

FINANCE BILL 2007

LOBBY NOTES

PART 1

CHARGES, RATES, ALLOWANCES, THRESHOLDS ETC

Income tax

Clause 1 imposes the income tax charge for 2007-08, and sets the starting, basic and higher rates of income tax at 10 per cent, 22 per cent and 40 per cent respectively.

Corporation tax

Clause 2 charges corporation tax for the financial year beginning 1 April 2008 and sets the rate of corporation tax at 30 per cent on ring fence profits of companies and 28 per cent on all other profits of companies.

Clause 3 sets the small companies' rate of corporation tax for the financial year beginning 1 April 2007 at 19 per cent for ring fence profits and 20 per cent for all other profits. Additionally, it sets the fraction used in calculating marginal relief from the main rate at $11/400$ for ring fence profits and $1/40$ for all other profits.

Inheritance tax

Clause 4 provides for an increase in the inheritance tax nil-rate band to £350,000 in 2010-11 and maintains the tax rate at 40 per cent for that year on chargeable amounts in excess of the tax-free amount.

Alcohol and tobacco

Clause 5 provides for increases in the rates of excise duty charged on beer, wine and made-wine, and cider, to have effect from 26 March 2007.

Clause 6 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 21 March 2007.

Gambling

Clause 7 sets the rates for gaming duty in relation to accounting periods beginning on or after 1 April 2007.

Clause 8 and Schedule 1 makes provision for a new duty of excise, to be known as remote gaming duty, to be introduced into the Betting and Gaming Duties Act 1981(BGDA).

Clause 9 amends the definition of a Category C gaming machine in the Betting and Gaming Duties Act 1981 (BGDA) and provides for future amendments to gaming machine categories to be made by order.

Environment

Clause 10 amends the rates of duty and rates of rebate applicable to products charged to duty under the Hydrocarbon Oil Duties Act 1979 (HODA). Duty rates for hydrocarbon oils used as main road fuels will be increased by 2 pence per litre (ppl). The effective rates of duty (that is, the relevant duty minus the relevant rebate) for non-road fuels will be increased by the same amount of 2 ppl as the main road fuels. Other increases similarly maintain current differentials compared with the rates for the main road fuels, except in the case of road fuel gas other than natural gas, where the differential is being reduced by the equivalent of 1 penny per litre. Duty rates for other hydrocarbon oils used for road fuel will increase by the same percentage as the main road fuels, which is 4.14 per cent. These changes will have effect on and after 1 October 2007.

Clause 11 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 have effect in relation to all vehicle licences taken out on or after 22 March 2007.

Clause 12 amends the rates of air passenger duty (APD) in section 30 of the Finance Act (FA) 1994. The rates applicable to passengers travelling in the lowest class of travel are increased to £10, for destinations in EEA States and other qualifying territories, and £40 for other destinations. The rates applicable to passengers travelling in other classes of travel are increased to £20 and £80 respectively. These increases are effective from 1 February 2007.

Clause 13 increases the rates of climate change levy, broadly in line with current inflation, to have effect on and after 1 April 2008.

Clause 14 increases the rate of aggregates levy from £1.60 per tonne to £1.95 per tonne of aggregate subjected to commercial exploitation on or after 1 April 2008.

Clause 15 increases the standard rate of landfill tax from £21 per tonne to £24 per tonne on relevant waste disposals at authorised landfill sites made, or treated as made, on or after 1 April 2007 but before 1 April 2008. It also increases the standard rate from £24 to £32 per tonne and increases the lower rate from £2 to £2.50 per tonne, on relevant waste disposals made, or treated as made, on or after 1 April 2008.

Clause 16 enables HM Treasury to impose certain charges in respect of Community tradeable emissions allowances relating to specified greenhouse gases (that is allowances under what is currently known as the European Union Emissions Trading Scheme). HM Treasury will impose these charges by providing for the allowances to be allocated in return for payment through sale, auction or other method.

PART 2

ENVIRONMENT

Energy-saving: houses

Clause 17 enables landlords who pay corporation tax to deduct, when computing the profits of their property business, the cost of acquiring and installing certain energy-saving items in residential properties, which they let. A similar deduction is already available for landlords who pay income tax.

Clause 18 amends existing legislation which allows a landlord who pays income tax to deduct, when computing the profits of their property business, the cost of acquiring and installing certain energy-saving items in residential properties which they let.

The clause extends the availability of the allowance from expenditure incurred before 6 April 2009 to expenditure incurred before 6 April 2015. It also ensures that this allowance is available when energy-saving items are installed elsewhere in a building containing an appropriate dwelling-house, provided that they benefit that dwelling-house.

Clause 19 inserts new sections 58B and 58C into the Finance Act (FA) 2003. They provide for regulations to be laid to introduce a time limited relief from stamp duty land tax (SDLT) for new zero-carbon homes on first purchase if they meet criteria set to define zero-carbon homes.

Domestic microgeneration

Clause 20 exempts from income tax income arising from the sale of electricity generated by certain microgeneration systems. The system must be installed at or near domestic premises, the individual receiving the income must occupy those premises, and that individual must intend to generate electricity mainly for use in those premises.

The clause has effect on and after 6 April 2007.

Clause 21 exempts income arising from the receipt of a renewables obligation certificate (ROC) from income tax, and gains arising on the disposal of a ROC from capital gains tax, where the certificate is received in respect of electricity generated by certain microgeneration systems. The system must be installed at or near domestic premises, the individual receiving the ROC must occupy those premises, and that individual must intend to generate electricity mainly for use in those premises.

