

Finance (No. 3) Bill 2011

LOBBY NOTES

PART 1

CHARGES, RATES, ALLOWANCES, ETC

Income tax

Clause 1 imposes the income tax charge for 2011-12 and sets the basic rate of income tax at 20 per cent, the higher rate at 40 per cent and the additional rate at 50 per cent.

Clause 2 sets the amount of the basic rate limit for income tax at £35,000.

Clause 3 sets the amount of the personal allowance for those aged under 65 at £7,475 for 2011-12.

Corporation tax

Clause 4 sets the main rate of corporation tax for the financial year beginning 1 April 2011 at 26 per cent on non-ring fence profits.

Clause 5 charges corporation tax for the financial year beginning 1 April 2012 and sets the main rate of corporation tax at 30 per cent on oil and gas ring fence profits and 25 per cent on non-ring fence profits.

Clause 6 sets the small profits rate of corporation tax for the financial year beginning 1 April 2011 at 20 per cent for all profits apart from "ring fence profits" of North Sea oil companies, where the rate is set at 19 per cent. Additionally, it sets the fraction used in calculating marginal relief from the main rate at 3/200 for all profits apart from "ring fence profits", where the fraction is set at 11/400.

Clause 7 provides for an increase in the supplementary charge in respect of ring fence trades from 20 per cent to 32 per cent.

Capital gains tax

Clause 8 confirms the capital gains tax annual exempt amount (AEA) is £10,600 for the tax year 2011-12 and revises the procedure for automatically increasing the AEA by reference to inflation.

Clause 9 increases the lifetime limit for chargeable gains qualifying for capital gains tax (CGT) entrepreneurs' relief from £5 million to £10 million from 6 April 2011.

Capital allowances

Clause 10 reduces the rates of writing-down allowance for new and unrelieved expenditure from the relevant date: 1 April 2012 (corporation tax) or 6 April 2012 (income tax). The main rate is reduced from 20 per cent to 18 per cent and that for special rate expenditure from 10 per cent to 8 per cent. For chargeable periods which straddle the relevant date the rate of writing-down allowance is a hybrid of the rates before and after the change.

Clause 11 provides legislation to reduce the amount of the entitlement to annual investment allowance from £100,000 to £25,000. The reduction is effective for expenditure incurred on or after 1 April 2012 for persons within the charge to corporation tax and on or after 6 April 2012 for persons within the charge to income tax.

Clause 12 increases the period over which expenditure on plant or machinery can be given "short-life asset" treatment from four years to eight years from the end of the chargeable period in which the expenditure is incurred.

Alcohol duties

Clause 13 provides for increases in the rates of excise duty charged on spirits, beer, wine and made-wine, and cider, to have effect on and after 28 March 2011.

Clause 14 provides for a reduced rate of general beer duty on lower strength beers. It also takes lower strength beer out of the scope of reduced rates for small breweries.

Clause 15 and Schedule 1 provide for a new charge to excise duty on high strength beers. This is payable in addition to general beer duty and HMRC are responsible for collecting this duty. The Schedule also makes consequential amendments to the Alcoholic Liquor Duties Act 1979.

Tobacco duties

Clause 16 provides for changes in the rates of excise duty on tobacco products (cigarettes, cigars, hand-rolling tobacco, other smoking tobacco and chewing tobacco) to have effect from 6 pm on 23 March 2011.

Gambling duties

Clause 17 increases the gross gaming yield bands for gaming duty in line with inflation for accounting periods starting on or after 1 April 2011.

Clause 18 increases the amounts of amusement machine licence duty payable in respect of licence applications that are received by HMRC after 4pm on 25 March 2011.

Fuel duties

Clause 19 provides for changes in rates of duty and rates of rebate on products charged to duty under the Hydrocarbon Oil Duties Act 1979, including the 1p per litre reduction. These changes come into effect from 6pm on 23 March 2011.

Clause 20 provides for changes in rates of duty and rates of rebate on products charged to duty under the Hydrocarbon Oil Duties Act 1979. These changes come into effect on 1 January 2012.

