

FINANCE BILL 2008

LOBBY NOTES

PART 1

CHARGES, RATES, ALLOWANCES, RELIEFS ETC

Income tax

Clause 1 imposes the income tax charge for 2008-09 and sets the basic and higher rates of income tax at 20 per cent and 40 per cent, respectively.

Clause 2 sets the personal allowances for income tax for 2008-09 for individuals aged 65 to 74 at £9,030, and for those aged 75 and over at £9,180.

Clause 3 and Schedule 1 abolish the 10 per cent starting rate of income tax and the 20 per cent savings rate of income tax and introduce a new 10 per cent starting rate for savings. They also rename the rate of relief applicable to the Enterprise Investment Scheme (EIS). The Schedule includes the consequential amendments to legislation affected by the changes introduced by this clause and Schedule.

Corporation tax

Clause 4 charges corporation tax for the financial year beginning 1 April 2009 and sets the rate of corporation tax at 30 per cent on ring fence profits of North Sea oil companies and 28 per cent on all other profits of companies.

Clause 5 sets the small companies' rate of corporation tax for the financial year beginning 1 April 2008 at 19 per cent for "ring fence profits" of North Sea oil companies and 21 per cent for all other profits. Additionally, it sets the fraction used in calculating marginal small companies' relief from the main rate at 11/400 for ring fence profits and 7/400 for all other profits.

Capital gains tax

Clause 6 and Schedule 2 introduce a single rate of capital gains tax (CGT) of 18 per cent; abolish taper relief, indexation allowance (currently frozen at April 1998), and "halving relief"; make rebasing of cost to 31 March 1982 compulsory (for assets held at that date); and simplify the rules for matching certain assets (mostly shares) disposed of with assets acquired.

The changes have effect only for the purposes of CGT. They do not apply to corporation tax in respect of capital gains.

Clause 7 and Schedule 3 provide for a relief ("entrepreneurs' relief") so that the first £1 million of gains arising on or in connection with disposals of the whole or part of a business (including, in certain circumstances, disposals of shares or securities) are charged to capital gains tax at an effective rate of 10 per cent. The relief has effect for disposals on or after 6 April 2008.

Inheritance tax

Clause 8 and Schedule 4 allow a claim to be made for the part of the nil-rate band unused on the death of a spouse or civil partner to be added to the surviving spouse or civil partner's own nil-rate band when they die, to give a larger IHT nil-rate band to be applied against the survivor's estate.

Alcohol and tobacco

Clause 9 provides for increases in the rates of excise duty charged on spirits, beer, wine and made-wine, and cider, to have effect from 17 March 2008.

Clause 10 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 6 p.m. on 12 March 2008.

Fuel duties

Clause 11 simplifies the duty rate structure for hydrocarbon oils so that the number of duty rates for light oil (petrol) is reduced from four to two, and the number of duty rates for heavy oil (diesel) is reduced from three to one. It also makes various consequential amendments as a result of the reduction in the number of duty rates.

Clause 12 and Schedule 5 contain provisions for a rebated rate of duty on biodiesel and bioblend used other than as a road fuel, and for the Commissioners for Her Majesty's Revenue and Customs to determine the composition of a substance, for purposes prescribed by regulations.

Clause 13 amends the rates of duty and rates of rebate applicable to products charged to duty under the Hydrocarbon Oil Duties Act 1979 (HODA) with effect from 1 October 2008. Duty rates for hydrocarbon oils used as road fuels will be increased by 2 pence per litre (ppl). Duty rates for biofuels will similarly be increased by 2ppl to maintain the differential with main road fuels. The effective rates of duty (that is, the relevant duty minus the relevant rebate) for non-road fuels will be increased by the same percentage as main road fuels, which is 3.97 per cent. The increase for natural gas will maintain the differential with main road fuels, and the increase for road fuel gas other than natural gas will be reduced by the equivalent of 1 penny on a litre of petrol.

Clause 14 and Schedule 6 provides for a freestanding rate of duty for aviation gasoline and sets the rate with effect from 1 November 2008. It introduces Schedule 6, which makes provision for charging duty on fuel used for private pleasure flying and in private pleasure craft, and for a partially rebated rate of duty on heavy oil used for heating and as fuel in certain engines.

Environmental taxes and duties

Clause 15 provides for changes in the rates of vehicle excise duty (VED) 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 13 March 2008.

Clause 16 increases the standard rate of landfill tax from £32 per tonne to £40 per tonne on relevant waste disposals at authorised landfill sites made, or treated as made, on or after 1 April 2009. The standard rate is currently £24 per tonne. This will increase to £32 per tonne from on relevant waste disposals at authorised landfill sites made, or treated as made, on or after 1 April 2008 as a result of a change made by Finance Act (FA) 2007.

Clause 17 increases the rates of climate change levy, broadly in line with current inflation, with effect from 1 April 2009.

Clause 18 increases the rate of aggregates levy from £1.95 per tonne to £2 per tonne for aggregate subjected to commercial exploitation on or after 1 April 2009. The rate is currently £1.60 per tonne but this will increase to £1.95 per tonne from 1 April 2008 as a result of a change made by Finance Act (FA) 2007.

Clause 19 enables HM Treasury to impose certain charges in respect of carbon emissions allowances relating to specified greenhouse gases. HM Treasury may impose charges by providing for carbon reduction trading scheme allowances to be allocated in return for payment.

Gambling duties

Clause 20 will increase the gross gaming yield bands for gaming duty in line with inflation for accounting periods starting on or after 1 April 2008.

Clause 21 provides for amendment to the amounts of duty payable on amusement machine licences in the Betting and Gaming Duties Act 1981 (BGDA).