The clause has effect on and after 6 April 2007.

Other measures

Clause 22 introduces a new exemption from the aggregates levy for aggregate removed from the ground along the line, or proposed line, of any railway, tramway or monorail in the course of maintaining, constructing or improving it, providing the

aggregate was not excavated for the purpose of extracting the aggregate. The change will have effect on and after a date to be appointed by regulations after the Finance Bill receives Royal Assent.

Clause 23 and Schedule 2 simplify and streamline the handling of climate change levy (CCL) reliefs. The effect of the changes is to:

- simplify the administration of the reduced-rate of CCL, removing the requirement on the Commissioners for HM Revenue and Customs (HMRC) to publish details of facilities that are taken to be covered by a climate change agreement;
- enable the alignment of procedures for reduced-rate supplies with those in place for other CCL reliefs;
- remove the requirement that, for the purposes of making an exempt supply, energy suppliers are given prior notification by their customer that the supply of the taxable commodity is to be the subject of an onward supply by him or is destined for permanent export from the UK; and
- extend the levy's penalty provisions in respect of incorrect certification to include certificates that become incorrect following their initial submission to an energy supplier.

The changes in respect of exports and onward supplies and to the penalty provisions will have effect from the date that Finance Bill 2007 receives Royal Assent. Changes in respect of reduced-rate supplies will have effect from a date to be appointed by Treasury order.

Clause 24 provides a power by regulations enabling the Commissioners for HM Revenue and Customs (HMRC) to impose conditions under which the regulatory body for the Landfill Communities Fund (LCF) is and remains approved; and enabling the regulatory body to specify conditions under which environmental bodies are and remain approved.

PART 3

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

Anti-avoidance

Clause 25 and Schedule 3 inserts a new Chapter 9 in the Income Tax (Earnings and Pensions) Act (ITEPA) 2003. The Chapter defines a “managed service company” and requires that payments received by persons in respect of services provided through such companies, not already treated as employment income, are treated as employment income and taxed accordingly. Where a company is within the scope of Chapter 9, Chapter 8 ITEPA is disapplied. The clause also inserts a new section 688A within ITEPA relating to the transfer of PAYE debts of managed service companies.

Section 688A enables PAYE regulations to provide for the recovery from persons specified within section 688A of an amount of PAYE that an officer of HM Revenue & Customs (HMRC) considers should have been deducted by the managed service company.

Clause 26 and Schedule 4 provide for changes to the rules for “sideways loss relief” claimable by a non-active partner, or a limited partner, in a trading partnership. These rules are designed to prevent individuals using partnerships to generate losses that can be offset against their other taxable income or capital gains. These changes were announced on 2 March 2007 and will apply from that date.

Clause 27 extends the effect of the provision introduced in Finance Act (FA) 2006 that excluded losses generated as part of a tax avoidance scheme from the definition of an allowable capital loss for corporation tax purposes. It replaces the corporation tax provision with a provision that has the same effect for the purposes of capital gains tax (CGT) and income tax as well as corporation tax. The provision has effect in relation to disposals made on or after 6 December 2006.

The clause is based upon the principle that relief for capital losses should be available only where a person has suffered a genuine commercial loss and has made a real commercial disposal of an asset. The rule will apply where arrangements produce a loss that is greater than any real underlying economic loss or where arrangements result in there being no real disposal of an asset, in that after the arrangements have been completed the economic ownership of the asset is in substance unaltered.

Clause 28 affects the taxation of certain life insurance policies, life annuities and capital redemption policies where commission is passed on or reinvested in the policy or contract by an intermediary. It ensures that in calculating the gain on a policy or contract on the occurrence of certain events, the deduction for premium paid is reduced by any amount of commission passed on or reinvested. The measure has effect from 21 March 2007.

Clause 29 and Schedule 5 close a number of loopholes and block a number of schemes disclosed under Part 7 of the Finance Act (FA) 2004 and elsewhere. They all exploit legislation relating to financial products and arrangements of the type for which disclosure of schemes is required.

Clause 30 and Schedule 6 applies to companies carrying on a business of leasing plant or machinery on their own or in partnership. It prevents companies from undermining the effect of legislation introduced in Finance Act (FA) 2006 to counter avoidance involving the sale of companies that lease out assets. The Schedule will counter some arrangements with effect from 22 November 2006 and others with effect from 21 March 2007.

Clause 31 ensures that the rules in sections 184A and 184B Taxation of Chargeable Gains Act 1992 (TCGA) preventing companies buying and selling other companies in order to gain access to their capital losses or chargeable gains cannot be sidestepped by arrangements involving the sale of a company together with its subsidiary companies. It also makes consequential changes to section 70 of the Finance Act (FA) 2006 to ensure that the amended rules that apply to certain changes of ownership

before the 2005 Pre-Budget Report still apply, following the amendments to sections 184A and 184B of TCGA, and simplifies the conditions attaching to that provision.

The details of the clause were announced at Budget 2007 and are effective on or after 21 March 2007.

Clause 32 introduces a new narrowly targeted rule designed to prevent companies acquiring tax losses from corporate members of Lloyd's with which they have had no previous economic relationship and which are leaving the insurance market. Special accounting rules used at Lloyd's exceptionally permit group relationships to be changed before losses already determined become tax effective. The rule will extend the period during which the claimant and surrendering companies must satisfy relationship tests. It will apply where the necessary relationship is first established on or after 21 March 2007.

Clause 33 ensures that any act with the result that property is held, or may be used, under the terms of an employee benefit scheme, or where there is an increase in the value of such property, is within the definition of an employee benefit contribution.

