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PART C

1987 FINANCE BILL

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PART C

·4469/29

SECRET AND PERSONAL

FROM: MISS C E C SINCLAIR
DATE: 23 March 1987

1. MR SCHOLAR

2. CHANCELLOR

cc Sir P Middleton
Miss Evans

P Graham
Parliamentary Counsel

Mr B Mace - IR

FINANCE BILL: ACCELERATED TIMETABLE

I have discussed the points in your Private Secretary's minute of 20 March with both Mr Graham in Parliamentary Counsel and with Mr Mace in Revenue.

Parliamentary Angle

2. Assuming an election in early or mid-June, the first step to getting the 2p income tax cut through would be to ensure that it had been taken through Committee of the Whole House (CWH), ideally by 7 May. Although the split of the Bill between CWH and Standing Committee is something which needs to be negotiated and agreed with the Opposition before Second Reading, they could not refuse to let the 2p clause be taken in CWH. At most they could insist on an extra day of CWH for topics of interest to them.

3. In Committee, and at Report, amendments to increase the basic rate would be out of order. An amendment deleting the whole clause could be proposed, but this would have the effect of depriving the Government of the right to levy income tax at all in 1987/88. It seems unlikely that the Opposition would propose this. The scope for filibustering in CWH is limited and it is not likely that the Speaker would refuse a Government motion to close the debate.

4. But even if the 2p clause had been agreed in CWH, it could be challenged by the Opposition at Report Stage. By then an election would have been announced and there would be pressure to get the final stages of the Finance Bill completed as quickly

as possible. The key factor here would be whether there were other provisions of importance to the Government, and indeed other considerations unconnected with the Finance Bill, where Opposition support, or acquiescence, was needed.

5. In 1983 the Government wished to salvage some important parts of the 1983 Finance Bill. It appears that agreement was reached with the Opposition to amend the Bill at Report Stage so as to reverse the proposed 14 per cent increase in higher rate thresholds. In return the Opposition allowed other measures of importance to go through. A further feature of the agreement was that the effect of the PCTA Resolution which had increased the higher rate thresholds by 14 per cent was preserved by a specific provision in the pre-election Finance Act.

6. The Parliamentary position therefore seems to turn on the extent to which the Government needs or wants Opposition goodwill. If you attach top priority to getting through the 2p income tax cut (plus payroll giving, VAT partial exemption, the MIR ceiling and minor excise duty increases, all of which are covered by PCTA Resolutions), the Government is very well placed to push the cut through despite Opposition objections. This is a preliminary view, in the time available, but reflects the understanding of both the Chief Whip's Office and Parliamentary Counsel. Any constraints appear to be political.

Practical aspects

7. The 2p cut will be given effect by a PCTA Resolution at the end of the Budget Debate today. It could be stopped from coming into effect for PAYE by an overriding Resolution, but the latest this could be done would be around 29 April. After that date, it would rapidly become very difficult (because employers would have already acted) to put things into reverse and to stop people getting the benefit of the 2p tax cut in their first pay packet after 17 May as at present planned.

8. The paragraphs above suggest that the Government would be strongly placed to get the 2p cut enacted provided it could afford to ignore the consequences of a clash with the Opposition. If the pre-Election Finance Bill did not in the event enact the 27p cut, the Revenue would technically be obliged to operate the basic rate in that Bill - presumably 29p. As noted above, this problem did not arise with higher rate thresholds in 1983 because of the agreement reached with the Opposition and given effect in the pre-election Finance Bill.

9. If a newly elected Conservative Government brought in another Finance Bill before the Summer Recess and reintroduced a 27p basic rate, this would of course be retrospective from 6 April 1987.

10. This means that for PAYE taxpayers there could be a messy scenario under which they would have the benefit of the tax cut from 17 May, possibly have it clawed back again, and then have it restored.

11. The practical problems go wider than PAYE. From 6 April people will be entitled to deduct tax at 27 per cent from payments of interest etc; companies will be paying ACT at the new rate of 27/73 on dividends; and MIRAS payments may similarly start to be adjusted. If the basic rate were put back up to 29 per cent in a pre-election Bill this would effectively have to be unscrambled. The Taxes Acts set out transitional rules to cope with this. These have had to be applied in the past when there has been a change in the basic rate part way through the year (for example in June 1979 when the basic rate was reduced from 33 per cent to 30 per cent). However, the rules are inevitably much messier to apply, and involve more work and complications for all concerned, if there is an increase in the rate rather than a reduction.

Conclusions

12. In the time available, and given our limited consultations, these must carry a health warning. But it appears

(a) that little or nothing can stop a Government with an overall majority from getting through a few key measures in a pre-election Finance Bill provided loss of Opposition goodwill is unimportant

(b) that if the Opposition tried to stop the 2p cut going through and somehow succeeded, they would be putting taxpayers, employers, the Revenue and others to some trouble - which might, of course, then be reversed yet again.

CAROLYN SINCLAIR

006/2982

CONFIDENTIAL

FROM: JILL RUTTER
DATE: 24 March 1987

MR DYER

cc:
PPS
PS/Financial Secretary
PS/Economic Secretary
PS/Minister of State
Mr Scholar
Miss Sinclair
Mr Walters
Mr P Graham - PCO

PS/IR
PS/C & E

FINANCE BILL: COMMITTAL MOTION

The Chief Secretary has seen your minute of 23 March. He thinks that we should try to avoid this exceptional procedure which he sees as being too risky.