PART 2

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX - GENERAL

Residence and domicile

Clause 22 introduces changes to the way in which the UK treats days of arrival and departure when day-counting tests are relevant to determining residence status for tax purposes. Previous practice was to ignore both days of arrival and departure. Amendments introduced by clause 22 will provide that days where an individual is present in the UK at the end of the day will now be counted, unless the individual is in the UK as a passenger in transit. Subject to these changes becoming law, they will take effect from 6 April 2008.

Clause 23 and Schedule 7 introduce the changes to the remittance basis of taxation, announced at Pre-Budget Report 2007. This includes a new annual tax charge (the Remittance Basis Charge – RBC) of £30,000 for adults who have been resident in the UK for more than seven out of the past ten years and who claim the remittance basis. It also includes the removal of personal allowances for income tax and the annual exempt amount for capital gains tax when a claim to use the remittance basis is made. But these changes do not apply where unremitted foreign income and gains are less

than £2,000. Finally the Schedule also introduces measures to address a range of existing loopholes, flaws and anomalies in the remittance basis.

The clause and Schedule also introduce a single claims mechanism for the remittance basis and change how the remittance basis is to be applied to income from employment-related securities.

Research and development

Clause 24 and Schedule 8 makes changes to the rates of relief available under the small and medium-sized companies (SME) research and development (R&D) scheme (Schedule 20 to the Finance Act (FA) 2000), the large companies R&D scheme (Schedule 12 to FA 2002), and the Vaccine Research Relief (VRR) scheme (Schedule 13 to FA 2002).

Clause 25 and Schedule 9 makes changes to prevent companies from claiming tax relief under the small and medium-sized companies (SME) research and development (R&D) scheme (Schedule 20 to the Finance Act (FA) 2000) and the Vaccine Research Relief (VRR) scheme (Schedule 13 to FA 2002) if they are not a going concern.

Clause 26 and Schedule 10 introduces a cap on the amount of research & development (R&D) aid companies can receive under the small and medium-sized companies (SME) R&D scheme (Schedule 20 to the Finance Act (FA) 2000) and the Vaccine Research Relief (VRR) scheme (Schedule 13 to FA 2002).

The Schedule also introduces consequential amendments which will allow SMEs to claim R&D relief under the large company (Schedule 12 to FA 2002) scheme in respect of certain project expenditure prevented from attracting relief as a result of the cap.

Clause 27 makes changes to the Vaccine Research Relief (VRR) scheme rules. It introduces a condition for large companies to declare when making a claim to VRR that the availability of the relief has resulted in an increase in the amount, scope or speed of the research and development (R&D) undertaken, or to an increase the amount of their R&D expenditure.

Venture capital schemes etc

Clause 28 increases the maximum amount of investment in qualifying companies in respect of which an individual can obtain Enterprise Investment Scheme (EIS) income tax relief from £400,000 to £500,000. The increase will only apply once it has been brought into effect by Treasury order.

Clause 29 and Schedule 11 adds shipbuilding and coal and steel production to the list of activities that investee companies under the Corporate Venturing Scheme (CVS), Enterprise Investment Scheme (EIS), and Venture Capital Trusts scheme (VCTs) are excluded from carrying out to any substantial extent.

The clause will apply to investments made on or after 6 April 2008, but not to investments made out of funds raised by VCTs before 6 April 2008.

Clause 30 makes two amendments to the qualifying company rules in the Enterprise Management Incentives (EMI) legislation, which is designed to allow smaller companies to grant tax and National Insurance Contributions (NICs) advantaged share options to their employees. Firstly, in order to grant EMI options, a company must now have fewer than the equivalent of 250 full-time employees at the date of the grant of the options. Secondly, the list of excluded activities for a company granting EMI options is extended to include shipbuilding, producing coal and producing steel.

Other business and investment measures

Clause 31 and Schedule 12 provide for changes to the system of taxation for individuals who own foreign shares. Individuals in receipt of dividends from UK-resident companies are entitled under current law to a non-payable dividend tax credit. The clause and Schedule provide that individuals with small shareholdings in non-UK resident companies will also be entitled to a non-payable tax credit. A small shareholding is less than a 10 per cent shareholding. The changes will have effect for the tax year 2008-09 and subsequent tax years.

Clause 32 simplifies associated company rules relating to the small companies rate of corporation tax (SCR).

Clause 33 and Schedules 13 and 14 contains provisions that treat investment life insurance contracts as falling within the loan relationships rules which are used for taxing other financial assets held by companies. As a result, a substantial amount of complex legislation, now applying only to a very few companies, is repealed in Schedule 14.

Clause 34 and Schedule 15 determine how to account for changes in trading stock for tax purposes. The Schedule applies in relation to changes in trading stock occurring on or after 12 March 2008.

Clause 35 and Schedule 16 amend the legislation underpinning the Investment Manager Exemption (IME), which exempts non-residents who carry out defined financial transactions in the UK through an investment manager from the charge to corporation tax or income tax on the profits resulting from those transactions. The amendments:

replace the existing definition of an “investment transaction” in primary legislation, and HM Treasury’s power to include further transactions in that definition by making regulations, with a new power allowing HM Revenue & Customs (HMRC) to designate a transaction as an “investment transaction” for the purposes of the exemption; and

repeal one of the conditions for a transaction to qualify for the exemption, and introduce a new provision for corporation tax purposes.

Clause 36 introduces a power for the Commissioners for HM Revenue and Customs to make changes by regulation to the taxation of interest and the reporting of interest income with respect to dormant bank and building society accounts within the ambit

of the Dormant Bank and Building Societies Act 2008 (“the Act”). It also makes changes to the capital gains rules with respect to holders of such accounts.

Clause 37 allows Government to lay Individual Savings Account (ISA) regulations retrospectively, on the condition that they do not increase anyone’s tax liability. It also allows regulations to apply specifically to a single group or circumstance.

Offshore funds

Clause 38 gives a power to HM Treasury to provide, by regulation, a comprehensive set of tax rules dealing with the taxation of persons having an interest in an offshore fund. These rules will replace the existing rules which have been in effect since 1984.