The clause has effect on and after 21 March 2007.

Clause 34 confirms that foreign tax as referred to in section 804ZA of the Income and Corporation Taxes Act 1988 (ICTA) includes UK tax for which double taxation relief is claimed.

Capital allowances

Clause 35 withdraws balancing adjustments and the recalculation of writing-down allowances in respect of qualifying industrial and agricultural building expenditure with effect on and after 21 March 2007, unless it is (a) in respect of qualifying enterprise zone expenditure or (b) in pursuance of a "relevant pre-commencement contract". In broad terms, this means a written contract, made before 21 March 2007, which is unconditional, finally agreed at that date, and not varied in a significant way thereafter.

Clause 36 extends for one further year the increase from 40 per cent to 50 per cent in the rate of first-year capital allowances for spending by small businesses on most plant and machinery. The extension applies to spending on or after 1 April 2007 for businesses within the charge to corporation tax and on or after 6 April 2007 for businesses within the charge to income tax.

Insurance and friendly societies

Clause 37 and Schedule 7 provide for the establishment of a category of life assurance business for tax purposes called "gross roll-up business" ("GRB"). This business comprises five existing categories: pension business, overseas life assurance business ("OLAB"), life reinsurance business ("LRB"), Individual Savings Account ("ISA") business and child trust fund ("CTF") business, so that there is only one way, and not five different ways, of computing the profits and so allowing losses in one category to be set against profits in another.

The Schedule also incorporates in primary legislation regulations relating to capital redemption business, and makes a number of other modernising changes. The provisions have effect for accounting periods beginning on or after 1 January 2007.

Clause 38 and Schedule 8 abolish the choice given to HM Revenue and Customs (the “Crown option”) as to which basis of taxation should be applied to a company carrying on life assurance business. Certain specialist insurers will always be taxed on a “trading profit” basis; all others will be taxed on the normal “I minus E basis”, but with changes to ensure that the correct amount of tax is paid under that basis.

Clause 39 and Schedule 9 clarify and simplify the corporation tax law relating to the transfer of long-term business by one life assurance company to another. The Schedule has effect for the most part from an appointed day.

Clause 40 and Schedule 10 make a number of miscellaneous amendments to the Corporation Tax Acts applying to companies carrying on life assurance business. In particular, they deal with financing arrangements, the treatment of “structural” assets and losses arising on disposals to a connected fund management company.

Clause 41 and Schedule 11 introduce new rules that restrict for tax purposes the amounts set aside by general insurers to meet claims arising from their general insurance business (their “technical provisions” or “reserves”) to an “appropriate amount”, which is to be defined in regulations made under the Schedule. The Schedule repeals the existing rules in section 107 to the Finance Act (FA) 2000 dealing with general insurance reserves, subject to a transitional rule in relation to the election in section 107(4) to disclaim part of the reserves. Repeal and replacement have effect on and after the date that Finance Bill 2007 receives Royal Assent. The transitional rule will apply for the first period to end after the date that Finance Bill 2007 receives Royal Assent.

Clause 42 aims to facilitate reorganisations among corporate members of the Lloyd’s insurance market. Groups of companies wishing to reorganise often wish to transfer the benefit of accumulated trading losses from one company to another under the same control, along with the trade. The Corporation Tax Acts generally allow this, but there is a flaw in the legislation as it applies to transfers involving Lloyd’s corporate members, because of Lloyd’s special accounting rules. The clause seeks to deal with this. It applies where the profits or losses of the predecessor’s last active underwriting year are declared in 2007 or a later year.

Clause 43 and Schedule 12 allow a friendly society to transfer tax exempt life or endowment business and tax exempt “other” business to an insurance company which is not a friendly society, while still preserving the tax exemption for business in force at the time of the transfer. This is subject to safeguards. The provisions in the Schedule will generally apply from Royal Assent.

Clause 44 ensures that a contract will continue to be treated as tax exempt business where an individual breaches the exempt premium limits because of an assignment of a tax exempt policy otherwise than for money or money’s worth, for example as part of a divorce settlement. The changes made by the clause are deemed to have come into force on 1 January 2007.

Clause 45 removes the requirement for the tax-exempt part of a purchased life annuity (PLA), as calculated by the payer of the annuity, to be determined by an officer of HM Revenue and Customs (HMRC). This clause will take effect from a date to be appointed by Treasury order.

Repos

Clause 46 and Schedules 13 & 14: Schedule 13 sets out a new corporation tax regime for repos to replace the existing rules. Schedule 14 contains minor and consequential amendments to other legislation. The new rules provide for the tax treatment of repo transactions to follow their accounting treatment under generally accepted accounting practice (“GAAP”). This is subject to any adjustment that would ordinarily be required under the rules for taxing corporate debt (the loan relationship rules in Chapter 2 of Part 4 of Finance Act (FA) 1996).

The legislation will not come into force until after the conclusion of the current round of consultation with businesses and representative bodies. The legislation contains a regulation-making power for the new rules to apply on or after an appointed day.

CFCs

Clause 47 and Schedule 15 provide for amendments to the Controlled Foreign Companies rules in Chapter 4 of Part 17 of and Schedule 25 to the Income and Corporation Taxes Act 1988 (ICTA), to ensure that, where a UK resident company can demonstrate that a Controlled Foreign Company (CFC) has a business establishment in another EU member state (or another EEA state with which the UK has International Tax Enforcement Arrangements), and that the CFC is undertaking genuine economic activities there, then there is a statutory mechanism to disapply the CFC rules in relation to the profits of those genuine economic activities. The Schedule also provides for a modification to the exempt activities exemption in the CFC rules as it applies to a CFC resident in an EEA territory, and for the repeal of the public quotation exemption in the rules.