JILL RUTTER
Private Secretary

FROM: D N WALTERS
DATE: 25 MARCH 1987

MR WALKER - IR
MR BONE - C&E
MR ROMANSKI
MS GOODMAN
MR BRADLEY

cc PS/Chancellor 12/2
PS/Chief Secretary
PS/Financial Secretary
PS/Economic Secretary
PS/Minister of State
Mr Scholar
Miss Sinclair
Mr Dyer
Miss C Evans
Mr R Evans
Mr Haigh

FINANCE BILL 1987: LOBBY NOTES

The Finance Bill is to be published on 8 April. Treasury Press Office will be issuing on that day the usual lobby notes. The purpose of this minute is to commission contributions.

2. Recent practice of the Financial Times has been to reproduce the notes in full. In order to get them set for Thursday's edition it is essential that the Press Office pass copy to the paper on Tuesday 7 April. I must therefore ask for your contributions by, at latest, close on 6 April. I am advised that the texts should be cleared with appropriate Treasury Ministers. I would be grateful if you could ensure that this is done for your areas **before** the final version is sent to me please.

3. The requirement is for each clause and schedule to be covered with a short description of its effect. These should be kept as brief as possible and free of opaque technical jargon. I would be grateful if Messrs Walker and Bone could edit the individual contributions from within their departments. Lengthy sub-section by sub-section summaries are not required. We suggest 10 lines per clause at the most.

4. The notes should also:

(a) refer to the date on which the change takes effect if this is not the date of Royal Assent;

(b) cross-refer to the appropriate Budget Press Notice if any.

5. We also need a similar note for each measure which the Government intends to introduce at Committee Stage. I would be grateful if you could let me have a list of your starters for Committee as soon as possible please with the notes following with the rest on 6 April.

6. On the basis of the 20 March draft of the Finance Bill, the allocation of responsibility for clauses appears to be as follows:

(a) Customs: Clauses 1 and 3-21;

(b) Inland Revenue: Clauses 22-158 and 161-163 and Schedules 2-21;

(c) Mr Romanski (for the Department of Transport): Clause 2 and Schedule 1;

(d) Ms Goodman: Clauses 159 and 160.

I would be grateful to know if anyone disagrees with this allocation.

7. I would also be grateful if Messrs Walker and Bone could, as I believe is usual, supply me with a short note on the effects of the measures in the Bill on staff numbers in their respective Departments.

D N WALTERS

4077/8

CONFIDENTIAL

FROM: B O DYER
DATE: 23 March 1987

01-270 4520

PS/CHIEF SECRETARY

cc PPS
PS/Financial Secretary
PS/Economic Secretary
PS/Minister of State
Mr Scholar
Miss Sinclair
Mr Walters
Mr P Graham - PCO
PS/IR
PS/C&E

FINANCE BILL : COMMITTAL MOTION

In the context of my minute of 20 March, there is a fallback if it proves impossible to table the Committal Motion before the House rises on Friday 10 April.

2. Although not ideal and rarely used, it is procedurally possible to move such a motion without notice immediately after Second Reading on Wednesday 22 April, provided the Chair is forewarned and copies of the Motion are available to hand round. Similarly, the Motion could be moved on another day and time. While it is not without precedent, it can provoke speculation and, if delayed, affect the timing of subsequent stages.

B O DYER

PPS 12/2

PWP

H. M. TREASURY

Parliament Street, London SW1P 3AG, Press Office: 01-270 5238
Facsimile: 270 5244
Telex: 9413704

31 March 1987

FINANCE BILL PUBLICATION DATE

In response to a written Parliamentary Question, the Rt Hon John MacGregor OBE MP, the Chief Secretary to the Treasury, today announced that the Finance Bill will be published on Wednesday, 8 April.

PRESS OFFICE
HM TREASURY
PARLIAMENT STREET
LONDON
SW1P 3AG
01-270 5238

21/87

NOTE TO EDITORS

Copies of the Finance Bill will be on sale to members of the public on 8 April at HMSO book shop 49 High Holborn, London WC1V 6MB. Copies will be available elsewhere in the country on Thursday 9 April.

Andrew?
PWP

THE INSTITUTE OF TAXATION

12 UPPER BELGRAVE STREET LONDON SW1X 8BB 01-235 8847

Secretary Ronald J Ison LLB FTII Solicitor

T.

21 April 1987 pl. distribute

CHIEF SECRETARY
22 APR 1987
PS/IR.
CX FST MST EST
Mr Butler Mr Scholar
Miss Sinclair Miss Evans
Mr Cropper Mr Tyrie
Mr Ross-Goobey

The Rt. Hon. John MacGregor, OBE, MP,
Chief Secretary to the Treasury,
Treasury Chambers,
Parliament Street,
London SW1P 3AG.

Dear John,

FINANCE BILL, 1987, CLAUSE 40

I am taking the unusual step of writing to you direct as a number of colleagues have expressed their deep concern over the possible implications for close companies should Clause 40 of the Bill be enacted in its present form. I therefore enclose some notes which explain the possible impact of the draft legislation and the various harsh anomalies which could result from it. Attachment I provides the wording of suggested amendments, the purpose of which is to avoid such perceived anomalies.

