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Dawn Primarolo

(Bristol South – Lab)

#### **Amendment 73**

Schedule 7, page 196, line 31 [Vol 1], leave out 'the transfer and any associated operations' and insert 'such of the relevant transactions as were'.

#### **Amendment 74**

Schedule 7, page 196, line 42 [Vol 1], leave out from first 'to' to second 'the' in line 43 and insert 'relevant transactions by reference to which'.

#### **Amendment 75**

Schedule 7, page 197, line 1 [Vol 1], leave out 'other associated operations' and insert 'associated operations not falling within paragraph (a) above'.

#### **Amendment 76**

Schedule 7, page 197, line 32 [Vol 1], at end insert-  
'relevant transactions means-  
(a) the transfer, and  
(b) any associated operations.'

### **SUMMARY**

1. These related amendments correct a minor drafting flaw. The new section 741D of the Income and Corporation Taxes Act 1988 (ICTA) protects individuals from a tax charge under section 739 on certain income. It broadly provides that where the chargeable income is attributable partly to earlier commercial transactions that qualified for exemption and partly to later transactions that do not qualify, tax will only be charged on the income attributable to the later transactions involving tax avoidance. However, certain cases

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that ought to be covered would be excluded from section 741D as it is currently drafted. It would not apply where the earlier transactions consisted of a transfer alone without associated operations. This was not intended, and the amendments ensure the provision operates correctly.

### **DETAILS**

2. **Amendment 73** adjusts the wording of subsection (2) to substitute a reference to "the relevant transactions".
3. **Amendment 74** corrects a drafting flaw in subsection (4)(a), by substituting a reference to "the relevant transactions". This ensures that the provision is not confined to cases where transactions consist of a transfer together with associated operations, but can also apply to cases involving a transfer alone without associated operations.
4. **Amendment 75** adjusts the wording of subsection (4)(b) to take account of the change to subsection (4)(a).
5. **Amendment 76** defines "relevant transactions" for the purposes of section 741D as meaning the transfer and any associated operations.

### **BACKGROUND NOTE**

6. These related amendments correct a minor drafting defect in section 741D of ICTA, as inserted by Schedule 7.
7. Section 741D provides special treatment for certain cases where income chargeable under section 739 is attributable partly to transactions that met the conditions for exemption (commercial transactions not designed for the purpose of avoiding tax) and partly to transactions that do not qualify for exemption (because they were designed for the purpose of avoiding tax). In such cases

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the section 739 charge will be reduced, so that it effectively applies only to the amount of income that appears to HM Revenue and Customs (HMRC) to be attributable to associated operations not meeting the relevant exemption test. The income attributable to the transactions not involving avoidance would not then be charged.

8. The Government included section 741D in the Bill in response to comments on the proposals originally published. It would not be fair to tax the whole of the income in the cases in question.
9. As the Bill stands, a drafting flaw in subsection (4)(a) means that this treatment would not apply in all the cases that ought to be covered. Section 741D treatment would be available where the earlier transactions that qualified for exemption were a transfer together with associated operations, but not where they consisted of a transfer alone without any associated operations. This would have the unintended result that section 741D would not apply in such cases and the whole of the income would be chargeable.
10. The amendments put this right, by a minor adjustment to the defective wording and several consequential changes.