R&D

Clause 48 corrects an error, which could apply in certain limited circumstances, in the amount of vaccine research relief available to SME companies.

Clause 49 revises the definition of small or medium-sized enterprise for the purpose of the Research and Development (R&D) tax relief. The effect of this is to extend the relief already available to small or medium companies to companies with more than 250 but fewer than 500 employees and which have an annual turnover not exceeding €100 million or an annual balance sheet total not exceeding €86 million.

Venture capital schemes etc

Clause 50 and Schedule 16 make a number of amendments to the Enterprise Investment Scheme (EIS), the Venture Capital Trust (VCT) scheme and the Corporate Venturing Scheme (CVS).

A new limit on the number of employees of investee companies applies for each of the three schemes. To raise money under the schemes a company must have fewer than the equivalent of 50 full-time employees at the time of the relevant issue of shares (or issue of shares and securities to a VCT).

The amount of capital that investee companies can raise under the schemes in any 12 month period is limited to £2 million. An issue of shares or securities under the schemes will only qualify for relief (or rank as a qualifying holding of a VCT) if the amount of money raised by the company by that issue, any issues of shares under the EIS and CVS, and any investment by a VCT during the previous 12 months, does not exceed £2 million.

For each of the schemes the rules relating to the transfer of trades involving the exploitation of relevant intangible assets are aligned to those relating to other qualifying trades. This allows groups of companies the same flexibility to transfer a trade of this sort around the group as applies to other qualifying trades.

For each of the schemes the meaning of “qualifying 90 per cent subsidiaries” is changed to allow a qualifying trade to be carried on by the investee company, its direct 90 per cent subsidiary or a 100 per cent subsidiary of that subsidiary. The trade may also be carried on by a 90 per cent subsidiary of the investee company’s direct 100 per cent subsidiary. This change will give groups of companies greater flexibility as to which group company carries on the qualifying trade.

The period in which a fund manager has to invest 90 per cent of funds raised by an EIS approved investment fund is extended from 6 months to 12 months from the date that the fund closes.

From 6 April 2007 the disposal for money of a qualifying holding and the proceeds arising will be disregarded for 6 months for the purposes of determining whether the 70 per cent qualifying holding condition has been met by a VCT. This change allows VCTs greater flexibility to dispose of qualifying holdings without breaching their approval conditions.

Provision is made for a power to make regulations to set out the circumstances in which the Commissioners for HM Revenue & Customs (HMRC) will determine not to withdraw approval from VCTs that breach the conditions for approval. The power will enable regulations to be made to clarify HMRC’s approach to circumstances in which VCTs breach their approval conditions as a result of events outside their control.

Most changes take effect either on or after 6 April 2007 or on or after the day on which the Finance Bill 2007 receives Royal Assent.

The extended investment period for approved EIS fund managers applies to funds closing on or after 7 October 2006.

The new limits on number of employees and annual investment will not apply in relation to:

- investments made out of funds raised by VCTs before 6 April 2007, nor to shares issued to a VCT before that date,
- shares issued to managers of approved EIS funds that close before the day on which the Finance Bill receives Royal Assent.
- shares issued under the EIS or CVS before the day on which the Finance Bill receives Royal Assent.

REITs

Clause 51 and Schedule 17 amends provisions in Part 4 of the Finance Act (FA) 2006 relating to Real Estate Investment Trusts (UK-REITS).

Alternative finance

Clause 52 extends the legislation on alternative finance arrangements enacted in Finance Act (FA) 2005. It provides for an “alternative finance investment bond”, which is economically equivalent to a debt security, to be taxed in the same way as a conventional security.

Clause 53 amends the legislation in Finance Act (FA) 2005 on “profit share agency” arrangements that fall within the rules on “alternative finance arrangements”.

Trusts

Clause 54 amends section 482 of the Income Tax Act 2007 (ITA). It corrects an omission in the wording in the trusts legislation in Finance Act 2006 (which has become section 482 ITA 2007) to ensure that where the trustees of a settlement receive a payment made by a company on the purchase of its own shares they are only taxable on the excess over the original subscription payment for the shares.

Clause 55 amends section 498 of the Income Tax Act 2007 (ITA). It corrects an omission in the wording in the trusts legislation in Finance Act (FA) 2006, relating to the interaction of trustees’ tax pools with payments received by trustees, which are chargeable event gains on certain life assurance policies and which are treated as income in the hands of the trustees.

Other corporation tax measures

Clause 56 amends the conditions that an offshore fund must meet for certification as a distributing fund and makes some minor changes in the offshore funds rules resulting from changes elsewhere in the application of the Income and Corporation Taxes Act 1988 (ICTA) and the Financial Services and Markets Act 2000 (FSMA). It also

clarifies the definition of income in the qualifying conditions for approved investment trust status.

Clause 57 allows a company to make an election, in its tax return, to be regarded as not meeting the conditions to be a Film Production Company in respect of any present or future film. The effect is that the company's film production activity is not taxed under the special film rules introduced in the Finance Act 2006, but under normal tax rules. An election may be withdrawn only within the time limit for amending the return in which it is made.

Clause 58 allows for the temporary regime for securitisation companies set out in section 83 of Finance Act (FA) 2005, and extended in FA 2006, to be further extended by regulations, and amends the power in section 84 of FA 2005 to make regulations for such companies.

