 per cent for "ring fence profits". Additionally, it sets the

fraction used in calculating marginal small companies' relief from the main rate at 7/400 for all profits apart from "ring fence profits" and 11/400 for "ring fence profits".

Value added tax

Clause 9 and Schedule 3 provides for the standard rate of VAT to revert to 17.5 per cent on 1 January 2010. Clause 9 and Schedule 3 introduce a supplementary charge to VAT of 2.5 per cent on certain supplies that span the date on which the standard rate of VAT changes from 15 per cent to 17.5 per cent. They also make minor amendments to the VAT Act 1994 (VATA) provisions about orders effecting a temporary change in the VAT rate.

Stamp duty land tax

Clause 10 amends the provisions in Finance Act 2003 in order to raise the starting threshold for stamp duty land tax (SDLT) on residential property from £125,000 to £175,000. The measure will be time-limited and will apply to transactions made between 22 April 2009 and 31 December 2009. After that date the SDLT threshold for residential property will revert to £125,000.

Alcohol and tobacco

Clause 11 provides for increases in the rates of excise duty charged on spirits, beer, wine and made-wine, and cider, to have effect from 23 April 2009.

Clause 12 provides for an increase in the rates of excise duty on tobacco products (cigarettes, cigars, hand-rolling tobacco and other smoking tobacco and chewing tobacco) to have effect from 6pm on 22 April 2009.

Vehicle excise duty

Clause 13 provides for changes in the rates of vehicle excise duty (VED) in 2009-10 by amendment of the Vehicle Excise and Registration Act 1994 (VERA). Changes to the rates take effect in relation to vehicle licences taken out on or after 1 May 2009.

Clause 14 and Schedule 4 provides for changes in the rates of vehicle excise duty (VED) in 2010-11 by amendment of the Vehicle Excise and Registration Act 1994 (VERA). Changes to the rates take effect in relation to vehicle licences taken out on or after 1 April 2010. Schedule 4 amends VERA to specify the scope of the application of rates of VED payable on a first vehicle licence on a car from 1 April 2010, and to specify the application of VED rates to vehicles registered in the United Kingdom subsequent to a period of registration overseas.

Fuel duties

Clause 15 provides for changes in rates of duty and rates of rebate on products charged to duty under the Hydrocarbon Oil Duties Act 1979 (HODA).

Clause 16 provides for changes in the rates of duty and rates of rebate on hydrocarbon oils and biodiesel, and rates of duty on road fuel gases, bioethanol, and fuel substitutes, with effect from 1 September 2009.

Other environmental taxes and duties

Clause 17 and Schedule 5 provide for the air passenger duty (APD) destination bands to be restructured from two to four. It also simplifies the existing provisions of APD relating to special accounting schemes.

Clause 18 increases the standard rate of landfill tax from £40 per tonne to £48 per tonne for disposals of waste made at authorised landfill sites on or after 1 April 2010.

Gambling duties

Clause 19 will increase the gross gaming yield bands for gaming duty in line with inflation for accounting periods starting on or after 1 April 2009, preventing fiscal drag and benefiting the industry.

Clause 20 provides for an increase in the rate of bingo duty and an increase in the money prize limit for exempt small-scale amusements provided commercially.

Clause 21 will increase the amounts of amusement machine licence duty (AMLD) payable in respect of licence applications that are received by Her Majesty's Revenue and Customs after 4pm on 22 April 2009.

Clause 22 provides for changes to the descriptions of excepted machines, small-prize machines and Category C gaming machines for the purposes of amusement machine licence duty (AMLD) in the Betting and Gaming Duties Act 1981 (BGDA). The amendments made by this clause will have effect from 1 June 2009.

PART 2

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

Support for business

Clause 23 and Schedule 6 provide for a temporary extension to the income tax and corporation tax rules for carrying back trade losses.

Clause 24 provides for a temporary first-year capital allowance at the rate of 40 per cent for a period of one year for spending by businesses on most plant and machinery that would normally qualify for a writing-down allowance at the 20 per cent rate. The provision applies to spending on or after 1 April 2009 for businesses within the charge to corporation tax and on or after 6 April 2009 for businesses within the charge to income tax.

Clause 25 ensures the Corporation Tax Acts do not override an undertaking by a person to surrender the right to benefit from tax losses and other reliefs. It will apply to undertakings given in connection with arrangements designated by HM Treasury.