Clause 39 provides detail about the regulations that may be made using the power in clause 38.

Insurance companies and friendly societies

Clause 40 and Schedule 17 contains measures dealing with the corporation tax liability of insurance companies. Most of them arise from the continuing consultation with the insurance industry, and include in particular provisions about funding arrangements, reinsurance and expenses, interest on deposit backs and foreign currency assets.

Clause 41 and Schedule 18 make changes to the provisions covering transfers of tax exempt “other” business between friendly societies to bring them into line with the provisions for transfer of tax exempt “other” business from a friendly society to a life insurance company. Clause 41 and Schedule 18 also correct an error inadvertently introduced by Finance Act 2007 and repeal some spent provisions.

Employment matters

Clause 42 removes the tax charge that would otherwise arise where an individual has private use of a home outside the UK owned through a company. The measure is retrospective but wholly relieving.

Clause 43 adds the In-work Credit, Return to Work Credit (for Great Britain and Northern Ireland), the In-Work Emergency Discretion Fund payments (for Great Britain) and the In-work Emergency Fund payments (for Northern Ireland) to the list of social security benefits that are wholly exempt from income tax. Payments made on or after 6 April 2008 under these schemes will be exempt from income tax.

Clause 44 provides that the lower threshold for CO₂ emissions for company car tax rates will be reduced by 5g/km from 135g/km to 130g/km and will take effect for the tax year 2010-11.

Clause 45 mirrors the same signposts for van fuel benefit that currently exist for company car fuel benefit.

Clause 46 amends Income Tax (Earnings and Pensions) Act 2003 (ITEPA), Taxation of Chargeable Gains Act 1992 (TCGA) and Schedule 23 to the Finance Act 2003 (FA 2003). The amendments make it clear that references to amounts that constitute(d) earnings or employment income in various sections of tax legislation are limited to those amounts which have been taxed as employment income. This will put beyond doubt that amounts to be subject to tax and National Insurance Contributions (NICs) in relation to employment-related securities (ERS) are calculated as intended.

Clause 47 repeals obsolete provisions relating to employment-related securities.

Clause 48 amends the Income Tax (Earnings and Pensions) Act 2003 (ITEPA). It exempts from tax payments made to certain members of HM Forces under the Ministry of Defence's new Armed Forces Council Tax Relief scheme.

Clause 49 amends the Income Tax (Earnings and Pensions) Act 2003 (ITEPA) to provide that payments under the new Greater London Authority (GLA) severance pay scheme will be treated as termination payments rather than earnings making them tax-exempt up to the first £30,000.

Charities etc

Clause 50 and Schedule 19 entitle charities and Community Amateur Sports Clubs (CASCs) to a transitional relief in consequence of the reduction of the basic rate of income tax from 6 April 2008. The relief will take the form of a supplement to charities' and CASCs' Gift Aid tax repayments relating to qualifying donations made between 6 April 2008 and 5 April 2011 inclusive, where the claim is made within specified time limits.

Schedule 19 entitles Charities and CASCs to be paid the supplement by reference to their allowable Gift Aid repayment claims and does not require a separate claim. The Schedule also provides HM Revenue & Customs (HMRC) with the power to make payments of the supplement, and to recover overpayments, on and after the date of Royal Assent of both the Finance Bill 2008 and the Appropriation Bill 2008.

Clause 51 amends the legislation governing the Community Investment Tax Relief (CITR) scheme, so that investors who are banks are not penalised by loss of the relief where the organisations they invest in bank with them.

Leasing

Clause 52 and Schedule 20 introduce legislation to counter avoidance involving the leasing of plant or machinery.

Clause 53 ensures that anti-avoidance legislation applies fairly where a partnership carrying on the business of leasing plant or machinery transfers that business to a single company.

Double taxation arrangements

Clause 54 will ensure that the credit for any foreign tax paid on trade or professional earnings is no more than the UK income tax due in respect of the same earnings.

Clause 55 amends section 115 of the Income and Corporation Taxes Act 1988 (ICTA), section 59 of the Taxation of Chargeable Gains Act 1992 (TCGA) and section 858 of the Income Tax (Trading and Other Income) Act 2005 (ITTOIA).

The above Acts already provide that, where UK residents are members of foreign partnerships nothing in any Double Taxation Treaty affects their liability to corporation tax, capital gains tax or income tax respectively. Clause 55 puts it beyond doubt that persons entitled to share in the profits of a partnership are members of that partnership.

Clause 56 amends section 788 of the Income and Corporation Taxes Act 1988 (ICTA), which provides the statutory basis for the application of the UK's Double Taxation Treaties. This clause will ensure that a specific provision commonly found in those treaties (that is designed largely to limit the rights of the parties to tax the business profits of residents of the other State) cannot be read as preventing the income of UK residents being charged to UK tax.

Other anti-avoidance provisions

Clause 57 and Schedule 21 provide for changes to the rules for "sideways loss relief" claimable by individuals who, otherwise than in a partnership, carry on trades in a non-active capacity. These rules are designed to prevent individuals using these activities to generate losses that can be offset against their other taxable income or capital gains.

Clause 58 aligns the definition of "non-active partner", for the purpose of restrictions on sideways loss relief for non-active partners, with the new definition of "non-active capacity" in relation to individuals carrying on a trade, otherwise than as a partner, in new clause 57.

Clause 59 and Schedule 22 close a number of avoidance schemes and loopholes dealing with financial products and other arrangements.

Clause 60 and Schedule 23 are designed to block avoidance schemes notified under the avoidance disclosure rules in Part 7 of the Finance Act (FA) 2004. In the schemes, individuals pay manufactured payments so as to reduce their taxable income, but without suffering any overall economic loss.