Other income tax measures

Clause 59 increases limits on the value of benefits that can be received by individual and corporate donors as a consequence of making qualifying donations to charities. This will allow more scope for donations to qualify for Gift Aid tax relief where benefits are received by individual and corporate donors.

Clause 60 amends the qualifying trade rule in the Enterprise Management Incentives (EMI) legislation; that legislation is designed to allow smaller companies to grant tax and national insurance contributions (NICs) advantaged share options to their employees. Clause 60 will allow groups of companies to move intangible assets created in the group to new subsidiaries in the group without losing their EMI qualifying status.

It will apply to all EMI qualifying options granted from 6 April 2007, or which were granted before that date and have not been exercised and not lost their qualifying status. It also provides that no qualifying options existing at 6 April 2007 will lose their qualifying status solely as a result of this clause.

Clause 61 brings into legislation Extra Statutory Concession (ESC) A104. ESC A104 was introduced in July 2004 to remove an anomaly whereby an employee earning at a rate of less than £8,500 could incur a double tax charge where they were provided with car and car fuel benefits via an employer's credit-token or non-cash voucher.

Clause 62 amends the Income Tax (Earnings and Pensions) Act 2003 (ITEPA). It exempts from tax payments made under the Armed Forces Redundancy Scheme 2006.

Clause 63 introduces a new exemption from tax for the Operational Allowance payable to members of the armed forces serving in specified areas as designated by the Secretary of State for Defence.

The allowance will be exempt from tax, effective on all payments for service from 6 April 2006.

Clause 64 extends to private sector landlords with service charges and sinking funds held on trust, relief from the special trust rate of tax of 40 per cent so that income arising from these funds is taxable instead at 20 per cent. This relief is already available to landlords in the social housing sector.

Clause 65 concerns the time limits for elections in relation to the “pre-owned assets” (POA) income tax charge in Schedule 15 to the Finance Act (FA) 2004. Currently, taxpayers who benefit from assets that are subject to the POA charge can elect instead that they should be treated as forming part of their estate for inheritance tax (IHT) purposes. The time limit for electing is the same as the Income Tax self assessment (SA) deadline for making a return for the tax year in which an individual is first liable for the POA charge. This clause will allow HM Revenue and Customs (HMRC) to accept elections for IHT treatment that would otherwise be too late.

Clause 66 makes a technical amendment to the Income Tax (Trading and Other Income) Act 2005 (ITTOIA) to ensure that the rules concerning the treatment of salary costs operate as intended with respect to employee benefit contributions and unpaid remuneration.

The clause has effect on and after 6 April 2007.

PART 4

PENSIONS

Clause 67 and Schedule 18 amend Part 4 of the Finance Act (FA) 2004 to remove relief for contributions paid by individuals under a registered pension scheme for personal term assurance policies.

Clause 68 and Schedule 19 introduce a requirement to pay a minimum income each year from a member’s or dependant’s alternatively secured pension (ASP) fund. It also removes from the authorised payment rules transfer lump sum death benefits, which means that, in future, such payments will be unauthorised. And consequential changes are being made to the inheritance tax rules largely to address the interaction of inheritance tax with the unauthorised payment charges on the same ASP funds. Schedule 27 provides for repeals as a consequence of the changes made by Schedule 19.

Clause 69 and Schedule 20 make changes and additions to the pensions tax legislation in Part 4 of the Finance Act (FA) 2004, section 393B of the Income Tax (Earnings and Pension Act) 2003 (ITEPA) and to section 58 of the Inheritance Tax Act 1984 (IHTA). These relate to the pensions simplification legislation which took effect from 6 April 2006. The changes include measures that give schemes, employers and pension savers additional flexibility, measures dealing with the transition to the new regime, and measures to prevent abuse of the new rules.

PART 5

SDLT, STAMP DUTY AND SDRT

SDLT: anti avoidance

Clause 70 amends Finance Act (FA) 2003 so as to counter schemes which attempt to avoid stamp duty land tax (SDLT).

Clause 71 amends the Finance Act (FA) 2003 in such a way as to counter known schemes which attempt to avoid stamp duty land tax (SDLT) by the ‘seeding’ of partnerships.

Reliefs etc

Clause 72 and Schedule 21 amend the stamp duty and stamp duty reserve tax (SDRT) reliefs for intermediaries, repurchases and stock lending and for transfers of shares to exchanges and their members. The amendments will apply following implementation of the Markets in Financial Instruments Directive (2004/39/EC) on 1 November 2007.

Clause 73 amends the stamp duty and stamp duty land tax (SDLT) acquisition reliefs. A company that has purchased its own shares and holds them “in treasury” will no longer be regarded as a shareholder of itself for the purpose of the reliefs.

The change will mean that neither the target nor the acquiring company will in future need to cancel own shares that they hold in treasury, in order for relief to be granted.

Clause 74 provides that where a financial institution has provided an “alternative property finance” product within the scope of sections 71A, 72 or 72A of the Finance Act 2003 (FA2003) any subsequent dealing in the interest held by the institution or in any interest derived from it, will be exempt from stamp duty land tax (SDLT). This clause applies to any such dealing the “effective date” of which is on or after 22 March 2007.

Clause 75 simplifies and clarifies the stamp duty land tax (SDLT) treatment of exchanges of property by providing that, where an exchange of property takes place between ‘connected persons’, the two legs are not ‘linked’ with each other for determining the rate of SDLT.

Clause 76 extends the same stamp duty land tax (SDLT) treatment that currently applies to shared ownership leases to shared ownership trusts. The new treatment will apply to all transactions involving shared ownership trusts provided by qualifying bodies the “effective date” of which is on or after the date that Finance Bill 2007 receives Royal Assent.