Taxes Management Act, S.50(5)

For many years now, a continual complaint of those 1,000 or so members of ours who are not also qualified accountants or lawyers is that they do not have the statutory right to be heard by the Commissioners upon any appeal. This matter is becoming of increasing concern, particularly having regard to possible developments for the practice of taxation within the EEC. I have therefore written to the Lord Chancellor and have pleasure in enclosing a copy of this letter and do very much hope that time can be found for this minor, but for us important, amendment to the legislation.

My colleagues and I very much look forward to welcoming you to our conference on the Finance Bill on Wednesday, 6 May.

Best wishes,
Yours sincerely,
Robin

R M Ivison, President

FINANCE BILL 1987 - BRIEFING NOTES ON CLAUSE 40

1. Background

1.1 Clause 40 proposes amendments to the various paragraphs of FA 1972 schedule 16 relating to the apportionment of income and certain expenses of close companies. In particular, it proposes to convert a discretionary power of Inspectors to require apportionment into a mandatory obligation on them to do so.

1.2 Historically, the various paragraphs (1, 3 and 3(A)) had used the word "may" and it is now proposed that this should be replaced by the word "shall".

1.3 In the recent Lansing Bagnall case the Revenue argued that despite the use of the word "may" in the legislation, the Inspector had no discretion where an apportionment - as mechanically calculated in accordance with the schedule 16 rules - could be imposed. The Courts held that Inspectors had discretion and should listen to the arguments of taxpayers as to why apportionment should not be made.

1.4 Despite what the Revenue (as represented by Somerset House) argued in the Lansing Bagnall case, actual experience of apportionment has been that Inspectors have used discretion - knowingly or unknowingly - in considering apportionment. This has been particularly true in relation to paragraph 3A - the apportionment of interest expense. When this has been raised with taxpayers, it has often been in the context of a transaction perceived to include or involve tax avoidance and the threat of paragraph 3A apportionment has properly been used to encourage a taxpayer to reach a settlement. It is very rare for a paragraph 3A apportionment to have been raised in the ordinary circumstances envisaged by schedule 16.

2. Impact

2.1 The changes will affect apportionment of:-

2.1.1 income

2.1.2 annual payments

2.1.3 interest expense

2.2 Both taxpayers and the Revenue have been aware of the ability to apportion investment income for many years and with one exception (see 4 below) the rules are generally understood and if the philosophy behind apportionment is accepted, the present rules are perceived as being as reasonably fair.

2.3 In relation to annual payments, the main target of this paragraph appears to have been charitable covenants and with the abolition of the upper limit for charitable covenants for individuals in the 1986 Finance Act, the effective application of this paragraph has been substantially reduced.

2.4 The major difficulties will therefore focus on paragraph 3A for the twin reasons that:-

2.4.1 the Revenue will have to focus on something which they have not focussed on in the past

2.4.2 there is an underlying unfairness and set of anomalies which if Inspectors in general had sought to impose in the past would have led to substantial outcries from affected taxpayers, as illustrated below in section 3 of these notes.

2.5 That the Revenue does not understand the potential impact of its proposed change is evident from the supply estimates, since the Revenue effect of the proposed changes has been indicated as "Negligible" for each year covered by the estimates. This is clearly wrong when compared with actual practice in tax districts - it may not be wrong when compared with the practice which the Revenue consider should have been applied.

3. Paragraph 3A

3.1 Paragraph 3A will require apportionment of interest paid by a company, subject to a number of exceptions which may relate to the nature of the company itself, the nature of its income or the nature of its interest expense.

3.2 Under sub-paragraph 2(a), paragraph 3A will not apply to a trading company. By paragraph 11(1) a trading company is defined as any company which exists wholly or mainly for the purpose of carrying on a trade, and any other company whose income does not consist wholly or mainly of investment income. In general this would be acceptable.

3.3 By sub-paragraph 2(b) paragraph 3A will not apply to a company which is a member of a trading group. This is defined in paragraph 11(2) but is far more worrying. On the assumption that the Revenue will interpret the definition literally - and why should taxpayers assume that the Revenue will adopt anything but a literal interpretation after Lansing Bagnall - it means that any parent company which may indeed exist wholly or mainly for the purpose of coordinating administration of a group cannot be treated as a member of a trading group if it has a single dormant subsidiary or a single property investment subsidiary. The latter is particularly strange as estate income is regarded under paragraph 3A (2)(c)(i) as generating an acceptable class of income. A suggested amendment to paragraph 11 (2)(a) appears on attachment 1.

3.4 Under sub-paragaph 2(c) paragraph 3A will not apply if more than 75% of the company's income of the accounting period is of one or more of a number of descriptions. Any income from overseas - unless it is income from a trade conducted through a branch overseas - will be excluded from consideration and a company receiving such income cannot under present definitions fall within sub-paragraphs 2(a) or (b). It seems difficult to reconcile the government's encouragement for the expansion of small companies, and the simultaneous encouragement for cross border freedom of movement of both capital and labour, with the imposition of substantial tax penalties where small businesses have overseas income.

The solution seems to be to permit overseas companies which are primarily involved in property investment or trading to generate the same type of qualifying income as domestic companies. This can be achieved by repealing paragraph 3A (7)(a) as indicated on attachment 1.