Clause 61 makes amendments to the Controlled Foreign Companies (CFC) legislation, which is designed to counter the artificial diversion of profits from the UK so as to avoid UK tax. This is in response to a number of disclosed avoidance schemes to ensure the legislation continues to achieve its purpose.

Clause 62 modifies the definition of related parties for the purpose of Schedule 29 to the Finance Act (FA) 2002. The effect of this legislation is to ensure that the related

party rules continue to apply in situations where any person (other than an individual) is the subject of insolvency arrangements or equivalent arrangements.

Clause 63 repeals a number of obsolete anti-avoidance provisions relating to securities.

Miscellaneous

Clause 64 amends section 685A of the Income Tax (Trading and Other Income) Act 2005 (ITTOIA). It corrects an unintended consequence of the trusts legislation in Finance Act (FA) 2006 whereby the receipt of a discretionary payment from a settlor-interested trust may push savings and or dividend income into higher rates of tax.

Clause 65 corrects a drafting error by Tax Law Rewrite in consolidating legislation in 2005. This error set the higher rate of income tax on foreign dividend income remitted to the UK by those charged on the remittance basis of taxation at 32.5 per cent. Clause 65 corrects this to 40 per cent, the rate that had applied until 2005.

Clause 66 undoes the unintended effect of section 964(5) of Income Tax Act 2007 (ITA), which removed the requirement to make payments on account of tax deducted from certain types of payment for the tax year 2007-8 and subsequent tax years.

Clause 67 introduces changes to the provisions governing the right of non-resident nationals of the European Economic Area (EEA) states to claim UK personal allowances and reliefs for income tax purposes. Subject to these changes becoming law, they will take effect from 6 April 2008.

PART 3

CAPITAL ALLOWANCES

Plant and machinery: qualifying expenditure

Clause 68 extends the scope of section 28 of the Capital Allowances Act 2001 (CAA) to expenditure incurred on adding thermal insulation to an existing building (other than to a dwelling-house) used for the purposes of any qualifying activity.

Clause 69 simplifies the tax code by repealing defective and redundant legislation relating to expenditure on fire safety improvements and alterations.

Clause 70 introduces a new classification of integral features of a building or structure, expenditure on the provision or replacement of which is to qualify for plant and machinery writing-down allowances at 10 per cent a year.

Plant and machinery: annual investment allowances

Clause 71 and Schedule 24 introduce provisions in respect of the new Annual Investment Allowance of £50,000 for business investment in most plant and machinery (other than cars).

Plant and machinery: first-year allowances

Clause 72 repeals the first-year allowances for small and medium-sized enterprises and makes other consequential amendments.

Clause 73 repeals certain spent first-year allowances and make certain other consequential amendments.

Clause 74 extends the 100 per cent first-year allowance (FYA) for expenditure incurred on cars with low carbon dioxide (CO₂) emissions, which is due to expire on 31 March 2008, for an additional five years to cover qualifying expenditure incurred on or before 31 March 2013. It also:

Amends the definition of a low CO₂ car by reducing the qualifying CO₂ emission level from not exceeding 120 grams per kilometre driven to not exceeding 110 grams per kilometre driven; and

Introduces a transitional rule that ensures that when the qualifying CO₂ emission limit for qualifying cars is reduced to not exceeding 110 grams per kilometre on 1 April 2008, any leasing contracts entered into before that date involving cars which qualified under the old rules are unaffected.

Clause 75 extends the 100 per cent first-year allowance (FYA) for expenditure incurred on natural gas and hydrogen refuelling equipment, which is due to expire on 31 March 2008, for an additional five years to 31 March 2013. The clause also extends the scope of the relief to include refuelling equipment for biogas, a non-fossil fuel substitute for natural gas.

Clause 76 and Schedule 25 make provision for the introduction of a first-year tax credit, which will be available to companies that have incurred tax losses attributable to first-year allowances on certain qualifying plant and machinery.

Plant and machinery: writing-down allowances and pools

Clause 77 reduces the main rate of writing-down allowance (WDA) for new and unrelieved expenditure on general P&M from 25 per cent to 20 per cent from 1 April 2008 (corporation tax) and 6 April 2008 (income tax), and provides that for chargeable periods spanning the relevant date a hybrid rate of WDA will apply.

Clause 78 provides a “small pools” writing-down allowance of up to £1,000, where the unrelieved expenditure in either or both of the main or special rate pools does not exceed that limit.

Clause 79 and Schedule 26 define “special rate expenditure” to be allocated to the special rate pool, in respect of which the rate of writing-down allowance is ten per cent per annum. The Schedule also contains an anti-avoidance provision, commencement provisions and provisions relating to sales between connected parties and savings for intra-group transfers.

Clause 80 provides that existing long-life asset expenditure at the end of a transitional chargeable period or a chargeable period which ends before 1 April 2008 (corporation tax) or 6 April 2008 (income tax) is to be carried forward as special rate expenditure, and is to be subject to a hybrid rate of writing-down allowance for any transitional chargeable period.

Industrial and agricultural buildings allowances

Clause 81 and Schedule 27 abolishes Parts 3 and 4 of the Capital Allowances Act 2001 (CAA), which provide allowances for industrial and agricultural buildings. Schedule 27 makes a number of consequential changes. The allowances will cease to be available for expenditure incurred, or for chargeable periods beginning, on or after 1 April 2011 (for corporation tax purposes) and 6 April 2011 (for income tax purposes). The clause also introduces a schedule containing consequential amendments and savings.

Clause 82 provides how a person's entitlement to industrial building or agricultural building writing-down allowances (WDAs) is to be progressively reduced in the three year phasing out period before abolition.

Clause 83 provides for the time apportionment of a writing-down allowance (WDA) in respect of qualifying enterprise zone (EZ) expenditure, where the business's chargeable period straddles the relevant date for abolition, that is, 1 April 2011 for corporation tax purposes, or 6 April 2011 for income tax purposes.