Vehicle excise duty

Clause 21 provides for changes to certain rates of vehicle excise duty by amendment of the Vehicle Excise and Registration Act 1994. Changes to the rates take effect in relation to vehicle licences taken out on or after 1 April 2011.

Clause 22 provides for the introduction of higher rates of vehicle excise duty for certain heavy goods vehicles by amendment of the Vehicle Excise and Registration Act 1994. Changes to the rates take effect in relation to vehicle licences taken out on or after 1 April 2011.

Environmental taxes

Clause 23 increases the rates of climate change levy, broadly in line with current inflation, with effect from 1 April 2012.

Clause 24 repeals section 16 of the Finance Act 2010 which increased the rate of aggregates levy from £2.00 per tonne to £2.10 per tonne for aggregate subjected to commercial exploitation. This increase was due to come into force for commercial exploitation on or after 1 April 2011.

Clause 25 increases the standard rate of landfill tax from £56 per tonne to £64 per tonne for disposals of relevant waste made or treated as made at authorised landfill sites on or after 1 April 2012.

PART 2

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

Anti-avoidance provisions

Clause 26 and Schedule 2 insert a new Part 7A into the Income Tax (Earnings and Pensions) Act 2003 and make necessary amendments to legislation as a result of that insertion. The Schedule introduces rules that will apply in certain circumstances where employees and their employers enter into arrangements which result in a payment of money or the provision of an asset by a third party rather than the employer.

Clause 27 and Schedule 3 bring in a new anti-avoidance rule to prevent the abuse of the tax reliefs available to donors to charity with effect from 1 April 2011.

Clause 28 and Schedule 4 amend the corporation tax rules on loan relationships and derivative contracts that apply to amounts that are not fully recognised, or are 'derecognised', for accounting purposes.

Clause 29 responds to schemes which have attempted to circumvent section 418 and section 419 of the Corporation Tax Act 2009 (loan relationships involving connected debtor or creditor).

Clause 30 and Schedule 5 ensure that groups of companies cannot use loan relationships or derivative contracts to reduce their tax liability purely as a result of asymmetries in the way different members bring amounts into account under Part 5 or 7 of Corporation Tax Act 2009.

Clause 31 amends an aspect of the degrouping charge rules in the corporation tax regime for chargeable gains. The changes ensure that corporation tax cannot be avoided by a series of transactions undertaken within a group prior to a disposal that are intended to escape the existing degrouping charge.

Clause 32 and Schedule 6 make changes to the sale of lessor company provisions in Part 9 of the Corporation Taxes Act 2010 to ensure that the legislation continues to protect the Exchequer from a risk that tax could be lost following a sale of a lessor company. The provisions have immediate effect to prevent a risk of forestalling.

Clause 33 targets a disclosed, or similar, tax avoidance scheme which has the claimed effect of giving to a lessee of plant or machinery tax relief of up to twice for the actual cost to ensure that these arrangements cannot result in relief available in excess of cost incurred.

Clause 34 and Schedule 7 ensure that investment companies cannot generate tax deductible foreign exchange losses by changing their functional currency.

Exemptions and reliefs

Clause 35 introduces **Schedule 8** which provides for restrictions to the level of tax relief for employer-supported childcare for higher earners who join employer-supported childcare schemes on or after 6 April 2011.

Clause 36 amends sections 270A and 318A of the Income Tax (Earnings and Pensions) Act 2003 which set out the conditions for tax exemptions for employment income in respect of childcare vouchers and other childcare (sometimes referred to as directly contracted childcare) respectively. It makes no changes to section 318 of the Act, which applies to workplace nurseries provided by an employer.

Clause 37 amends section 292 of the Income Tax (Earnings and Pensions) Act 2003. This section exempts from income tax a payment in respect of accommodation expenses made by the Independent Parliamentary Standards Authority to a member of the House of Commons. This clause will allow the exemption to also apply to payments in respect of accommodation expenses made to another person on the authorisation of the Member of Parliament.

Clause 38 introduces a tax relief for subsistence allowances paid to seconded experts by a relevant body of the European Union (EU). The relevant EU bodies are listed. The clause also provides an order-making power for further EU bodies to be added to the list.