3.5 Another anomaly which will have unexpected and unfair effects is the fact that interest expense can be apportioned more than once. For example, where a parent company borrows group funds and lends them down as required to subsidiaries, including overseas subsidiaries, the structure of the group may be such that interest flows from subsidiary to parent through a number of tiers as illustrated on attachment 2. In this situation, under the proposed law, there would be multiple mandatory apportionment so that what was effectively the same expense would have to be apportioned and taxed a number of times. This is totally inequitable and although the Revenue may argue that companies should be able to restructure their loan arrangements so that each individual company borrows its specific requirements, commercial actions should not depend on their tax consequences, and in any event commercial advantages may be obtained by having all group borrowings in one place.

The solution appears to be to exclude from apportionment any interest paid to another member of a 51% UK resident group and a suggested amendment is enclosed on attachment 1.

3.6 Paragraph 3 can only require apportionment in respect of amounts deducted by a company in arriving at its corporation tax profits for a particular accounting period. By contrast, paragraph 3A apportionment can be imposed by reference to interest paid during the period. This could have the remarkable effect that shareholders will be apportioned on interest expense paid by the company which was not entitled to a tax deduction for the interest expense (eg because it was short interest paid by an investment company other than to a UK bank), or where although entitled to a deduction, the company (and any other member of the group) was unable to benefit from the interest deduction because of an insufficiency of profits. A suggested amendment appears on attachment 1.

3.7 The philosophy behind paragraph 3A is that by incorporating a company, an individual should not thereby obtain an advantage when compared with a taxpayer who would not be entitled to interest relief for loans used to finance a particular business activity if he had not incorporated. This philosophy does not fit well with the larger type of close group, where there may well be publicly quoted debt not available to an individual. A company should not, therefore, live in fear of apportionment of interest paid in respect of debts quoted on a recognised stock exchange in the UK, Europe or elsewhere. Bearing in mind the reluctance of the UK until recently to permit publicly quoted debt to be paid without deduction of tax, to be effective any such relief from apportionment would have to extend to the first UK corporate borrower of money derived from publicly quoted debt obtained by an overseas related company.

4. Apportionment of Income

The Revenue has listened on a number of occasions to complaints that trading income earned by a subsidiary becomes apportionable investment income if paid up as a dividend to a parent company. There are a number of reasons why commercially it may be desirable to pay such a dividend without wishing the payment to be apportioned through to shareholders and in circumstances where the company does not specifically qualify for relief under the "requirements of the business" rules. It is suggested that this could be accommodated by an amendment to paragraph 8 by excluding from the definition of "relevent income" interest and dividends received from 51% subsidiaries in the circumstances specified in paragraph 3A (2)(c)(ii), as indicated on attachment 1.

10.4.87

Attachment I

SUGGESTED AMENDMENTS TO SCHEDULE 16

Paragraph 3A (1)

In line 3, after "any interest paid by the company", add "which was deducted in arriving at its distributable income for" and delete the word "in".

Paragraph 3A (3)

At end, add

(c) to interest which is paid to a company resident in the UK which is either:-

(i) a 51% subsidiary of the company paying interest; or

(ii) a company of which the company paying the interest is a 51% subsidiary; or

(ii) a company which is a 51% subsidiary of a third company of which the company paying the interest is also a 51% subsidiary.

Paragraph 3A (7)

Delete sub-sub-paragraph (a)

Paragraph 8(2)

At end, add

(c) There shall be excluded any income of a type specified in paragraph 3A (2)(c)(ii) of this schedule.

Paragrah 11 (2)

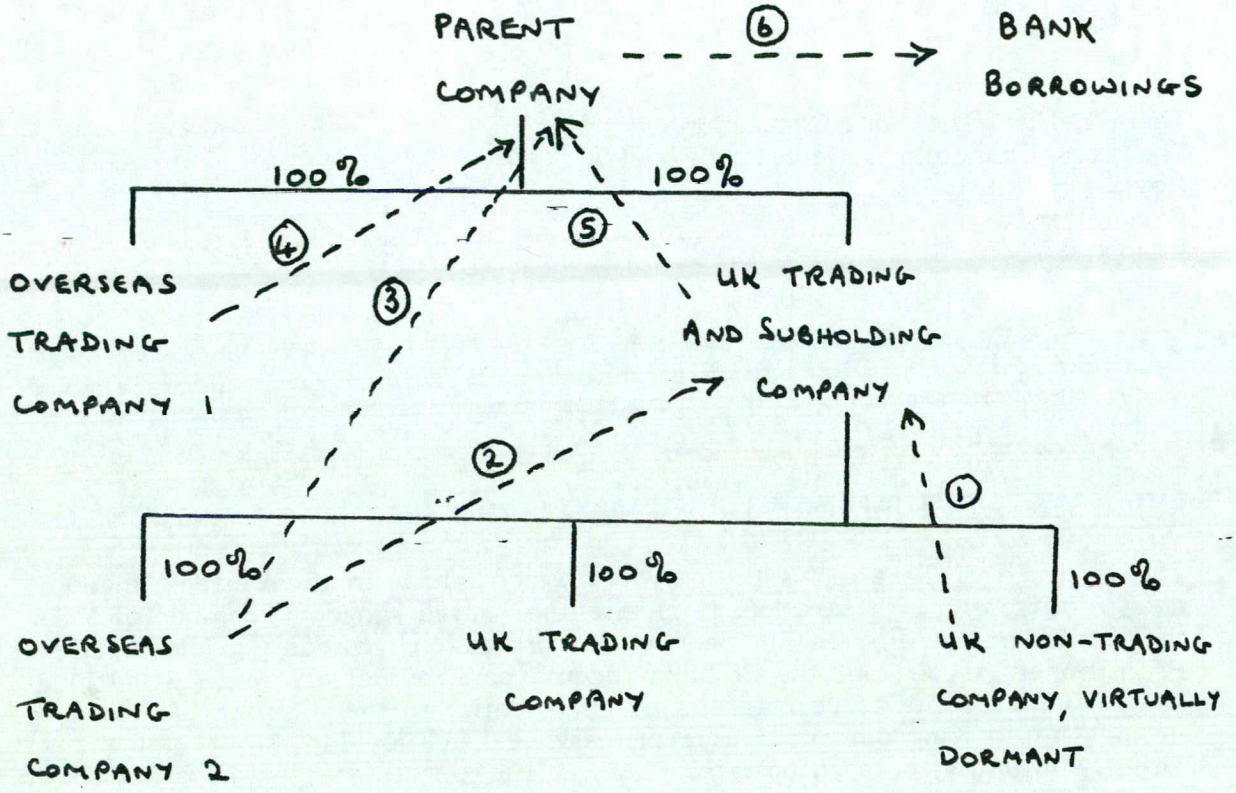
Replace the existing sub-sub-paragraph (a) as follows.