Clause 26 and Schedule 7 amend Part 14 of the Corporation Tax Act 2009 (CTA), commonly referred to as Land Remediation Relief. The amendments are to extend the scope of the relief to the bringing of long term derelict land back into productive use and to refocus the existing relief on bringing land contaminated by previous industrial use back into productive use.

Clause 27 and Schedule 8 makes changes to the three venture capital schemes – the Enterprise Investment, Venture Capital Trust and Corporate Venturing Schemes (EIS, VCTs and CVS).

Clause 28 and Schedule 9 provide that holders of certain preference shares, including those commonly issued by financial institutions as part of their regulatory Tier 1 capital base, are not treated as equity holders of a company. Previously only the holders of fixed-rate preference shares qualified for this exclusion. It is necessary to distinguish between equity holders and non-equity holders in order to identify companies that are sufficiently under common ownership so as to be regarded as belonging to the same group for tax purposes.

Clause 29 and Schedule 10 make changes to Schedule 10 to the Finance Act (FA) 2006 to ensure that the Schedule operates fairly.

Clause 30 and Schedule 11 make provision for the reform of the rules for tax relief for business expenditure on the purchase and hire of cars and motor cycles. The rate at which capital allowances can be claimed and the proportion of rental payments that may be deducted for tax will be determined by the carbon dioxide emissions of the car, rather than its cost as under the current rules. Motor cycles are taken out of the definition of a car for capital allowances and for the purposes of restricting the tax deduction for lease rental payments.

Clause 31 and Schedule 12 provide groups of companies with a simpler procedure to match the chargeable gains or allowable losses that arise on the disposal of chargeable assets when an election is made, removing the need to actually transfer ownership of assets within a group. Currently when an election is made, an asset is deemed to have been transferred from one group company to another before a disposal outside the group. However, an election cannot currently be made in all the circumstances in which gains or losses can arise; for example where there is no disposal to a third party.

Clause 32 and Schedule 13 apply for the purposes of tax on chargeable gains where the borrower under a stock lending agreement becomes insolvent and unable to return borrowed stock. They prevent capital gains or losses arising to the extent that collateral is used to replace the borrowed stock with identical stock. The clause can have effect where the insolvency occurs on or after 1 September 2008.

Clause 33 ensures that people who have or will receive compensation from the Financial Services Compensation Scheme (FSCS) that includes a payment representing interest are taxed in the same way as if the payment were interest paid by the financial institution that went into default. Where the FSCS has calculated a payment as if it were interest (accrued but unpaid by the financial institution) from which tax had been deducted then the clause enables the recipient to treat the amount deducted by the FSCS in the same way as if it were tax deducted from interest.

Foreign profits etc

Clause 34 and Schedule 14 determine the scope of the corporation tax charge on both UK and foreign company distributions. The rules for distributions received by small companies are distinct from the rules for medium and large companies, but in each case the result is that the great majority of distributions will be exempt from corporation tax. The Schedule contains anti-avoidance rules to prevent abuse of distribution exemption.

Clause 35 and Schedule 15 make provision for the restriction of the tax deduction available for finance expenses of groups of companies. The effect of the new measure is to limit the aggregate UK tax deduction for the UK members of a group of companies that have net finance expenses to the consolidated gross finance expense of that group. The Schedule applies to a group that has either a UK or foreign parent. Finance expenses and finance income are payments of interest and interest like amounts.

Clause 36 and Schedule 16 provides for the amendment of the Controlled Foreign Company (CFC) rules in chapter 4 of part 17 of the Income and Corporation Taxes Act 1988 (ICTA). The detailed amendments are in schedule 16.

Clause 37 and Schedule 17 provides for the repeal of the Treasury Consents legislation in sections 765 to 767 of the Income and Corporation Taxes Act 1988 (ICTA) and its replacement with a requirement to report the details of certain transactions whose value exceeds £100 million to HM Revenue and Customs (HMRC). The detailed provisions are in Schedule 17.

Clause 38 and Schedule 18 ensure that where a company computes its profits or losses for corporation tax purposes in a currency other than sterling any losses carried forward to future accounting periods or back to a previous accounting period will be translated into sterling at the same exchange rate as the profits they are offsetting. There are special rules to deal with the situation where the losses in one period are computed for corporation tax purposes in one currency but are being offset against profits for an earlier or later period computed in a different currency.