Clause 39 introduces a tax relief for registration fees for joining the Protection of Vulnerable Groups Scheme in Scotland where these fees are paid or reimbursed by an employer. The clause also provides an order-making power for a tax relief to be introduced for future corresponding schemes which cover England and Wales, and Northern Ireland.

Clause 40 provides HM Treasury with additional regulation-making powers and makes other provision in relation to individual investment plans, such as Individual Savings Accounts. It is designed to provide for the establishment, operation and tax exemption of investment plans for children, such as the Junior ISA tax-free children's savings account that was announced by the Government on 26 October 2010.

Clause 41 increases the limit on the maximum value of benefits a charity or a community amateur sports club may provide to an individual or corporate donor under Gift Aid from £500 to £2,500.

Clause 42 increases from 20 per cent to 30 per cent the rate of income tax relief to which investors are entitled when they subscribe under the Enterprise Investment Scheme for shares in qualifying companies. The new rate applies to shares issued on or after 6 April 2011.

Clause 43 amends Part 13 of the Corporation Tax Act 2009 to increase the rate of the additional deduction given to companies that are small or medium enterprises for expenditure on research and development (R&D) and to reduce the rate of the further deduction given for R&D expenditure on drugs and vaccines.

Chargeable gains

Clause 44 and Schedule 9 simplify the current rules that apply where the capital gains proceeds on the disposal are reduced because the value of an asset has been reduced.

Clause 45 and Schedule 10 simplify certain aspects of the rules for the calculation of degrouping charges in the corporation tax regimes for chargeable gains and intangible fixed assets. Schedule 10 also addresses interactions between the chargeable gains degrouping charge rules and the exemption for disposals of substantial shareholdings.

Clause 46 and Schedule 11 simplify the current rules that apply to restrict the circumstances in which capital losses of a company that joins a group can be set against gains. In particular, the use of losses that arise after a company joins a group will no longer be restricted.

Foreign profits

Clause 47 and Schedule 12 introduce a number of changes to the controlled foreign company (CFC) rules, including exemptions for certain intra-group activities where there is limited connection with the UK and for CFCs with a low level of profits (accounts based limit of £200,000 profits per annum). The changes have effect for accounting periods beginning on or after 1 January 2011, other than the extension of the transitional rules.

Clause 48 and Schedule 13 give an optional exemption from corporation tax for profits arising from foreign permanent establishments of a UK company.

Investment trusts

Clause 49 amends the Corporation Tax Act 2010 to provide a new definition of "investment trust". It also provides a power for HM Treasury to make regulations about the circumstances in which the Commissioners for HMRC may approve applications from a company to be an investment trust.

Clause 50 inserts a new Chapter 3A into the Corporation Tax Act 2010 to provide a power for HM Treasury to make regulations about the treatment of specified transactions of investment trusts for the purposes of the Corporation Tax Acts.

Miscellaneous

Clause 51 relates to taxable benefits on company cars. With effect from 6 April 2013, it modifies the current appropriate percentage bands and carbon dioxide (CO₂) emissions thresholds by revising the relevant threshold down to 95g CO₂ per kilometre, rather than 100g.

Clause 52 and Schedule 14 make three changes to the special rules for the tax treatment of income from the commercial letting of furnished holiday accommodation, extending the rules, restricting tax relief for losses and tightening qualifying criteria.

Clause 53 ensures that businesses which account for lease transactions using a new form of leasing accounting standard will be treated for tax purposes as if the changes to the leasing accounting standard had not taken place.

Clause 54 makes changes to the sale of lessor company provisions in Part 9 of the Corporation Taxes Act 2010 to withdraw the option to elect out of the charge as it is no longer needed and has been abused. The provisions have immediate effect to prevent a risk of forestalling.

Clause 55 amends corporation tax small profits rate legislation to ensure that companies are not held to be associated through an attribution of rights, solely by virtue of relationships between individuals but rather only where the level of commercial interdependence between the companies themselves makes it appropriate to do so.

