Govt 102 + Govt 103 + Govt 104

Mr Stephen Timms (Labour-East Ham)

Amendment 102: Schedule **13**, page **180**, line **9**, after 'that' insert 'or any other'.

Amendment 103: Schedule **13**, page **180**, line **9**, after 'period' insert 'or taken into account in calculating the amounts which are so recognised'.

Amendment 104: Schedule **13**, page **183**, line **21**, after 'that' insert 'or any other'.

EXPLANATORY NOTE

SUMMARY

1. These amendments modify paragraphs 4 and 9 of Schedule 13 to the Finance Bill. Paragraph 4 provides that where a company (described in the legislation as "borrower") sells securities as part of a sale and repurchase agreement (repo) it continues to be taxed on that income as if the sale had not taken place. Paragraph 9 provides similarly that the company acquiring the securities ("lender") is not taxed on that income.

2. Both of these rules are subject to an accounting test ('the accounting rule'): the borrower will not be taxed on the income unless it is reflected in its profit and loss account and the lender will not ignore the income if is reflected in the profit and loss account.

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3. The accounting rule works properly where the income is reflected in the borrower's or lender's accounts during the period of the repo, but may not work properly where it is reflected in a different period. The amendments ensure that in applying the accounting rule it will not matter if the income is reflected in the company's accounts in a period different from that of the repo.

DETAILS

4. Amendment 102 inserts the words 'or any other' after 'that' in paragraph 4(4)(a) so that the accounting rule is satisfied when the income is recognised in determining the borrower's profit or loss for the period for which the arrangement is in force 'or any other' period.

5. Amendment 103 provides that the accounting rule is also satisfied where the income is taken into account in calculating the amounts that are recognised in determining the borrower's profit or loss for that or any other period.

6. Amendment 104 inserts the words 'or any other' after 'that' in paragraph 9(3)(a) so that the lender will be taxed on any income in respect of the securities which is recognised or taken into account in determining its profit or loss for the period for which the arrangement is in force or for 'any other period'.

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BACKGROUND NOTE TO AMENDMENTS

1. Schedule 13 to the Finance Bill provides a comprehensive new regime for the charge to corporation tax of repo transactions entered into by companies.

2. The rules provide that where a company sells securities under a repo then the company is to be taxed on income arising on the securities as if the sale had not taken place. This is subject to a requirement that the company must recognise the income in its accounts during the period of the repo.

3. The amendments are a response to suggestions that this requirement may result in income falling out of the charge to tax where the borrower is taxed on a receipts basis in relation to the income arising on the securities, but where for accounts purposes it recognises that income before entering into the repo. In practice, this may happen where companies that are not financial traders enter into repos in respect of overseas shares that are about to pay dividend.

4. Where the company recognises the overseas dividend before entering into the repo then it will not recognise the income again during the repo. Absent the amendments, this would mean that income could not be charged to tax.

5. The amendments therefore omit the requirement that recognition of the income for accounts purposes must take place in the same period in which the arrangement is in force.