

Amendment	Page	Line
*SC 184	109	49
*SC 185	110	1
*SC 186	110	5
*SC 187	110	9

Paul Boateng

(Brent South - Lab)

Amendment 184

Clause 125, page 109, line 49, leave out 'the lower of' and insert '(subject to subsections (6) and (7)) so much of A as does not exceed B, where'.

Amendment 185

Clause 125, page 110, line 1, at beginning insert 'A is'.

Amendment 186

Clause 125, page 110, line 5, at beginning insert 'B is'.

Amendment 187

Clause 125, page 110, line 9, leave out subsection (6) and insert -

'(6) Subsection (7) applies if this section applies on more than one occasion in relation to the same company and partnership (whether because of two or more receipts by the company of consideration relating to the same disposal or for any other reason).

(7) On each occasion after the first, the amount found under subsection (5) shall be reduced (but not below nil) by the total of the chargeable amounts found (under that subsection read with this) on the previous occasions.'

EXPLANATORY NOTE

SUMMARY

1. These amendments correct a technical problem with Clause 125 of the Finance Bill. The Clause imposes a charge to corporation tax

where a company in a partnership manipulates partnership profit shares in order to realise what should be taxable profits as capital receipts. The measure of charge is expressed as the lower of two alternative amounts. Whilst numerically this gives the correct result, the character of the two alternatives is different so that the consequences for chargeable gains can be different. These amendments deal with the point by making the character of the charge always the same, but capped in amount to being no greater than the alternative calculation.

DETAILS

2. Amendment 184 inserts a new definition of the chargeable amount as the amount of calculation A, but only in so far as it does not exceed amount B. This means that the amount to be charged will always be found under this computation, and will therefore always have the same character
3. Amendment 185 redefines the existing first alternative amount as amount A, which will always be the amount that gives rise to the charge.
4. Amendment 186 removes the second alternative amount for the charge to tax under this clause. Instead it treats that second calculation, amount B, as the amount which potentially limits the amount of the charge under amount A.
5. Amendment 187 makes the necessary consequential amendment to clause 125(6). This ensures that where a second or subsequent amount is charged under this clause on the same company in respect of the same partnership, the amount charged is reduced by any amount charged on the earlier occasion.

BACKGROUND NOTE

6. Where a company disposes of an interest in a partnership, chargeable gains may arise in respect of any chargeable assets that are encompassed within that partnership interest.
7. When amounts are brought into account for the purposes of computing income or profits chargeable to income tax they are

**BOARD OF INLAND REVENUE
RESOLUTION 46**

**FINANCE BILL 2004
COMMITTEE
CLAUSE 125**

excluded from the computation of chargeable gains by sections 37
and 39 TCGA 1992.