Clause 56 amends the apportionment provisions of section 432C of the Income and Corporation Taxes Act 1988.

Clause 57 amends the capital allowances treatment of ships leased to companies that have elected to have their corporation tax profits from qualifying activities calculated under the Tonnage Tax legislation.

Clause 58 updates the definition of “transfer pricing guidelines” within the UK’s transfer pricing legislation to refer to the Organisation for Economic Co-operation and Development (OECD) Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations approved by OECD for publication in July 2010.

Clause 59 inserts a new section 363A into the Taxation (International and Other Provisions) Act 2010 to treat certain offshore funds as not being resident in the United Kingdom, in cases where they otherwise might be resident by virtue of having a UK resident fund manager.

Clause 60 amends the corporation tax definition of an index-linked gilt-edged security so that an index-linked gilt-edged security is one where the payments are determined, wholly or partly, by reference to an index of prices published by the Statistics Board.

PART 3

OIL

Clause 61 corrects a defect in existing legislation that governs whether assets have been decommissioned.

Clause 62 amends the corporate intangible fixed asset (IFA) rules in Part 8 of Corporation Tax Act 2009. The clause ensures that the scope of the IFA regime excludes all goodwill and any intangible asset which relates to, derives from or is connected with an oil licence or an interest in an oil licence.

Clause 63 makes two changes to the field allowance legislation.

Clause 64 and Schedule 15 amend the oil chargeable gains licence swaps legislation and extend the scope of the ring fence reinvestment legislation to exploration, appraisal and development expenditure.

PART 4

PENSIONS

Clause 65 and Schedule 16 amend Part 4 of the Finance Act 2004 as it relates to certain tax rules relating to registered pension schemes that apply to individuals reaching the age of 75. From 6 April 2011 the effective requirement to buy an annuity by the age of 75 will be removed and the alternatively secured pension rules repealed.

Clause 66 and Schedule 17 amend Part 4 of Finance Act 2004 as it relates to the annual allowance charge.

Clause 67 and Schedule 18 amend Part 4 of the Finance Act 2004 as it relates to the lifetime allowance charge.

Clause 68 removes the tax charge on borrowing that is used to fund the cost of establishing, managing and administering a pension scheme established under section 67 of the Pensions Act 2008. The change has effect on and after 6 April 2011.

Clause 69 exempts from tax any interest that the Pensions Regulator may, at its discretion, require an employer to pay because the employer pays pension

contributions late under the employer compliance provisions in the Pensions Act 2008 and the Pensions (No.2) Act (Northern Ireland) 2008.

Clause 70 gives HM Treasury a power to make regulations for and in connection with the application of tax to a pension scheme established under section 67 of the Pensions Act 2008 or any person in connection with such a scheme.

Clause 71 gives HM Treasury a power to make regulations where a tax issue arises as a consequence of anything in Part 1 of the Pensions Act 2008 or Part 1 of the Pensions (No.2) Act (Northern Ireland) 2008.

PART 5

BANK LEVY

Clause 72 and Schedule 19 impose a new tax, the bank levy, which applies in relation to periods of account ending on or after 1 January 2011. The Schedule identifies who will be liable to pay the tax and how the tax is to be administered.

PART 6

OTHER TAXES

Value added tax

Clause 73 makes changes to provisions relating to the VAT treatment of samples of goods given away by businesses. It extends the VAT relief available to a business which provides an individual person or business with a succession of identical, or not significantly different, free samples of its products for marketing purposes.

Clause 74 makes changes to the zero-rate for printed matter. The zero-rate is amended to exclude a supply of printed matter connected with a supply of services made by a different supplier.

Clause 75 creates a new refund scheme to enable academies to recover the VAT incurred on goods and services used in the provision of free education.

Clause 76 reduces the value of goods that may be imported VAT free from outside the European Union including the Channel Islands from £18 to £15, with effect for imports on or after 1 November 2011.