It exists wholly or mainly for the purpose of either coordinating the administration of a group of two or more companies each of which is under its control or of holding shares in members of such a group or for a combination of these two purposes, provided that the group consists wholly or mainly of companies which themselves exist wholly or mainly for the purpose of carrying on a trade or for the purpose of property investment, and provided further that companies which are wholly dormant throughout the accounting period are ignored.

10.4.87

ATTACHMENT 2

PARA 3A - MULTIPLE APPORTIONMENT



INTEREST FLOW represented by ---→

PARENT COMPANY FUNDS all group activities, but the intermediate holding company also lends at interest to its subsidiaries

INTEREST

Payment ⑤ duplicates ① and ②

Payment ⑥ duplicates ③ + ④ + ⑤

PARA 3A

① Apportionable

②, ③ and ④ Not apportionable - overseas company

⑤ Sub-para 2(a) or 2(c) may offer protection

Sub-para 3(b) may offer partial protection

⑥ Sub-para 2(c) is the only possible protection

WORST CASE RESULT

Triple apportionment of ① through ⑤ and ⑥

Double apportionment of the rest of ⑤ through ⑥

Apportionment of interest paid by overseas trading company through ⑥

10/4/87

THE INSTITUTE OF TAXATION

12 UPPER BELGRAVE STREET LONDON SW1X 8BB 01-235 8847

Secretary Ronald J Ison LLB FTII Solicitor

21 April 1987

The Rt. Hon. The Lord Chancellor
The Lord Chancellor's Department
Neville House
Page Street
London SW1

My Lord,

TAXES MANAGEMENT ACT, 1970, S.50(5)
REPRESENTATION BEFORE THE GENERAL AND SPECIAL COMMISSIONERS

The Institute of Taxation is the only professional body in the United Kingdom concerned solely with taxation. It is also the United Kingdom member of the Confederation Fiscale Europeenne, the professional association of Taxation Practitioners throughout the EEC. In recent years, our associate qualification, the ATII, has come to be regarded as an essential to the practice of taxation in the United Kingdom either as a primary qualification for those coming directly into tax, or as a post-graduate qualification for those who are already otherwise qualified, such as Chartered and Certified Accountants and to an increasing extent, Solicitors. Of our current membership of just over 7,000, approximately 1,000 are members of our Institute only either as associates or fellows.

It is important that the members of the Institute should be in a position to take advantage of the challenging opportunities now arising both in the United Kingdom and throughout the EEC. Last year, the Department of Trade and Industry issued its Consultative Document on the Regulation of Auditors and the Implementation of EC Eighth Company Law Directive. Having regard to developing trends within the EEC it is likely that a specialist qualification will be required at some point in the future for those who are to be approved to carry out taxation compliance work and to offer specialist taxation advice. Further, in August 1986, the Director General of the Office of Fair Trading issued his Report on the restrictions on the kind of organisation through which members of professions may offer their services: he recommended the introduction of enabling changes necessary to the creation of multi disciplined practices and the opportunity of the professions to incorporate if they so wished.

In its Report on the Enforcement Powers of the Revenue Departments, the Keith Committee at 25.6.3 noted that "the Institute of Taxation is not technically an incorporated society of accountants, although its members are qualified by examination in taxation." Our members do not therefore have the statutory right to be heard by the Commissioners upon any appeal and this, I understand, has on occasion caused members some embarrassment before the Commissioners. Although this is only for historical reasons, nonetheless, it is unfortunate that the status of our members should be diminished in the eyes of our European colleagues who do not understand such distinctions.

The regard in which the Institute of Taxation is held was recognised by the Keith Committee which, by a majority, recommended that the privilege be extended to duly appointed tax agents who have been admitted members of an incorporated society of accountants or of the Institute of Taxation, 26.6.13. We are concerned that legal professional privilege should be extended to qualified tax advisers. We would be glad to take part in discussions on this matter but, in the meantime would urge that an appropriate extension to S.50(5) be made in this year's Finance Bill to include a member of the Institute of Taxation in addition to a member of an incorporated society of accountants. We would urge this change be made now in advance of any final decision upon the procedural rules: we understand that the Board of Inland Revenue would have sympathy for such a change.

I have pleasure in enclosing a leaflet which provides some information about the Institute.