Clause 84 provides an anti-avoidance rule to prevent connected parties from seeking to obtain multiple writing-down allowances by transferring a building qualifying for industrial buildings allowances (IBAs) to a series of owners in quick succession.

Supplementary provision

Clause 85 gives HM Treasury a power to make such consequential and transitional provisions as may appear appropriate in consequence of, or otherwise in connection with the preceding clauses 68 to 84.

Anti-avoidance

Clause 86 will prevent avoidance of corporation tax using arrangements intended to crystallise a balancing allowance on the transfer of a trade.

PART 4

PENSIONS

Clause 87 amends Part 4 of the Finance Act (FA) 2004. It applies where an employer makes a payment intended to facilitate a large pension contribution relative to the contribution in the previous year. This clause ensures that the relief the employer is entitled to for such a payment is subject to the same tax treatment as if it were a contribution under a registered pension scheme made directly by the employer.

Clause 88 and Schedule 28 ensure that scheme pensions and lifetime annuities are used to provide an income for life and not as a means of diverting tax-relieved pension savings into inheritance. This makes the treatment of scheme pensions and lifetime annuities consistent with that of alternatively secured pensions.

Clause 89 and Schedule 29 make amendments to Part 4 of the Finance Act (FA) 2004 and the Inheritance Tax Act 1984 (IHTA) in relation to pension schemes. The changes include measures to give schemes additional flexibility, amend regulatory powers, clarify the law, deal with the transition to the new regime, ensure that scheme pensions and lifetime annuities are used to provide an income for life and prevent abuse of the rules.

PART 5

STAMP TAXES

Stamp duty land tax

Clause 90 amends sections 58B and 58C of the Finance Act (FA) 2003. The amendments provide for the zero carbon homes relief to be extended to new zero-carbon flats on first purchase if they meet criteria set out in the Regulations defining zero-carbon homes.

Clause 91 and Schedule 30 amends Part 4 of the Finance Act (FA) 2003 to change the rules for persons notifying HM Revenue & Customs (HMRC) about land transactions, so that a notification threshold of £40,000 will apply for most freehold and leasehold transactions. An additional rent threshold of £1,000 will apply to longer leases and shorter leases will be subject to the zero-rate threshold.

Schedule 30 makes consequential amendments to FA 2003 to remove references to the provision of self certificates in cases where no stamp duty land tax (SDLT) is due. This is because as a result of the clause there is no longer any requirement to submit such self certificates.

Clause 92 amends the provisions in Finance Act (FA) 2003 that prevent the manipulation of lease thresholds in order to minimise or avoid payment of stamp duty land tax (SDLT). These provisions and changes apply to leases where payment is made by both rent and a premium.

Clause 93 amends Part 1 of Schedule 7 to the Finance Act (FA) 2003 in order to prevent misuse of “clawback” relief in the legislation to allow avoidance of stamp duty land tax (SDLT).

Clause 94 and Schedule 31 contain amendments to paragraph 14 of Schedule 15 to the Finance Act (FA) 2003 to ensure that, where there is a transfer of an interest in a property within an investment partnership, there will be no charge to stamp duty land tax (SDLT).

Stamp duty

Clause 95 amends the stamp duty charging provisions by introducing a consideration threshold beneath which instruments transferring stock or marketable securities on sale are not chargeable with stamp duty.

Clause 96 and Schedule 32 amend the stamp duty legislation by abolishing the fixed stamp duty charges that apply to certain types of instrument.

Clause 97 amends the stamp duty rules concerning instruments that transfer loan capital. Loan capital that carries a right to a return that is calculated by reference to the results of a business will not in future be prevented from obtaining the benefit of the exemption that applies to most loan capital if the issuer is debtor in a capital market arrangement and issuer of a capital market investment and the loan capital is issued on limited recourse terms.

The change will mean that instruments transferring loan capital which has to be issued on limited recourse terms may be able to benefit from the exemption to *ad valorem* stamp duty where previously it was not able to do so.

PART 6

OIL

Petroleum revenue tax

Clause 98 extends the definition of “participator” for Petroleum Revenue Tax (PRT) purposes, at section 12 of the Oil Taxation Act 1975 (OTA 1975), to include former participators who have incurred decommissioning costs as a result of a current participator defaulting on its decommissioning liabilities. This allows such companies to claim PRT relief for such costs where previously they would have been unable. The meaning of participator is also extended to ensure that reimbursements received from a defaulter at a later date are brought into the charge to PRT.

Clause 99 provides that Paragraph 2A of Schedule 5 to the Oil Taxation Act 1975 (OTA 1975) is amended to allow Petroleum Revenue Tax (PRT) relief for decommissioning costs incurred by former participators, as a result of a participator in an oil field defaulting on its own decommissioning liabilities.

Clause 100 brings into charge to Petroleum Revenue Tax (PRT) reimbursements received by a former participator in a field, where it has met the decommissioning obligations of a current participator.

Clause 101 reduces the scope of information required to be submitted by a participator under paragraph 2 of Schedule 2 to the Oil Taxation Act 1975 (OTA 1975) and section 62 of the Finance Act (FA) 1987. Only a return of Category 2 oils is required for chargeable periods ending on or after 30 June 2008.

Clause 102 and Schedule 33 extend the scope of section 185 of the Finance Act (FA) 1993, which defines non-taxable fields, by allowing companies holding licence interests in non-paying fields to irrevocably elect to take themselves out of the scope

of Petroleum Revenue Tax (PRT), subject to HM Revenue & Customs (HMRC) being satisfied that the fields are never likely to pay PRT.

The clause also amends the tariff receipts allowance legislation at section 9 of Oil Taxation Act 1983 (OTA 1983) to ensure that companies in fields that are assessed to tariff receipts do not lose relief as a result of tariff-paying fields electing to become non-taxable.