Clause 77 clarifies the stamp duty land tax treatment (SDLT) of shared ownership leases to ensure that where a ‘market value’ election is made the rent payable under the lease is disregarded for all SDLT purposes. The new treatment will apply to all transactions on or after the date that Finance Bill 2007 receives Royal Assent.

Clause 78 repeals stamp duty and stamp duty land tax (SDLT) reliefs at sections 79 and 79A of the School Standards and Framework Act 1998, which apply to certain transfers of surplus school land between foundations, trustees, boards of governors and local education authorities.

Administration

Clause 79 replaces the existing requirements that stamp duty land tax (SDLT) must be paid at the same time as, and must accompany, the land transaction return to which it relates with a requirement that the tax must be paid within the 30-day time limit for filing the return.

Clause 80 makes provision for the stamp duty land tax (SDLT) self-certificate to include a declaration by an agent acting on behalf of the purchaser, as an alternative to the existing declaration by the purchaser. The clause also makes provision for a declaration by the Official Solicitor acting for a purchaser who is under a disability.

PART 6

INVESTIGATION, ADMINISTRATION ETC

Investigation etc

Clause 81 provides for an order to be made applying provisions of the Police and Criminal Evidence Act 1984 (PACE) to criminal investigations conducted by HM Revenue and Customs (HMRC), whether they relate to ex-HM Customs & Excise (HMCE) or ex-Inland Revenue (IR) matters. At the moment the PACE provisions, for example those relating to search warrants and powers of arrest, can only be applied in respect of ex-HMCE matters. The clause also allows the order applying the provisions to modify them in certain respects, to provide that they can only be exercised by officers acting with the authority of the Commissioners for HMRC, and to impose conditions on the exercise of a power.

Clause 82 provides for an order to be made applying the provisions of the Police and Criminal Evidence (Northern Ireland) Order 1989 (SI 1989/1341 (NI 12)) (the PACE (NI) Order) to criminal investigations conducted by HM Revenue & Customs (HMRC) whether they relate to ex-HM Customs and Excise (HMCE) or ex-Inland Revenue (IR) matters. At the moment the PACE (NI) Order provisions can only be applied in respect of ex-HMCE matters. The clause also allows the order applying the provisions to HMRC to modify them in certain respects, to provide that they can only be exercised by officers acting with the authority of the Commissioners for HMRC, and to impose conditions on the exercise of a function.

Clause 83 and Schedule 22 make some supplemental changes necessary for clauses 81 and 82. This involves making some necessary amendments to the Commissioners for Revenue and Customs Act 2005 (CRCA), ensuring that the clauses are within the scope of the Finance Bill, providing for consequential repeals and amendments to

have effect, and providing for this clause and clauses 81 and 82 to come into force by commencement regulations made by HM Treasury.

Clause 84 and Schedule 23 introduce new powers and accompanying safeguards for citizens, for HM Revenue and Customs (HMRC) to use in Scotland when carrying out criminal investigations. These powers will, as far as is possible, apply across HMRC's responsibilities, replacing the current arrangement of separate powers for each tax. Currently, HMRC's powers to detain and question suspects in criminal investigations in Scotland apply only to investigations concerning ex-HM Customs and Excise (HMCE) matters. The Schedule also applies those powers consistently to all criminal investigations undertaken by HMRC in Scotland. The changes will come into force in accordance with provision made by Order of the Treasury.

Clause 85 provides that a provision allowing a search warrant granted in England and Wales to be executed in Scotland will apply to a warrant issued in connection with an HM Revenue & Customs (HMRC) criminal investigation. A search warrant could then be executed in Scotland once suitably endorsed by a court there.

Clause 86 applies sections 136 to 139 of the Criminal Justice and Public Order Act 1994 to officers of HM Revenue and Customs (HMRC). Sections 136 to 139 of the 1994 Act contain provisions that allow various powers from one country in the UK to be exercised in another country of the UK. The relevant powers are those concerning the execution of warrants, arrest or detention, and search powers available on arrest. At the moment these provisions apply to police constables, this clause also applies them to officers of Revenue and Customs.

Administration

Clause 87 introduces differential filing dates for paper and electronic (online) Income Tax self assessment tax returns. This affects individuals and other persons issued with notices to file a return under section 8 of Taxes Management Act 1970 (TMA). Clause 91 applies these amendments to returns issued on or after 6 April 2008 for the tax year 2007-08 and subsequent years.

Clause 88 introduces differential filing dates for paper and electronic (online) Income Tax self assessment tax returns. This affects trustees issued with notices to file a return under section 8A of Taxes Management Act 1970 (TMA). Clause 91 applies these amendments to returns issued on or after 6 April 2008 for the tax year 2007-08 and subsequent years.

Clause 89 introduces differential filing dates for paper and electronic (online) income tax self assessment tax returns. This affects partnerships issued with notices to file a self assessment return under section 12AA of Taxes Management Act 1970 (TMA). Clause 91 provides commencement dates for partnerships consisting of individual or company partners.

Clause 90 provides for a number of consequential amendments to be made, following the introduction of differential filing dates for Income Tax self assessment tax returns as detailed in clauses 87 to 89.

Clause 91 defines the commencement dates following the introduction of differential filing dates for Income Tax self assessment tax returns outlined in clauses 87 to 90.

Clause 92 amends HM Revenue and Customs' (HMRC) existing power to require the use of electronic communications for the delivery of information so that it extends to all the taxes and duties for which HMRC is responsible.

