

**EXPLANATORY NOTE**

**CLAUSE 59: PAYMENTS MADE BY REFERENCE TO FOREIGN TAX**

**AMENDMENTS 41 & 42**

**SUMMARY**

1. This amendment introduces minor changes to Clause 59. The current section may have unintended consequences by affecting normal commercial arrangements where a company makes a payment to another company or to an employee in relation to a tax liability.
2. These minor amendments will ensure that these unintended consequences do not occur by providing that new section 804G(1)(b) and new sub-section 811(3A) will only apply to payments made by a tax authority. This will exclude these normal commercial arrangements, where a company makes a payment to another company or to an employee in relation to a tax liability, as any such payments will not be made by a tax authority.

**DETAILS OF THE AMENDMENT**

3. New section 804G(1) will apply if credit falls to be allowed for foreign tax to any person and a payment is made to that person, or to any connected person, by reference to the foreign tax.
4. The added words in new section 804G(1) - “by a tax authority” - ensure that the new provision will only deny a credit in relation to a payment made by tax authority
5. Subsection (9) introduces changes to section 811.
6. The added words in (3A) (b) - “by a tax authority” – ensure that the new provision only deny a deduction in relation to a payment made by tax authority.

**BACKGROUND NOTE**

7. The UK believes it is important for business operating internationally that relief for double taxation should be available. But where credit is claimed for foreign tax and a payment is made either to that person or to a connected person by reference to that tax then relief should be restricted to the net amount.
7. This amendment will ensure that relief is given as intended in relation to normal commercial arrangements.

**FINANCE BILL 2009**  
**CLAUSE 59**

Mr Chancellor of the Exchequer

**41**

Page **28**, line **16** Clause 59, after ‘made’, insert ‘by a tax authority’.

Mr Chancellor of the Exchequer

**42**

Page **29**, line **6** Clause 59, after ‘made’, insert ‘by a tax authority’.