Corporation tax

Clause 103 amends the existing legislation to disapply the long-life asset regime, for future capital expenditure on plant and machinery used wholly in a ring fence trade. This will allow all expenditure on plant and machinery, for use wholly in a ring fence trade, to qualify for First Year Allowances (FYA) of 100 per cent, thus allowing the costs to be written off for tax purposes in the accounting period in which the expenditure is incurred. The change will take effect in relation to expenditure incurred on or after 12 March 2008.

Clause 104 and Schedule 34 extend the availability of 100 per cent First Year Allowances to all expenditure incurred in decommissioning redundant installations and equipment, whenever incurred by a ring fence trade, during the life of a field. The change will have effect in relation to expenditure incurred on or after 12 March 2008. Schedule 34 details the consequential amendments required in implementing this clause.

Clause 105 extends the period after a ring fence trade ends during which decommissioning costs can be allocated to the final period of trading. The current period of three years is replaced by a period determined by the time limits and requirements imposed by the Secretary of State for the Department for Business, Enterprise and Regulatory Reform, in relation to the Petroleum Act 1998 and approved abandonment programmes. The allowable decommissioning costs in this period are then relieved, either in the final period of trading, or in earlier periods under the corporation tax loss carry-back rules.

Clause 106 and Schedule 35 extend the carry-back provisions, relating to corporation tax losses, attributable to decommissioning expenditure in ring fence trades. The current rules provide for a three year carry back against all profits. Under this clause companies will be able to carry back these losses beyond the three year point, against ring fence profits, to 17 April 2002. Schedule 35 details the consequential amendments required in implementing this clause.

Clause 107 closes a loophole in the legislation through which companies have offset the expenses of managing their investment business (management expenses), against their ring fence profits from oil extraction activities. To protect the integrity of the North Sea ring fence, companies will no longer be able to offset management expenses against their ring fence profits.

PART 7
ADMINISTRATION
CHAPTER 1
INFORMATION ETC

New information etc powers

Clause 108 and Schedule 36 makes provision about the powers of HM Revenue & Customs (HMRC) to obtain information and inspect businesses in respect of income tax (IT), capital gains tax (CGT), corporation tax (CT) and value added tax (VAT). The clause also provides for the Schedule to come into force by means of a Treasury order, made by statutory instrument.

Clause 109 makes provision about documents required to be produced or inspected under legislation relating to matters for which HMRC is responsible. It sets out the powers of HMRC where such documents are kept on computers or recorded electronically. It applies to all taxes, duties and other matters for which HMRC is responsible.

Other measures

Clause 110 and Schedule 37 amends existing legislation to align the record-keeping rules for income tax (IT), capital gains tax (CGT), corporation tax (CT) and value added tax (VAT). The clause also provides for the Schedule to come into force by means of a Treasury order.

Clause 111 and Schedule 38 amend the provisions in Part 7 of the Finance Act (FA) 2004 (Part 7), which require promoters and users of certain tax avoidance schemes to provide information about the schemes. In particular they amend the rules concerning the transmission of scheme reference numbers (SRNs) to improve the identification of the users of avoidance schemes.

Clause 112 amends powers in the Customs and Excise Management Act 1979 (CEMA) to clarify customs officers' powers to open, unpack and search containers and baggage at ports and airports.

CHAPTER 2

TIME LIMITS FOR CLAIMS AND ASSESSMENTS ETC

General

Clause 113 and Schedule 39 provides for the alignment of time limits for HM Revenue & Customs (HMRC) to make an assessment to correct the income tax (IT), capital gains tax (CGT), corporation tax (CT) or value added tax (VAT) due from a taxpayer. It also aligns the descriptions of taxpayer behaviours used in setting time

limits, using the terms at Schedule 24 to Finance Act (FA) 2007. The Schedule further provides for the alignment of time limits for taxpayers to make claims.

Income tax and corporation tax

Clause 114 allows an HM Revenue & Customs (HMRC) officer to make a correction to a tax return where he has reason to believe it is incorrect as a result of other information available. As now, the taxpayer will be able to reject the correction if he or she does not agree. This clause also aligns proceedings at the end of a company tax enquiry with those at the end of an income tax enquiry. It allows for an officer to make the necessary amendments to a company tax return directly, rather than requiring the company to do so.

VAT

Clause 115 amends the powers of HM Revenue & Customs (HMRC) to make assessments under sections 73(2) and 80(4A) of the Value Added Tax Act 1994 (VATA) to allow the recovery of amounts incorrectly credited, paid or repaid in relation to claims made as a result of the extended time limits under clause 116 and to clarify those powers of assessment generally.

Clause 116 provides a prospective transitional period which will expire on 31 March 2009. It will give businesses one final opportunity to make claims for accounting periods ending before 4 December 1996 (in relation to claims for output tax (VAT accounted for on supplies made by businesses to their customers)) and 1 May 1997 (in relation to claims for input tax (VAT paid by businesses on goods and services bought in by them in the course of their business activities)). From 1 April 2009 the three-year time limits in section 80(4) of the Value Added Tax Act 1994 (VATA) and regulation 29(1A) of the Value Added Tax Regulations 1995 (the Regulations) respectively will apply to these periods as they already do to subsequent accounting periods.

CHAPTER 3

PENALTIES

Clause 117 and Schedule 40 amend Schedule 24 to the Finance Act (FA) 2007 (penalties for errors) to extend its application to further taxes, levies and duties. This provides for a single legal framework for penalties to be imposed on taxpayers who make errors in documents that they send to HM Revenue & Customs (HMRC). The further taxes are environmental taxes (aggregates levy, climate change levy, landfill tax); excise duties (alcohols, tobacco, oils, gambling and air passenger duty); stamp duties (stamp duty land tax, stamp duty reserve tax); inheritance tax, insurance premium tax, pension schemes and petroleum revenue tax. The penalty would be related to the amount of tax understated, the underlying behaviour giving rise to the understatement and the extent of disclosure by the taxpayer.