Clause 93 amends HM Revenue and Customs' (HMRC) existing power to require large employers to use electronic means for the making of payments so that the power extends to all the taxes and duties for which HMRC is responsible.

Clause 94 gives HM Revenue and Customs (HMRC) the power to make regulations to treat payment by cheque as made only once the funds have cleared into HMRC's account.

Clause 95 changes the period during which HM Revenue and Customs (HMRC) can start to enquire into income tax self assessment returns and most company tax returns. The clause links this period to the date the return is received by HMRC.

Clause 96 introduces a Schedule that provides for penalties to be imposed on taxpayers who make errors in documents that they send to HM Revenue & Customs (HMRC). In addition it provides for penalties to be imposed where taxpayers fail to take reasonable steps to report errors in assessments made by HMRC. The clause also provides for the Schedule to come into force by means of regulations and sets out what that order may cover.

Clause 96 and Schedule 24: Part 1. A penalty is payable if a person gives HM Revenue & Customs (HMRC) a document (listed in the table) that HMRC think is inaccurate so that it understates their liability to tax or inflates their loss or repayment claim and HMRC think the inaccuracy was careless or deliberate. In addition a penalty is payable where a person fails to take reasonable steps to notify HMRC within 30 days of an under-assessment by HMRC. This will give rise to a penalty of the same amount as that for a careless inaccuracy. Three categories of inaccuracies are defined for penalties: those that are careless, defined as due to a failure to take reasonable care, those which are deliberate, but without arrangements to conceal, and those that are both deliberate and concealed. Where a document given to HMRC is inaccurate but not carelessly nor deliberately and the taxpayer later discovers the inaccuracy but does not take reasonable steps to tell HMRC, this is to be treated as careless.

Clause 96 and Schedule 24: Part 2. Different standard amounts of penalty payable are expressed as a percentage of potential lost revenue. For careless action (failing to take reasonable care) it is 30 per cent, for deliberate but not concealed action it is 70 per cent and for deliberate and concealed action it is 100 per cent. In normal circumstances these percentages are applied to the additional tax due and payable as a result of correcting the inaccuracy or assessment. Where there is more than one inaccuracy, including overstatements an order of set-off and method of calculation for potential lost revenue is given including where there may be corresponding adjustments for another person. For direct tax only, provision is made for an inaccuracy resulting in a wrongly recorded loss, including where a group of

companies has an overall loss. A different measure of penalty is given where the inaccuracy results in tax being declared late rather than not at all. A framework is laid down for reductions to penalties for prompted and unprompted disclosure with definitions. HM Revenue & Customs (HMRC) has discretion, but only in special circumstances, to reduce the penalty further and for different reasons. The Schedule explains how these penalty provisions interact with each other and with other penalty provisions in the Taxes Acts.

Clause 96 and Schedule 24: Part 3. This Part sets out the mechanisms whereby HM Revenue & Customs (HMRC) can assess, notify and enforce penalties which are to follow the same procedures as for assessments to tax. It also sets a time limit for assessing penalties being 12 months after liability to the relevant tax has become final. In addition, HMRC is given discretion to suspend all or part of a penalty for careless inaccuracies. The mechanics of how this would happen are set out (including HMRC setting conditions) and how the penalty can be subsequently cancelled or become payable. Penalties for deliberate inaccuracies may not be suspended. All HMRC decisions in relation to penalties are appealable to an independent tribunal and the possible results and what the tribunal may do are set out.

Clause 96 and Schedule 24: Part 4. This Part sets out the circumstances in which a person may be charged a penalty as a result of an action by someone acting on their behalf. It restricts this to careless actions by the third party (not deliberate ones). It provides a caveat: if a person can satisfy HM Revenue and Customs (HMRC) that they took reasonable care to avoid an inaccuracy, and despite this a person acting on their behalf fails to take care, no penalty will be due. This part also enables HMRC to collect any part of a company's penalty from an officer of that company, where they think a deliberate inaccuracy is attributable to that officer of the company. It goes on to define an officer of the company. Finally this part provides that where a person has been convicted of an offence they shall not also be liable to a penalty under this part for the same inaccuracy or failure.

Clause 96 and Schedule 24: Part 5. This Part includes some important points of clarification and explanation for the other parts as well as explanations of statutory references and links to other Acts. It sets out the penalty provisions, specific to particular taxes, which will cease to have effect from a specified date. They will continue to apply for earlier periods. This Schedule is then applied to national insurance contributions in the same way as for PAYE.

PART 7

MISCELLANEOUS

Value added tax and insurance premium tax

Clause 97 amends the joint and several liability provisions applicable to traders who know, or have reasonable grounds to suspect, that VAT will go unpaid elsewhere in a supply chain. It introduces a new power to allow HM Treasury, by order, to extend or otherwise alter the circumstances in which a person is presumed to have reasonable grounds for suspecting that VAT will go unpaid.

Clause 98 will repeal legislation introduced in 2003 which is now redundant, give HM Revenue & Customs (HMRC) power to make new regulations on the period over which VAT charges for the non-business use of land and buildings and other assets under “Lennartz” accounting are to be calculated and insert the word ‘surrender’ in the deemed supply legislation to close a potential tax avoidance loophole.

Clause 99 amends Sections 49 and 94(6) of, Schedules 1 and 4 to the Value Added Tax (VAT) Act 1994 (the VAT Act). The amendment requires that, where a business is transferred to another person as a going concern, the transferor will retain the business records but the transferor must make available to the transferee information necessary for the transferee to comply with his duties under the VAT Act. HM Revenue and Customs (HMRC) may disclose to the transferee information it holds that is needed by the transferee to comply with such duties. Where the VAT registration of the transferor is also transferred, HMRC may make regulations requiring the transferee rather than the transferor to retain the business records. The clause also makes clear that a transfer of a going concern includes the transfer of part of a business.

