

NOTICES OF AMENDMENTS

given on

Thursday 13 June 2013

For other Amendment(s) see the following page(s):
Finance Bill Committee 128-135

PUBLIC BILL COMMITTEE

FINANCE BILL

(Except Clauses 1, 3, 16, 183, 184 and 200 to 212; Schedules 3 and 41; any new Clauses, and any new Schedules, first appearing on the Order Paper not later than Tuesday 16 April 2013 and relating to tax measures concerning housing; and any new Clauses, and any new Schedules, relating to value added tax or the bank levy or air passenger duty or the subject matter of Clauses 1 and 16 and Schedule 3 or the subject matter of Clause 3 or the subject matter of Clauses 203 to 212 and Schedule 41)

Mr David Gauke

Clause 219, page 127, line 13, leave out 'the purpose of' and insert 'or in connection with'. 141

Mr David Gauke

Clause 219, page 127, line 23, at end insert— 142
'() any arrangements for the exchange of tax information in relation to the United Kingdom and any other territory which make provision corresponding, or substantially similar, to that made by an agreement within paragraph (a) or (b).'

Mr David Gauke

Clause 219, page 127, line 30, at end insert '(including obligations to obtain from specified persons details of their place of residence for tax purposes)'. 143

Mr David Gauke

Clause 219, page 127, line 36, after 'agreement' insert 'or arrangements'. 144

Mr David Gauke

Clause 219, page 127, line 37, after 'agreement' insert 'or arrangements'. 145

Finance Bill, *continued*

Mr David Gauke

146Clause **219**, page **127**, line **38**, after 'agreement' insert 'or arrangements'.

EXPLANATORY NOTE

CLAUSE 219: INTERNATIONAL AGREEMENTS TO IMPROVE TAX COMPLIANCE

SUMMARY

1. Clause 219 gives HM Treasury a power to make regulations for the purpose of, or in connection with, giving effect to the agreement between the Government of the United Kingdom and the Government of the United States of America to improve international tax compliance and to implement FATCA. FATCA means the United States' provisions commonly known as the Foreign Account Tax Compliance Act contained within the Hiring Incentives to Restore Employment Act. The power also enables HM Treasury to make regulations in respect of agreements or arrangements entered into for the exchange of tax information which are corresponding or substantially similar.

DETAILS OF THE CLAUSE

2. Subsection (1) provides that HM Treasury may make regulations for the purpose of giving effect to certain agreements or arrangements regarding international tax compliance.
3. Subsections 1(a) - 1(d) set out the type of similar agreements or arrangements to which the regulations may give effect.
4. Subsection (2) (a) and (b) permit HMRC to require specified persons to provide certain information to HMRC in a specified manner at a designated time.
5. Subsection (2) (c) provides that the regulations may impose obligations on relevant financial institutions, including an obligation to obtain details of tax residence from specified persons.
6. Subsections (2) (d) and (e) set out that the regulations may make provision (including provision on penalties) for non compliance and appeals in relation to any penalties imposed.
7. Subsection (3) allows for further provisions to be made as needed in relation to the arrangements or agreements to which subsection 1 refers.
8. Subsection (4) provides relevant definitions.

9. Subsection (5) provides that the exercise of this power does not affect any powers under any other enactment.
10. Subsection (6) provides that regulations made under this power are to be made by statutory instrument.
11. Subsection (7) provides that orders made under the provision are subject to the negative resolution procedure.

BACKGROUND NOTE

12. This clause enables the United Kingdom to implement the United Kingdom's (UK) international obligations under an Intergovernmental Agreement (IGA) entered into between the United States (U.S.) and the UK and other agreements or arrangements entered into for the exchange of tax information which are corresponding or substantially similar.
13. In 2010 the U.S. introduced provisions known as the Foreign Accounts Tax Compliance Act (FATCA) aimed at combating tax evasion by US tax residents using foreign accounts. It includes certain provisions on withholding taxes and requires financial institutions outside the US to pass information about their US customers to the US tax authorities, the Internal Revenue Services (IRS). Failure to meet these new reporting obligations would result in a 30 per cent withholding tax on the financial institutions U.S. source income.
14. Significantly for UK institutions the Data Protection Act precludes UK businesses from passing the required information to the US. Current UK law does not allow financial institutions to pass FATCA information either direct to the U.S. or to HMRC on a voluntary basis, nor does it enable HMRC to require it.
15. Under the IGA, if UK financial institutions comply with legislation that meets the terms negotiated between the U.S. and the UK, and the UK shares this information with the U.S., those institutions will be deemed to have complied with FATCA and will not be subject to the 30% withholding tax. The regulations to implement the IGA sets out what financial institutions have to report to HMRC, and the due diligence that needs to be applied to identify and then report relevant account information.
16. As part of the Agreement the US has agreed to provide the UK with reciprocal data on the US accounts of UK persons. The information provided to HMRC (both by the UK banks and by the U.S.) is expected to generate additional compliance cases. Financial

institutions will be required to begin collecting data in 2013, with HMRC receiving the data from 2015.

17. The Government has stated that it will look to sign further Agreements with other jurisdictions as part of their commitment to combat tax evasion. The Crown Dependencies (Isle of Man, Guernsey and Jersey) and the British Overseas Territories (the Cayman Islands, the British Virgin Islands, Bermuda, Anguilla, Turks and Caicos Islands, Montserrat and Gibraltar) have all agreed to enter into similar automatic tax information exchange agreements with the UK.
18. On 9 April 2013 the Government - along with France, Germany, Italy and Spain - also announced an agreement to develop and pilot multilateral tax information exchange based on the Model Intergovernmental Agreement to Improve International Tax Compliance and to Implement FATCA. To date, a total of 17 EU Member States (including the UK) have committed to join this pilot.