Clause 39: Certain distributions from offshore funds are economically similar to payments of yearly interest. Clause 39, from 22 April 2009, charges distributions of this type to tax as if they were yearly interest.

Clause 40 and Schedule 19 provide for changes to the system of taxation for individuals who own foreign shares. Individuals in receipt of dividends from UK-resident companies

or who have small shareholdings (less than 10 per cent) in non-UK resident companies are entitled under current law to a non-payable dividend tax credit.

The clause and Schedule provide that individuals with shareholdings of 10 per cent or greater in non-UK resident companies will also be entitled to a non-payable tax credit, subject to certain conditions.

Loan relationships and derivatives

Clause 41 and Schedule 20 amend the corporation tax rules on loan relationships that apply to connected parties. In certain circumstances, these rules restrict the tax deduction for interest or discount payable on a loan or security, until the interest is paid or the security is redeemed. Under the amended rules, where the connected party to which the interest or discount is payable is a company, such a restriction will be made only where the company is located in a “non-qualifying territory”. The change applies for accounting periods beginning on or after 1 April 2009.

Clause 42 amends the legislation in Corporation Tax Act 2009 (CTA) on the loan relationships of companies. It ensures that where a company is released from a debt that it has incurred in the course of a trade or property business, the debt release is taxed under the rules for loan relationships rather than those for trading or property income. This means that if the debtor company is connected with the creditor (for example, if they are two companies in the same group), no tax charge arises on the debtor and there is no tax relief for the creditor. The change applies to debt releases occurring on or after 22 April 2009.

Clause 43 and Schedule 21 counter avoidance schemes which exploit provisions allowing foreign exchange gains or losses to be disregarded for corporation tax purposes where they arise on loans or currency derivatives that hedge foreign currency risk from a company’s investment in foreign business operations. They revoke earlier anti-avoidance provisions in secondary legislation. The changes have effect from 22 April 2009.

Collective investment

Clause 44 and Schedule 22 provide for a new definition of an “offshore fund” to be used in tax legislation and, in particular, in regulations to be made under section 41 of the Finance Act (FA) 2008. The Schedule also provides for interests in certain “offshore funds” within the new definition to be treated as assets of the investors for the purposes of tax on capital gains (with the consequence that the underlying assets will no longer be treated as assets of the investors).

Clause 45 provides a power to make regulations that will allow investment trust companies (ITCs) to have the option to treat dividends as distributions of interest, and to provide that such distributions will be treated as interest payments to their shareholders. This will enable investment trust companies to invest in interest bearing assets tax efficiently.

Insurance etc

Clause 46 and Schedule 23 replace existing guidance on the tax treatment of additions made by a life insurance company to its long term insurance fund (LTIF) with a clear statutory framework. Whilst ensuring that additions brought into account in the company's regulatory return are not taxable receipts it also counteracts the tax benefit which can arise when an addition to the LTIF enables a company to realise a Case I loss that does not reflect an economic loss incurred in the company's life assurance business.

Clause 47 provides a Treasury power to make regulations which will have the effect of allowing corporate and partnership members of the Lloyd's insurance market to claim tax relief on establishing reserves equivalent to those made by general insurance companies under the equalisation reserves rules made by the Financial Services Authority (FSA). These rules recognise the volatility of certain classes of general insurance business and the possibility of large, but intermittent, losses.

Simplification

Clause 48 and Schedule 24 make provision for returns from certain arrangements that produce returns that are economically equivalent to interest to be charged to corporation tax in the same way as profits from a loan relationship.

Clause 49 and Schedule 25 treat sales and other disposals of rights to receive future income streams as giving rise to income for corporation tax and income tax purposes, unless already provided by tax law. This treatment is subject to a number of express exceptions.

Clause 50 and Schedule 26 make amendments to the rules relating to Save As You Earn (SAYE) share option schemes. They simplify certain administrative aspects, and make it possible for HM Revenue & Customs (HMRC) to ease practical difficulties that can arise for companies sending invitations to employees shortly before a change in the certification and bonus rates applying to SAYE contracts.

Residence and domicile

Clause 51 and Schedule 27 make a number of minor amendments to provisions relating to the remittance basis of taxation.

Clause 52 provides for an exemption from liability to income tax for certain individuals.