Clause 100 amends the definition of “premium” for insurance premium tax (IPT) purposes to include payments received in respect of a right to require an insurer to provide, or offer to provide, cover under a taxable insurance contract.

Petroleum revenue tax

Clause 101 provides for the charge to Petroleum Revenue Tax (PRT) to be removed from oil or gas fields where decommissioning has taken place and the field is subsequently redeveloped.

The change will have effect on or after 1 July 2007. All fields already meeting the new qualifying criteria will cease to be chargeable to PRT from that date. Following this date, fields will be removed from the charge to PRT on the date that consent is given for redevelopment by the Secretary of State for the Department of Trade and Industry (DTI).

Clause 102 provides for an oil or gas field, that is removed from the charge to Petroleum Revenue Tax (PRT) because it has been decommissioned and is subsequently redeveloped, to be classified as if it were a new field for the purposes of the tax-exempt tariffing receipts (TETR) legislation.

The legislation will have effect on or after 1 July 2007. All fields already meeting the criteria for redeveloped fields at section 185 of Finance Act (FA) 1993 will qualify from that date. Following this date, all fields will qualify under TETR on the date that the field is given redevelopment consent.

Clause 103 clarifies that the winning of oil from an oil field is permanently ceased only when all the oil wells in the field have been permanently abandoned. This amendment removes doubt as to how the current references of “permanently ceasing” and the “permanent cessation” of the winning of oil should be interpreted.

The amendment has effect on or after 1 July 2007.

Other miscellaneous measures

Clause 104 and Schedule 25 maintains the existing exemption from tax for Charities for the profits from certain charitable lotteries run in accordance with lottery regulations. This was given by section 505(1)(f) Income and Corporation Taxes Act 1988 (ICTA) by reference to the Lotteries and Amusements Act 1976. The relevant sections of the 1976 Act will shortly be repealed and replaced by sections of the Gambling Act 2005. The 2005 Act also brings in a new regulatory framework for lotteries. This Schedule ensures that only lotteries which are lawful under the 2005 Act receive tax relief, but does not extend or restrict the existing relief. These amendments will be brought into force to coincide with the introduction of the new licencing regime under the 2005 Act, on 1 September 2007.

Changes to tax law in the Income Tax Act 2007 (ITA) separate charitable trusts from charitable companies, so that section 505(1)(f) ICTA 1988 will only apply to charitable companies. The clause therefore also amends the 2007 Act to ensure that charitable trusts continue to receive the relief.

Parts 2, 3, 4, 5, and 6 of the Schedule make amendments to the Betting and Gaming Duties Act 1981 (BGDA), the Finance Act 1993 relating to lottery duty, the Finance Act 1997 relating to gaming duty, the Finance Act 1966, and the Customs and Excise Management Act 1979 (CEMA). These amendments are being made as a consequence of, and in connection with, changes that will be introduced by the Gambling Act 2005.

Clause 105 provides for the amendment of section 5 of the Vehicle Excise and Registration Act 1994 (VERA) so as to allow changes, by way of an order, to the description of agricultural vehicles in paragraphs 20A to 20D in Schedule 2 (exempt vehicles) to the Act.

Clause 106 ensures that the limitation period for recovery of direct tax paid by reason of a mistake of law is six years from the date of payment.

Clause 107 will enable HM Revenue & Customs (HMRC) to tackle cases where they suspect non-compliance with obligations, introduced in Part 7 of the Finance Act (FA) 2004, to notify tax avoidance schemes. HMRC may enquire into the reasons a promoter has failed to notify a scheme; obtain an order that a scheme is, or is to be treated as, notifiable; and call for specified information where it appears that a notification is incomplete. Most of the powers are exercisable through the Special Commissioners. Penalties for non-compliance are increased in certain cases where the new powers have been used.

Clause 108 and Schedule 26 provide a new definition of 'listed' and 'recognised stock exchange' for the purposes of the Tax Acts and the Taxation of Chargeable Gains Act 1992 (TCGA). They also introduce provision for the valuation of shares listed on a recognised stock exchange for TCGA purposes as well as minor and consequential amendments to provisions concerning listing and stock exchanges.

Clause 109 gives HM Treasury power to make provision, by way of regulations, to ensure that United Kingdom tax legislation is compliant with its obligations under the European Directive on the common system of taxation applicable to mergers, divisions, transfer of assets and exchanges of shares concerning companies of different Member States (90/434/EEC) (“EMTD”)

The regulations in question have already been published for technical comment. They broadly provide for the deferral of a tax charge on income, profits and gains accruing to a company and to its shareholders participating in transactions falling within the scope of the EMTD.

Clause 110 will remove the relief from excise duty on non-commercial imports of excise goods, including alcohol and tobacco products, which form part of a small consignment. The regulations are concerned with unaccompanied goods, including those sent via the postal system.

This will mean that all alcohol and tobacco products sent via the postal system from abroad will be liable to UK excise duty.

PART 8

FINAL PROVISIONS

Clause 111 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 112 and Schedule 27 provides for the repeals contained in Schedule 27 to the Bill to have effect. It also gives effect to the Notes in the Schedule that set out the commencement provisions and savings applying to the repeals.

Clause 113 provides for the Bill to be known as the “Finance Act 2007” upon enactment.