Yours very truly,

R. M. Ivison

R M Ivison, President

001/1283

SECRET

1 ~~Alex~~
2 ~~Jons~~
3 Paul

FROM: JILL RUTTER
DATE: 1 May 1987

PS/FINANCIAL SECRETARY

cc:
Principal Private Secretary
PS/Economic Secretary
PS/Minister of State
Sir Peter Middleton
Mr Cassell
Mr Scholar
Miss Sinclair
Miss C Evans
Mr Dyer
Mr Walters
Mr Haigh
Ms Goodman
Mr Romanski
Mr Cropper
Mr Tyrie
Mr Ross Goobey

Mr Johns - IR
Mr Willmott - C & E

Mr Graham - OPC
Mr Neubert MP
Mr MacLean - Chief Whip's Office

FINANCE BILL: STANDING COMMITTEE

Given the unprecedented rate of progress in the Committee of the Whole House the Chief Secretary has now considered with Mr Neubert what progress we might aim to make next week.

2 The Chief Secretary would like to get as far as possible next week - this will mean going late on both Tuesday and Thursday. He believes that the aim - which we may not achieve - should be to reach Clause 46 (Business Expansion Scheme: Films) by the the end of Thursday.

3 Could you and other Private Secretaries therefore ensure that their Ministers are prepared to do this.

4 Could I apologise for a slight error in my minute of 29 April. I should have said, in accordance with my minute

of 2 April, that the Chief Secretary was going to do Clauses 26 and 35, which might now fall on the Thursday. The Chief Secretary has not yet decided his plans for that day but in the event that he is not there he is grateful for the FST's offer to cover.

5 You will see from my minute on the options for a shortened Finance Bill - to be circulated today - that the last session of Standing Committee, on a June election scenario, may be 12 May. I have noted Mr Judge's minute about the MST's problems that day, but could you all note that your Ministers may have to be available, possibly both on the floor of the House and in Standing Committee on the afternoon - evening of 12 May.

Jill Rutter

JILL RUTTER
Private Secretary

CONFIDENTIAL

RP

FROM: APS/Minister of State

DATE: 1 May 1987

MR F D TWEDDLE - C&E

cc PS/Chancellor
PS/Chief Secretary
PS/Financial Secretary
PS/Economic Secretary
Mr D Walters -
Parliamentary Clerk
PS/Customs & Excise

CLAUSE 9 FINANCE BILL 1987

The Minister of State has seen and was grateful for your minute of 30 April.

The Minister was content with your recommendation and an appropriate amendment to the Clause was tabled yesterday.

The Minister would welcome briefing notes on the amendment as soon as possible please.

Deborah Francis

MISS D L FRANCIS
Assistant Private Secretary

CONFIDENTIAL

PUP

HM CUSTOMS AND EXCISE
CUSTOMS DIRECTORATE
DORSET HOUSE, STAMFORD STREET
LONDON SE1 9PS
01-928 0533
GTN 2523

FROM: F D TWEDDLE
30 April 1987

Minister of State

cc. PS/Chancellor
PS/Chief Secretary
PS/Financial Secretary
PS/Economic Secretary
Parliamentary Clerk

CLAUSE 9 FINANCE BILL 1987

1. Clause 9 of this year's Finance Bill provides for Customs and Excise to specify the records to be kept by any person concerned with the importation and exportation of goods. The principal purpose of the Clause is to permit the acceptance, in certain circumstances, of electronically transmitted customs freight declarations without any additional paper declarations provided importers and exporters retain the necessary supporting documents.

2. Sub-section 6 (c) and (d) cover the rules concerning the admissibility in evidence of statements contained in a document produced by a computer in Scottish civil and criminal proceedings. The sub-section is very similar to that contained in Schedule 7 of the Value Added Tax Act 1983.

3. The Scottish Courts Administration, which has general responsibility for the law of evidence in Scotland, has pointed out that there is no criminal legislation in Scotland relating to computer produced evidence. Therefore the attempts made to link the provisions of sub-section 6 (c) and (d) of Clause 9 to sections 13 and 14 of the Law Reform (Miscellaneous Provisions) (Scotland) Act

---

Internal Circulation

CPS	Mr Howard	Mr Egginton	Miss A A Forrester
Mr Hawken	Solicitor	Mr Livingstone	Miss Gosney
Mr Nash	Miss French	Mr Geddes	Mr Orr

1968 are not sound because the provisions do not translate to criminal proceedings. Moreover these sections of the Law Reform Act are now regarded as antiquated and inappropriate for the present day state of technology.

4. Customs and Excise have accepted this advice and we recommend that sub-section 6 (c) and (d) of Clause 9 are deleted and that an appropriate Government amendment is put forward. The position of the admissibility of computer produced documents for customs purposes would therefore not be as clear in Scotland as in the rest of the United Kingdom and it would be for the Scottish Courts to determine what is admissible.

5. To be consistent it would also be necessary to put forward an amendment with the same effect to Schedule 7 of the VAT Act 1983. However, inserting a repeal into the VAT Schedule at this stage would not be straightforward and we assume that the Government would not wish to put forward a freestanding amendment about VAT covering a comparatively minor issue which has not caused problems. Furthermore this area is being considered by the Scottish Law Commission who would prefer there to be minimum disturbance until the situation is properly dealt with. It would be possible to leave Clause 9 unamended and this would have the advantage of bringing customs import and export requirements into line with the existing legislation on VAT. However, it is undesirable to put forward new legislation which we are aware is unsatisfactory in some respects. In addition there could be problems with any proceedings in this area in the Scottish Courts.