Employment income

Clause 53 and Schedule 28 provide for the following changes to car benefit from 2011-12:

- the abolition of the price cap of £80,000 used in the calculation of the cash equivalent of the benefit of a car;

- the lower threshold to be reduced by 5g/km from 130g/km to 125g/km of CO₂ emissions; and
- a change to the appropriate percentage for electrically propelled cars from 15 per cent to 9 per cent.

Clause 54 provides that disabled drivers of automatic cars who hold a disabled person's badge (blue badge) are entitled to use the list or notional price of an equivalent manual car instead of the list or notional price of the automatic car they actually drive, when computing the car benefit charge.

Clause 55 amends sections 266(3) and 267(2) of the Income Tax (Earnings and Pensions) Act 2003 (ITEPA) and inserts a new section 320B into the Act. The effect of these changes is to exempt from tax the provision to employees of one health-screening and one medical check-up each year. They also exempt from tax the provision of a non-cash voucher or credit-token used to facilitate the provision of such health-screening assessment or a medical check-up.

Clause 56 extends the application of "double taxation relief" under the Income and Corporation Taxes Act 1988 (ICTA) to European Community tax deducted from the pay, transitional allowances and pensions of members of the European Parliament (MEPs) under the new Statute for Members of the European Parliament (2005/684/EC, Euratom). The clause also amends the Income Tax (Earnings and Pensions) Act 2003 (ITEPA) to provide that payment of transitional allowances to MEPs under the Statute will be treated as termination payments in line with the current treatment of other, similar payments.

Double taxation

Clause 57 amends the definition of the rate that applies to the "mixer cap" in section 799(1)(b) and (1A) of the Income and Corporation Taxes Act 1988 (ICTA), so that it reflects the rate of tax applicable to a foreign dividend. This change will ensure that the "mixer cap" will work in the same way as it always has, and that its application will not be affected by the recent change in the corporation tax (CT) rate.

Clause 58 and Schedule 29 contain provision to counter avoidance of corporation tax involving manufactured overseas dividends (MODs).

Clause 59 deals with situations where double taxation relief is claimed for foreign tax but, by reference to that tax, a payment is made to either the claimant or a connected person. The clause limits the relief to the amount of the foreign tax paid minus the payment made to the claimant or connected person.

Clause 60 amends two of the rules introduced in Finance Act 2005 to limit the credit for foreign tax paid on trade receipts of a bank to no more than the corporation tax arising on the relevant part of the trade profits. The clause will ensure that in calculating the amount of double taxation relief (DTR) available, a) a reasonable proportion of a bank's notional funding costs over all its transactions must be deducted, and that this cannot be avoided by the bank allocating a specific source of funds to specific transactions and b) will

clarify the existing legislation that prevents banks avoiding the intention of the DTR legislation by artificially arranging for income to be received by a non-banking company in the bank's group.

Miscellaneous anti-avoidance provisions

Clause 61 and Schedule 30 contain provision to counter avoidance involving certain financial arrangements.

Clause 62 and Schedule 31 make changes to Schedule 10 to the Finance Act (FA) 2006 to ensure that it applies appropriately to the sale of an intermediate lessor company.

Clause 63 and Schedule 32 introduce legislation to counter avoidance involving the leasing of plant or machinery.

Clause 64 and Schedule 33 introduce legislation to prevent the avoidance of tax involving long funding leases of films.

Clause 65 and Schedule 34 amend provisions in Part 4 of the Finance Act (FA) 2006 relating to Real Estate Investment Trusts. There are three areas covered in the Schedule; firstly a new measure to stop exploitation of the Real Estate Investment Trust (REIT) regime where businesses restructure to gain the benefits of the regime; secondly, the Schedule removes an unintended barrier to joining the regime and finally the remainder of the Schedule clarifies and makes more consistent the existing legislation.

Clause 66 will ensure that employee liabilities will only be relieved where they are not derived from arrangements the main purpose, or one of the main purposes, of which is the avoidance of tax. It will apply to individuals who seek to use sections 346 and 555 of the Income Tax (Earnings and Pensions) Act 2003 (ITEPA) to obtain tax relief using tax avoidance arrangements. It will have no impact on those using the relief who are not attempting to avoid tax. It will have effect from 12 January 2009.