The other significant change is to introduce a penalty on a third party who deliberately supplies false information to, or withholds information from a person intending to cause that person to give HMRC an inaccurate document. This has necessitated some

minor changes to the Schedule, because the person giving the inaccurate document and the person paying the penalty will no longer always be one and the same. Throughout the revised Schedule “P” is used to denote the person giving the document (or someone acting on their behalf), “T” is used to denote a third party and “person” is used where it could be either “T” or “P”.

Clause 118 and Schedule 41 provide for penalties to be imposed on persons who have an obligation to notify HM Revenue & Customs (HMRC) that they are chargeable to tax, liable to register for tax *etc.*, and fail to do so. This would create a single legal framework for penalising failure to comply with a notification obligation across all relevant taxes and duties, based on the same principles used for penalising incorrect returns contained in Schedule 24 to the Finance Act (FA) 2007. The relevant taxes are income tax; capital gains tax; corporation tax; value added tax (VAT); insurance premium tax; environmental taxes (aggregates levy, climate change levy, landfill tax); and excise duties (alcohols, tobacco, oils, gambling and air passenger duty). Regulations will be amended to apply the same penalty regime for Class 2 and 4 National Insurance Contributions (NICs).

Under the new regime, a penalty would be payable in any case where the notification obligation had not been complied with and tax has been lost as a result, other than where the taxpayer could show that they had a reasonable excuse for the failure. Higher penalties would be payable if the failure was deliberate. Reductions would be available for disclosure by the taxpayer, more so if the reduction was unprompted.

The Schedule also provides for penalties for three other types of VAT and excise wrongdoings: issue of a VAT invoice by an unauthorised person; putting excise goods to a use that attracts a higher duty and handling goods subject to unpaid excise duty. For each the penalty is calculated in the same way as for failure to notify.

CHAPTER 4

APPEALS ETC

Reviews and appeals etc: general

Clause 119 gives HM Treasury power, by order, to make provision for reviews of HM Revenue & Customs (HMRC) decisions and changes to appeals administration processes. The power will be available from the date that Finance Bill 2008 receives Royal Assent. It will enable HMRC to streamline appeals administrative processes in readiness for the introduction of the new Government tribunals established by the Tribunals, Courts and Enforcement Act 2007 (TCEA), and to provide a right to a review of appealable decisions.

Customs and excise decisions subject to review and appeal

Clause 120 and Schedule 42 give additional rights of review and appeal to taxpayers against, decisions made by HM Revenue & Customs (HMRC) concerning excise duties. These are contained in sections 14-16 of and Schedule 5 to the Finance Act (FA) 1994.

Clause 121 amends paragraph 2 (1) (s) of Schedule 5 to Finance Act (FA) 1994 clarifying that an appeal right exists when a guarantee or other security is cancelled under section 157 of the Customs and Excise Management Act 1979 (CEMA).

CHAPTER 5

PAYMENT AND ENFORCEMENT

Taking control of goods etc

Clause 122 and Schedule 43 provide for HM Revenue and Customs (HMRC) to take a single action in England & Wales to seize goods in order to recover a debt. It replaces four current separate powers of HMRC.

Clause 123 and Schedule 43 provide for an officer of HM Revenue and Customs (HMRC) to make a single application for a summary warrant in Scotland on behalf of the Commissioners for HM Revenue and Customs. It replaces four current separate powers of HMRC.

Clause 124 and Schedule 43 make consequential amendments to allow HM Revenue & Customs (HMRC) to take control of goods under clause 122 or to apply to the sheriff for a summary warrant under clause 123.

Set-off

Clause 125 provides for HM Revenue & Customs (HMRC) to set-off sums payable to a taxpayer by HMRC against amounts owed to HMRC by the same taxpayer.

Clause 126 provides that the power provided to HM Revenue & Customs (HMRC) in clause 125 to set-off sums payable to a taxpayer against amounts owed to HMRC by the same taxpayer may not be used to set a post-insolvency credit against a pre-insolvency debit.

Clause 127 amends section 81 of the Value Added Tax Act 1994 (VATA) to align with clause 126, which deals with set-off in insolvency.

Clause 128 provides that where interest is paid to a creditor in the form of funding bonds and the tax deducted from the interest is paid to HM Revenue & Customs (HMRC) in the form of funding bonds, then a subsequent repayment claim by the creditor in respect of the tax deducted can be satisfied by paying to the creditor all or part of the funding bond held by HMRC in respect of the tax deducted. The legislation

amended by this clause is in section 939 of the Income Tax Act 2007 (ITA) and a new section is inserted after section 940 of ITA.

Other measures

Clause 129 provides that no interest and surcharges will be charged where the Commissioners for HM Revenue & Customs (HMRC) agree to defer payment of taxes and duties, because of the effects of a disaster designated by HM Treasury as having national significance.

Clause 130 provides for HM Revenue & Customs (HMRC) to make regulations to charge a fee for payment by specified methods of payment.

Clause 131 provides for HM Revenue & Customs (HMRC) to take a single action for non-payment in the name of the Commissioners for HM Revenue and Customs in the county court in England, Wales and Northern Ireland; and in the sheriff court in Scotland.

Clause 132 and Schedule 44 provide for HM Revenue & Customs (HMRC) to certify that a sum has not been paid in relation to the conduct of proceedings in the civil courts.

Supplementary

Clause 133 defines terms and expressions for the purposes of Chapter 5.

PART 8

MISCELLANEOUS

Inheritance tax

Clause 134 clarifies the inheritance tax (IHT) rules where interest in possession (IIP) trusts come to an end and are replaced with new IIP trusts for the same beneficiary.

Clause 135 extends the transitional period during which interest in possession (IIP) trusts in place before 22 March 2006 can be rearranged without the inheritance tax (IHT) rules for trusts in Schedule 20 to the Finance Act (FA) 2006 taking effect.