6. Unfortunately it is only now that these "Scottish" difficulties with Clause 9 have been brought to the attention of Customs and Excise. An amendment can be put forward at either the Committee or Report stages. If it is to be considered by Committee it will be necessary to put it forward immediately.

7. May we have your authority to proceed as recommended and for an appropriate amendment to be tabled.

FAT

F D TWEDDLE

RC6.4

SECRET

28

FROM: CATHY RYDING
DATE: 5 May 1987

PS/CHIEF SECRETARY

FINANCE BILL: POSSIBLE GUILLOTINE

The Chancellor has seen Peter Graham's letter to Murdo Maclean of 1 May, and has commented "seems just what the doctor ordered".

CR

CATHY RYDING

SECRET

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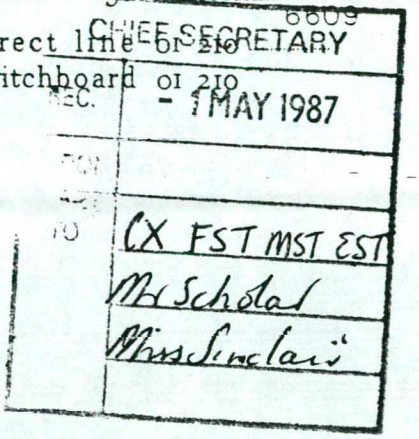

Murdo Maclean Esq
Government Ships' Office
12 Downing Street
SW1

1 May 1987

FINANCE BILL: POSSIBLE GUILLOTINE

Following my letters of 29 and 30 April to Jill Rutter, I enclose a draft guillotine motion.

The enclosure has been prepared after confidential discussions with the Principal Clerk of Public Bills but it has not yet actually been seen by him. I am not proposing to discuss the actual text with him until Wednesday or Thursday of next week. I have no reason to believe, however, that we will have any real difficulties on the technicalities of the motion.

Broadly, the guillotine follows established precedent but there are one or two slightly unusual features. In the first place, we are contemplating that, on Tuesday 12 May, the Standing Committee will dispose of the whole of the Bill and that the House will then take Report and Third Reading on Wednesday 13 May. This means that, in terms of the guillotine, there is only one "allotted day". Equally, because of the timetable, there is no

SECRET

question of having a business committee. These factors explain the structure of paragraph 1 of the motion, with the exception of sub-paragraph (4). Sub-paragraph (4) is taken from the precedent to which I referred in my letter of yesterday to Jill Rutter. Our notes on this point out that it does not cover the possibility of a re-committal. Because of this, our Office precedent suggests that the sub-paragraph should begin "Each further stage of the Bill may be proceeded with at the conclusion of the preceding stage, notwithstanding..... ". While there is no doubt that this is a more satisfactory form of words, it is, so far as I am aware, unprecedented in the House and, for that reason, I am assuming that you would prefer to follow the 1975 precedent. In fact, paragraph 11(1) (which did not appear in the 1975 precedent) does somewhat muddy the waters and, if I were drafting a Bill, I would exclude paragraph 1(4) from what is said in paragraph 11. In the context of a guillotine motion, however, that would simply be shining a beacon at a way to cause trouble, so I do not propose to have any cross-reference at all. Effectively, I trust that you can secure that there will not be a re-committal: any motion for recommittal is of course not debatable (see paragraph 11(2)).

There are a number of points about paragraph 2 of the resolution to which I should draw your attention. In sub-paragraph (1) the proceedings in Standing Committee are re-ordered so as to postpone almost to the end all the provisions which are to be omitted. In fact, those provisions are postponed until after new clauses. At the very end of the ordering comes the short title

clause and the Repeal Schedule (since these are provisions which we shall be amending consequentially by "starred" amendments) and I have added at this point "New Schedules" because, although I do not think there will be any, there ought to be a place for them in the motion. Leading on from the re-ordering, sub-paragraph (2) suggests that there should be three separate knives. This suggestion and, of course, the suggestion as to times which I have written in are really matters for you. You will see that what I have tried to achieve is that there is only half-an-hour to dispose of all the clauses and Schedules which are to be dropped. In practice, five minutes might be sufficient: it depends whether there are divisions.

As a corollary to postponing the provisions which are to be omitted, sub-paragraph (3) of paragraph 2 states that the Chairman of the Committee will put only two questions. This is particularly a matter where the precise form of the motion needs to be settled with Jim Willcox, but he agrees that we can achieve the result in some way. Incidentally, I am assuming that the Government will not have put down any amendments to the clauses and Schedules which are to be omitted - though Opposition members may well have done. Nevertheless, the last two lines of paragraph 2(3) throw away all amendments (including any in the name of Ministers).

Once we get past paragraph 2 of the motion, I think everything else is more or less common form.

Your records are probably at least as good as ours but you might like to know that, so far as we are aware, Finance Bills have been guillotined in 1931, 1968 and 1975. In those three cases, however, the guillotine was imposed in order to speed up progress. The special factor of an election was not relevant.

Just to complete the story, I assume that, if we do have a guillotine motion, you will also want to table, to be taken after the guillotine, a motion allowing report amendments to be tabled before the Standing Committee has finished its business. Two points arise on that, however. First, the Standing Committee will be finishing at its Tuesday sitting so, if the House is still sitting, there is no problem about tabling Report amendments. Secondly, if we get it right there should be no government amendments on Report. The only caveat would be if Ministers decided to amend any clauses already agreed to in CWH this week or to be agreed to in Standing Committee next week.