Clause 67 will ensure that employment losses will only be relieved where they are not derived from arrangements the main purpose, or one of the main purposes, of which is the avoidance of tax. It will apply to individuals who seek to use section 128 of the Income Tax Act 2007 (ITA) to obtain tax relief using tax avoidance arrangements. It will have no impact on those using the relief who are not attempting to avoid tax. It will have effect from 12 January 2009.

Clause 68 affects the taxation of certain life insurance policies, life annuity contracts and capital redemption policies. It addresses income tax avoidance by putting beyond any doubt that income tax loss relief does not arise from offshore life insurance policies. The measure has effect for 2009-10. Transitional provisions may also apply to 2008-09 for certain transactions taking place on or after 1 April 2009.

Clause 69 introduces legislation to confirm the tax treatment of goodwill provided for by the corporate intangible fixed assets regime ('the regime') at Part 8 of the Corporation Tax Act 2009 (formerly Schedule 29 to the Finance Act 2002).

Clause 70 changes the rules for taxing the benefit in kind charge where employees are provided with living accommodation by reason of their employment. This is to stop attempts to avoid tax through the payment of a lease premium rather than a full market rent for the use of the accommodation. The clause introduces a rule that means the value of the lease premium will be taken into account when working out the benefit in kind charge.

PART 3

PENSIONS

Clause 71 and Schedule 35 introduces an income tax charge at 20 per cent for certain individuals on certain pension contributions and benefits accrued. This special annual allowance charge is on pension contributions and benefits accrued in excess of a special annual allowance of £20,000 for individuals whose relevant income is £150,000 or more. It will not apply in respect of an individual's normal pattern of regular pension contributions or the normal way in which their pension benefits accrued before 22 April 2009. The Schedule also enables high-income individuals to ask their schemes to refund pension contributions that they have paid in the 2009-2010 tax year, which may otherwise create a liability to the special annual allowance charge. The repayments are subject to a 40 per cent income tax charge on the scheme, recovering the individual's tax relief.

Clause 72 allows HM Treasury to make regulations about how tax provisions will apply in relation to the financial assistance scheme.

Clause 73 provides a power to make regulations in connection with how taxes apply after an intervention by the Financial Services Compensation Scheme (FSCS) in relation to registered pension schemes. The power will have effect on and after the date that Finance Bill 2009 receives Royal Assent.

Clause 74 provides that any order or regulations made under the pensions tax rules in Part 4 of the Finance Act (FA) 2004 may apply retrospectively if they do not increase any person's tax liability. The clause amends section 282 of FA 2004. The changes will have effect on and after the date that Finance Bill 2009 receives Royal Assent.

PART 4

VALUE ADDED TAX

Clause 75 and Schedule 36 implement the first phases of changes to the place of supply rules covered by the amendment to Directive 2006/112/EC made by Directive 2008/08/EC by incorporating all place of supply of services rules into a new section 7A of and Schedule 4A to the Value Added Tax Act 1994 (VATA). This legislation will have effect on 1 January 2010 (where not specifically stated), 1 January 2011 and 1 January 2013.

Clause 76 amends the Value Added Tax Act 1994 (VATA) to enable the UK to fulfil its legal obligations under EC law (principally Directive 2008/9/EC) in respect of a revised EU-wide scheme enabling, subject to meeting certain legal requirements, a business established in a Member State to obtain refunds of VAT it incurs in another Member State from the tax authority of that state.

Clause 77 enables regulations to be made which will require businesses to submit EC Sales Lists for cross border supplies of services. The current requirement only applies to supplies of goods.

Clause 78 amends the Agricultural Holdings Act 1986 (AHA) so that the exercise or revocation of the option to tax or a change in the rate of VAT does not qualify as a change of rent for the purposes of AHA.

PART 5

STAMP TAXES

Stamp duty land tax

Clause 79 provides for the stamp duty land tax relief at section 74 of the Finance Act (FA) 2003 to be amended to remove the references to a statutory right to enfranchise (RTE) company.

Clause 80 provides for profit-making registered providers of social housing to claim the stamp duty land tax relief for acquisitions by Registered Social Landlords (RSLs). It also provides for lessees of shared ownership leases and beneficiaries of shared ownership trusts provided by registered providers of social housing to benefit from special stamp duty land tax treatment.

Clause 81 provides for a simplification of the stamp duty land tax rules as they apply to “rent to shared ownership” schemes.