Climate change levy

Clause 77 and Schedule 20 remove the exemption from climate change levy for supplies of fossil fuels used to generate electricity and provide for new rates, known as carbon price support rates, to be charged on such supplies. It also provides for the Commissioners for HMRC to make regulations to give effect to the new provisions, and makes a number of consequential changes to Schedule 6 to the Finance Act 2000. The Schedule also contains a provision to prevent forestalling.

Clause 78 removes the climate change levy exemption for gas supplied in Northern Ireland with effect from 1 April 2011 and makes provision for a rate of CCL that is 65 per cent lower than the main gas rate to apply to supplies of gas in Northern Ireland during the period 1 April 2011 to 31 October 2013.

Clause 79 gives HM Treasury the power to suspend by order parts of the exemption from the climate change levy for taxable commodities used in certain forms of transport, from 1 April 2011. To ensure that the power cannot be used indefinitely and for other purposes in the future, this power to suspend lapses after 31 March 2012. The clause also gives the Treasury the power to revoke parts of the suspension using secondary legislation (with retrospective effect).

Clause 80 gives HM Treasury the power to suspend by order all or part of the exemption from the climate change levy for taxable commodities used in recycling processes from 1 April 2011. This power cannot be exercised after 31 March 2012. The clause also gives HM Treasury the power to revoke all or part of the suspension using secondary legislation with retrospective effect.

Aggregates levy

Clause 81 amends section 30A of the Finance Act 2001 to extend the powers of the Commissioners for HMRC to make provision by regulations for a tax credit scheme in Northern Ireland (known as the aggregates levy credit scheme).

Stamp duty land tax

Clause 82 and Schedule 21 make changes to three areas of stamp duty land tax legislation. The Schedule introduces an additional exception in the sub-sales rules, narrows the definition of a "financial institution" for the purposes of the alternative property finance reliefs and also changes the rules for exchanges of land from imposing market value to effectively imposing at least market value.

Clause 83 and Schedule 22 introduce a new relief for stamp duty land tax, which reduces the amount of tax payable on a transaction, or linked transactions, which include interests in multiple dwellings.

Stamp duty reserve tax

Clause 84 amends the stamp duty reserve tax regime for collective investment schemes (known as 'Schedule 19'). It extends the circumstances in which investments in underlying schemes should be classed as exempt investments for Schedule 19 purposes. It replaces the old definition of when such investments are exempt with a new one that has a wider scope.

PART 7

ADMINISTRATION ETC

Clause 85 provides HMRC with a power to make secondary legislation to require from a person security for PAYE deductions due to HMRC and that a failure to provide security will be an offence which will be penalised by a fine.

Clause 86 Schedules 23 and 24 provide information powers for collecting data from certain third parties for use by HMRC in its compliance activities. Schedule 24 contains amendments to Schedule 36 to Finance Act 2008 which covers information and inspection powers.

Clause 87 and Schedule 25 enable the UK to implement the new mutual assistance recovery Directive agreed by EU Finance Ministers during 2010. Under this Directive EU member States can provide each other with assistance in the recovery of tax debts and duties, which includes service of documents and exchanging information in connection with the recovery of claims.

PART 8

MISCELLANEOUS

Clause 88 amends the Provisional Collection of Taxes Act 1968 to ensure that it continues to enable the Government to collect taxes on a provisional basis after the move to sessions beginning in the spring, and ending in the following spring.

Clause 89 addresses the unintended tax consequences of the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2010 (SI 2010/86) ('the first order') which came into force on 24 February 2010.

Clause 90 enables HMRC to incur expenditure in preparing for the introduction of the new machine games duty before it is formally provided for in law.

Clause 91 introduces Schedule 26 which repeals certain obsolete reliefs. Part 1 covers those reliefs within income tax and corporation tax and Part 2 covers exemptions from stamp duty.

PART 9

FINAL PROVISIONS

Clause 92 Interpretation

Clause 93 Short title

OTHER INFORMATION

The Finance (No. 3) Bill and its progress through Parliament can be found on:
<http://services.parliament.uk/bills/2010-11/financen3.html>

Other information relating to the Finance (No. 3) Bill can be found on:
http://www.hm-treasury.gov.uk/finance_bill_2011.htm