Insurance premium tax

Clause 136 removes the compulsory requirement for overseas insurers writing taxable risks located in the UK to appoint a jointly and severally liable tax representative for insurance premium tax (IPT).

Clause 137 amends the power of HM Revenue & Customs (HMRC) to assess a UK insured party for insurance premium tax (IPT) due from an overseas insurer. It will be restricted to circumstances where the insurer is located outside of the EU and in a

country that does not have mutual assistance arrangements with the UK similar to those that apply within the EU.

Vehicle excise duty

Clause 138 replaces Section 19 of the Vehicle Excise and Registration Act 1994 (VERA) with a new Section to provide for the circumstances under which a rebate may be paid on the unexpired portion of a registered vehicle keeper's licence.

Clause 139 and Schedule 45 provides for amendments to Section 29, Section 30 and Schedule 2A of the Vehicle Excise and Registration Act 1994 (VERA) in relation to the offence of using or keeping an unlicensed vehicle.

Clause 140 provides for the introduction of a vehicle excise duty (VED) rate for new lower-emission diesel vans by amendment of the Vehicle Excise and Registration Act 1994 (VERA). Introduction of the rate takes effect on 1 January 2009 in relation to vehicle licences for eligible diesel vans taken out on or after that date.

Clause 141 amends section 33 of the Vehicle Excise and Registration Act 1994 ("VERA") so as to provide for an exemption from the offence of not exhibiting a valid vehicle licence or nil licence.

Clause 142 amends the vehicle testing requirements connected with an application for a Reduced Pollution Certificate (RPC) for an eligible vehicle, which may be a bus, a vehicle used for exceptional loads, a haulage vehicle, or a goods vehicle.

Climate change levy and landfill tax

Clause 143 removes coal mine methane as a source of electricity that must be regarded as renewable for climate change levy (CCL) purposes, from 1 November 2008. Electricity generated from most renewable sources is eligible for the CCL exemption scheme for such electricity. The impact of the change is that electricity generated from coal mine methane after 1 November 2008 will not qualify for the CCL exemption scheme.

Clause 144 removes the requirement set out in the climate change levy (CCL) legislation that, in order to count as a climate change levy accounting document (CCLAD), an invoice issued by an electricity or gas supplier must contain wording identifying it as a CCLAD.

Clause 145 provides a power for the Commissioners for HM Revenue and Customs, or the regulatory body, to withdraw by regulations the approval of an environmental body enrolled under the landfill communities fund. It also amends primary legislation to add a decision by the Commissioners to revoke the approval of an environmental body to those decisions that are subject to the review and appeal procedure of HM Revenue & Customs (HMRC). The clause came into force on 19 March 2008, allowing regulations to be laid on that day to give effect to the changes from 1 April 2008.

Aviation

Clause 146 introduces paving legislation for the new aviation duty replacing air passenger duty (APD), and enables HM Revenue & Customs (HMRC) to incur expenditure related to its development before it is formally introduced in next year's Finance Bill.

Clause 147 amends current definitions of classes of travel for air passenger duty (APD) purposes in section 30 of the Finance Act (FA) 1994 so that, on flights where only business class, or higher, standard of travel is provided, these seats attract the standard rather than the reduced rate of APD.

Alternative finance arrangements

Clause 148 amends the stamp duty definition of loan capital to include alternative finance investment bonds. This change will mean that alternative finance investment bonds may qualify for exemption from stamp duty and receive the same equivalent treatment as if they were a conventional debt instruments.

Clause 149 inserts a new section 73AB into the Finance Act (FA) 2003, which is intended to prevent the misuse of the reliefs from stamp duty land tax (SDLT) (offered in sections 71A(2) and 72 for transactions that occur in England, Wales and Northern Ireland, and in Sections 72A and 73 for transactions that occur in Scotland) in order to avoid payment of SDLT.

Clause 150 amends section 98 of the Finance Act (FA) 2006 which allows secondary legislation to be made relating to "alternative finance arrangements".

Clause 151 and Schedule 46 confers a regulation-making power on the Treasury. The purpose of the regulations is to make provision for raising money through "alternative finance arrangements". Alternative finance arrangements are arrangements which, in the opinion of the Treasury, equate in substance to a conventional loan or debt instrument but which do not include provision for the payment of interest. They would include Islamic financial instruments known as sukuk.

Payments from Exchequer accounts

Clause 152 provides the Treasury with power to settle financial claims that concern the Consolidated Fund, the National Loans Fund, the Debt Management Account or the Exchange Equalisation Account, by making payments from those accounts.

Clause 153 is related to clause 153. It sets out the mechanisms to be applied to payments from the Consolidated Fund and the National Loans Fund.

Other matters

Clause 154 introduces a power allowing existing HM Revenue & Customs (HMRC) concessions to be legislated by Treasury Order. ('Concessions' in this context are

relaxations that give taxpayers a reduction in tax liability to which they would not be entitled under the strict letter of the law.)

Clause 155 amends the definition of “ultra low sulphur diesel” (ULSD) to have retrospective effect on and after 4 September 2007.

Clause 156 provides for the repeal of section 137(4) of the Customs and Excise Management Act 1979 (CEMA), to have effect from the date that Finance Bill 2008 receives Royal Assent.

Clause 157 gives the Treasury a new power to make regulations requiring the Commissioners for the Reduction of the National Debt (the Commissioners) to transfer moneys held by them relating to National Savings Stamps and National Savings Gift Tokens to the National Loans Fund (NLF).

Clause 158 enables HM Treasury to create, by regulations, criminal offences in relation to the allocation for payment of EU Emissions Trading Scheme allowances.

PART 9

FINAL PROVISIONS

Clause 159 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 160 provides for the Bill to be known as the “Finance Act 2008” upon enactment.