Stock lending arrangements

Clause 82 and Schedule 37 provide relief from stamp duty and stamp duty reserve tax (SDRT) where, under a stock lending or sale and repurchase arrangement, securities are not returned to the originator because of the insolvency, on or after 1 September 2008, of one of the parties.

PART 6

OIL

Clause 83 and Schedule 38 amend the rules providing for tax relief for decommissioning costs to ensure that companies can claim relief for decommissioning costs only for the accounting period in which the work is actually carried out. The Government has become aware of arrangements that have been entered into which seek to establish a claim for tax relief for decommissioning costs several years in advance of any decommissioning work being carried out. These arrangements are an attempt to undermine the integrity of the North Sea ring fence. The change will have effect in relation to decommissioning costs incurred on or after 22 April 2009.

Clause 84 and Schedule 39 dispenses with the requirement for companies to routinely provide documentation to support the way they allocate oil between two or more oil fields for petroleum revenue tax (PRT) purposes, and simplifies the legislation.

Clause 85 and Schedule 40 amend the chargeable gains legislation as it applies to disposals of licences and assets used within a ring fence trade.

Clause 86 and Schedule 41 introduce amendments to existing legislation to facilitate the re-use of existing North Sea infrastructure. There are tax consequences when assets move out of the ring fence corporation tax (RFCT) and petroleum revenue tax (PRT) regimes. These consequences include the impact on tax allowances that have already been given; the treatment of future income and expenditure; and the availability of relief for decommissioning costs.

Clause 87 and Schedule 42 provide that a company will continue to be a participator for the purposes of the petroleum revenue tax (PRT) legislation until the point when decommissioning has been completed, even though it has ceased to be a licensee (and thus within the scope of PRT) because of an event such as the expiry of a licence.

Clause 88 and Schedule 43 provide that the Provisional Expenditure Allowance (PEA) legislation no longer applies.

Clause 89 and Schedule 44 introduce a new allowance, a Field Allowance, which can reduce a company's adjusted ring fence profits from oil and gas production in the UK and UK Continental Shelf (UKCS).

Clause 90 and Schedule 45 simplify a number of provisions relating to petroleum revenue tax (PRT) and make amendments to existing definitions.

PART 7

ADMINISTRATION

Standards and values

Clause 91 requires HM Revenue & Customs (HMRC) to prepare and maintain a Charter. The Charter will set out the standards of behaviour and values to which HMRC will aspire in dealing with taxpayers and others.

Clause 92 and Schedule 46 provide that senior accounting officers of large companies are required to take reasonable steps to ensure that the company and its subsidiaries (if any) establishes and maintains appropriate tax accounting arrangements. Senior accounting officers must provide the company auditors and HM Revenue & Customs (HMRC) with an explanation of the respects in which those arrangements are not appropriate. Large companies must notify HMRC of the name of the senior accounting officer. The clause includes a power to impose penalties on both senior accounting officers and companies who fail to comply with these requirements. The change has effect in relation to financial years beginning on or after the day this Act is passed.

Clause 93 provides for the Commissioners for HM Revenue and Customs (HMRC) to publish information (including names) of persons who have been penalised for deliberate defaults: inaccuracies, failing to notify, and certain VAT and Excise duty wrongdoings where the tax lost exceeds £25,000. No details will be published if the person has made a full disclosure either unprompted or prompted within a time considered appropriate by HMRC. Any details must be published within 12 months from the relevant penalties becoming final and may not continue to be published beyond 12 months from when first published.

Information etc

Clause 94 and Schedule 47 amend Schedule 36 to the Finance Act (FA) 2008 (Schedule 36) which contains HM Revenue & Customs' (HMRC) new information and inspection powers. The clause also allows for the repeal, by statutory instrument, of several other information and inspection powers that are no longer required.

Clause 95 and Schedule 48 amend Schedule 36 to the Finance Act (FA) 2008 (Schedule 36). They extend HM Revenue & Customs' (HMRC) powers to obtain information and inspect businesses to matters concerning insurance premium tax (IPT), inheritance tax (IHT), stamp duty land tax (SDLT), stamp duty reserve tax (SDRT), petroleum revenue tax (PRT), aggregates levy (AGL), climate change levy (CCL) and landfill tax. The clause also provides for the Schedule to come into force on a day appointed by Treasury order, made by statutory instrument.

Clause 96 and Schedule 49 provide that HM Revenue & Customs (HMRC) may issue notices requiring third parties to provide contact details for those in debt to HMRC.

Clause 97 and Schedule 50 amend existing legislation to align the record-keeping rules for environmental taxes (aggregates levy, climate change levy (CCL) and landfill tax, insurance premium tax (IPT) and stamp duty land tax (SDLT). The clause also provides for the Schedule to come into force on a day appointed by Treasury order.

Assessments, claims etc

Clause 98 and Schedule 51 introduces Schedule 51 which contains provisions amending time limits that apply to assessments and claims in respect of insurance premium tax (IPT), inheritance tax (IHT), stamp duty land tax (SDLT), petroleum revenue tax (PRT), aggregates levy, climate change levy (CCL) and landfill tax. The clause also provides for the Schedule to come into force on a day appointed by Treasury order, made by statutory instrument.

Clause 99 and Schedule 52 change the rules regarding claims for repayment of overpaid income tax, capital gains tax (CGT) and corporation tax (CT). The changes will have effect for claims made on or after 1 April 2010 except for certain transitional cases.

Interest

Clause 100 and Schedule 53 sets out the general proposition for applying late payment interest to any sum due under or by virtue of an enactment to HM Revenue & Customs (HMRC) but paid late. Schedule 53 sets out the special provisions concerning the amounts, start date and end dates for charging late payment interest as well as further provisions to clarify the effect of interest on certain reliefs.

Clause 101 and Schedule 54 is designed to apply repayment interest on a simple and consistent basis to all overpayments of tax and Schedule 54 sets out some special rules regarding amounts carrying repayment interest.

Clause 102 provides that the late payment and repayment rates of interest shall be specified in regulations made by HM Treasury.

Clause 103 sets out the definition of the terms used in clauses 100-102 and their associated Schedules and how the legislation would come into force.

Clause 104 sets out amendments to current legislation on interest charged and paid by HM Revenue & Customs (HMRC). The clause provides the due date for income tax charged where relief under the Enterprise Investment Scheme (EIS) is withdrawn from a taxpayer. The clause also makes changes to existing interest rate setting provisions so that in future interest rates can change automatically.

Penalties

Clause 105 and Schedule 55 create a new penalty regime for late filing of tax returns for income tax, corporation tax (CT), Pay as you Earn (PAYE), National Insurance Contributions (NICs), the Construction Industry Scheme (CIS), stamp duty land tax (SDLT), stamp duty reserve tax (SDRT), inheritance tax (IHT), pension schemes and

petroleum revenue tax (PRT). Taxpayers have a right of appeal against all penalties and no penalty can be charged if a taxpayer has a reasonable excuse for their failure. The clause provides for the Schedule or parts of the Schedule to be brought into force by Treasury order.

Clause 106 and Schedule 56 create a new penalty regime for late payment of the following taxes: income tax, corporation tax (CT), Pay as you Earn (PAYE), National Insurance Contributions (NICs) the Construction Industry Scheme (CIS), stamp duty land tax (SDLT), stamp duty reserve tax (SDRT), inheritance tax (IHT), pension schemes and petroleum revenue tax. Taxpayers have a right of appeal against all penalties and no penalty can be charged if a taxpayer has a reasonable excuse for their failure. The Schedule provides that if a taxpayer enters into a time to pay arrangement with HM Revenue & Customs (HMRC), any late payment penalties that they would become liable to after the agreement is reached will be removed if the taxpayer meets the terms of the agreement. The clause provides for the Schedule or parts of the Schedule to be brought into force by Treasury order.

Clause 107 provides that taxpayers who enter into agreements with HM Revenue & Customs (HMRC) to defer payment of taxes are not liable to certain surcharges or penalties that would otherwise be due because of late payment. The clause includes a power to impose the surcharge or penalty if the taxpayer does not keep to the terms of the agreement. The change becomes effective for deferral agreements reached on or after 24 November 2008.

Clause 108 and Schedule 57 make amendments to the provisions in Schedule 24 to Finance Act (FA) 2007 (penalties for errors) and Schedule 41 to FA 2008 (penalties for failure to notify and certain other wrongdoing). It also makes certain related changes.

Miscellaneous

Clause 109 and Schedule 58 provide for the Commissioners for HM Revenue & Customs (HMRC) to make regulations to collect debts owed to HMRC through the Pay as You Earn (PAYE) system.

Clause 110 provides for HM Revenue & Customs (HMRC) to introduce managed payment plans.

Clause 111 amends section 4 of the Finance (No. 2) Act (F(No.2)A) 1992 to ensure that, in appropriate circumstances, officers of HM Revenue & Customs (HMRC) can use their powers to check whether or not a movement is between Member States. It will also make a textual change to clarify the circumstances in which officers can use their powers to conduct selective and proportionate checks on EU travellers for drugs and other prohibited goods.

PART 8

MISCELLANEOUS

Gambling

Clause 112 amends Group 4 of Schedule 9 to the Value Added Tax Act 1994 to exempt from VAT all participation fees for playing bingo and other games of chance for a prize. The clause also makes consequential repeals.

Clause 113 makes provision for gaming duty to be extended to apply to equal chance gaming, subject to specified exceptions. It also removes the requirement to list individual games for the purposes of gaming duty and gives the Treasury powers to add or remove specified games from the scope of gaming duty by order.

Clause 114 makes provision for remote gaming duty to be charged on the provision of facilities for remote bingo and removes the playing of remote bingo, other than premises-based licensed bingo, from the scope of bingo duty. These changes will apply to games of bingo starting on or after 1 July 2009.

Clause 115 provides for the definition of “gaming machine” and “gaming” for the purposes of the Betting and Gaming Duties Act 1981 to be set out in that Act.

Climate change levy

Clause 116 enables entitlement to claim the climate change levy (CCL) reduced rate to be restricted, by specifying in certificates given under the climate change agreement (CCA) scheme that certain taxable commodities will be ineligible for reduced rate supply.

Clause 117 and Schedule 59 provides for Schedule 59, which amends Schedule 6 to the Finance Act (FA) 2000, to provide for HM Revenue & Customs (HMRC) to recover climate change levy (CCL) where a facility in the climate change agreements (CCA) scheme does not meet the targets it has agreed with the Department of Energy and Climate Change (DECC). The recovery mechanism applies to certification periods under the CCA scheme beginning on or after 1 April 2009.

Other environmental taxes and duties

Clause 118 provides for Schedule 60 which will enable HM Treasury to prescribe by order that a landfill site activity is subject to landfill tax, remove the power to make regulations to provide that landfill tax is not payable in respect of the temporary holding of material for certain purposes in designated areas and remove the exemption from landfill tax for site restoration. The Schedule will also provide that HM Revenue & Customs (HMRC) has access to information on the temporary holding of material at a landfill site and site restoration and enable the landfill tax return form to be prescribed in guidance rather than regulations.

Clause 119 amends Section 22(1) of the Vehicle Excise and Registration Act 1994 (VERA) and introduces a new subsection which allows the Secretary of State for Transport to make Regulations compelling the registered keeper of a vehicle to destroy an existing Vehicle Registration Certificate (V5C) once they have received an amended or updated document.

Clause 120 makes two minor drafting amendments to the Hydrocarbon Oil Duties Act 1979 (HODA).

Miscellaneous tax matters

Clause 121 provides that the existing inheritance tax reliefs for agricultural property and woodlands are extended to property in the European Economic Area (EEA) when an event chargeable to inheritance tax (IHT) occurs. Property qualifying for this extended IHT relief will also qualify for capital gains tax (CGT) hold-over relief.

Clause 122 and Schedule 61 facilitate the issue of alternative finance investment bonds based on real property. They ensure that disposals and acquisitions of real property in connection with such bonds do not incur liabilities to stamp duty land tax (SDLT) or tax in respect of chargeable gains and entitlements to capital allowances are preserved. They have effect from the date that Finance Bill 2009 receives Royal Assent.

Clause 123 introduces a power to make provisions by regulations governing the tax consequences of transfers of business or engagements by mutual societies.

Other matters

Clause 124: This clause requires the Commissioners for the Reduction of the National Debt (“the Commissioners”) to pay to the Consolidated Fund surplus sums held by them by virtue of their investments under section 17 of the National Savings Bank Act 1971 (“the 1971 Act”).

PART 9

FINAL PROVISIONS

Clause 125: This clause provides for the use of abbreviations for a variety of Acts. For example, it provides for the use of “ICTA” as an abbreviation for the Income and Corporation Taxes Act 1988.

Clause 126: This clause provides for the Bill to be known as the “Finance Act 2009” upon Royal Assent.