I am sending a copy of this letter and of the enclosure to Jill Rutter. I also take the opportunity to let you both know that I am still hoping not to return to London until Wednesday of next week, 6 May. Both Christopher Jenkins and Catherine Johnston will, however, be here on Tuesday, 5 May.

PETER GRAHAM

Enc

11/150

FINANCE BILL (ALLOCATION OF TIME)

Mr John Biffen

Mr Chancellor of the Exchequer

That the following provisions shall apply to the remaining proceedings on the Bill:

Committee, Report and Third Reading

1.-(1) The remaining proceedings in the Standing Committee to which the Bill is allocated shall be brought to a conclusion at today's sitting in accordance with paragraph 2 below.

(2) The proceedings on Consideration and Third Reading of the Bill shall be completed in one allotted day, and on that day -

(a) the proceedings on Consideration shall be brought to a conclusion at .... o'clock; and

(b) the proceedings on Third Reading shall be brought to a conclusion at .... o'clock.

(3) Standing Order No. 80 (Business Committee) shall not apply to this Order.

(4) The Third Reading of the Bill may be taken immediately after the Consideration of the Bill, notwithstanding the practice of the House as to the interval between the stages of a Finance Bill.

Proceedings in Standing Committee

2.-(1) The order in which the remaining proceedings in Standing Committee are to be taken shall be Clauses 12 to 17, Clause 19, Schedule 2, Clauses 24 to 28, Clauses 30 to 32, Clauses 35 and 36,

Schedule 6, Clause 37, Schedule 7, Clause 39, Clauses 45 and 46, Clause 54, Clause 57, Clause 141, Clause 147, Clause 150, Schedule 15, Clause 151, Clause 153, Schedule 16, Clause 154, Schedule 17, Clause 157, Schedule 20, Clauses 161 to 163, Schedule 21, new Clauses, Clause 29, Clause 34, Clause 38, Clauses 40 to 44, Clauses 47 to 53, Clauses 55 and 56, Clauses 58 to 140, Clauses 142 to 146, Clauses 148 and 149, Clause 152, Clauses 155 and 156, Clauses 158 and 159, Schedules 5, 8, 9 to 14, 18 and 19, Clause 164, Schedule 22 and new Schedules.

(2) The remaining proceedings in Standing Committee shall be brought to a conclusion at the times shown in the following Table:-

TABLE

	Proceedings	Time for conclusion of proceedings
(a)	To the end of the new Clauses	11.30 p.m.
(b)	The remaining proceedings other than Clause 164, Schedule 22 and new Schedules	Midnight.
(c)	Clause 164, Schedule 22 and new Schedules	12.30 a.m.

(3) For the purpose of disposing of the proceedings referred to at (b) in the Table above, the Chairman shall put forthwith the following two Questions only,--

(a) That Clauses 29, 34, 38, 40 to 44, 47 to 53, 55, 56, 58 to 140, 142 to 146, 148, 149, 152, 155, 156, 158 and 159 stand part of the Bill; and

(b) That Schedules 5, 8, 9 to 14, 18 and 19 be read a second time;

and, accordingly, the Chairman shall not put any Question on any amendment to any of those Clauses or Schedules.

(4) No motion shall be made in the Standing Committee relating to the sitting of the Committee except by a member of the Government, and the Chairman shall permit a brief explanatory statement from the Member who makes, and from a Member who opposes, the Motion, and shall put the question thereon.

Conclusion of proceedings in Committee

3. On the conclusion of the proceedings in Standing Committee on the Bill the Chairman shall report the Bill to the House without putting any Question.

Order of proceedings

4.-(1) No Motion shall be made to alter the order in which proceedings in Standing Committee are taken pursuant to this Order.

(2) No Motion shall be made to alter the order in which proceedings on Consideration of the Bill are taken except by a member of the Government and the Question on any such Motion shall be put forthwith.

Dilatory Motions

5. No dilatory Motion with respect to, or in the course of, proceedings on the Bill shall be moved on an allotted day except by a member of the Government, and the Question on any such Motion shall be put forthwith.

Extra time on allotted days

6.-(1) On the allotted day paragraph (1) of Standing Order No.14 (Exempted business) shall, notwithstanding sub-paragraph (a) of that paragraph, only apply to the proceedings on the Bill for [three hours] after Ten o'clock.

(2) Any period during which proceedings on the Bill may be proceeded with after Ten o'clock under paragraph (7) of Standing Order No.20 (Adjournment on specific and important matter that should have urgent consideration) shall be in addition to the said period of [three hours].

(3) If the allotted day is one to which a Motion for the adjournment of the House under Standing Order No.20 stands over from an earlier day, a period of time equal to the duration of the proceedings upon that Motion shall be added to the said period of [three hours].

Private business

7. Any private business which has been set down for consideration at Seven o'clock on the allotted day shall, instead of being considered as provided by Standing Orders, be considered at the conclusion of the proceedings on the Bill on that day, and paragraph (1) of Standing Order No.14 (Exempted business) shall apply to the private business for a period of three hours from the conclusion of the proceedings on the Bill or, if those proceedings are concluded before Ten o'clock, for a period equal to the time elapsing between Seven o'clock and the conclusion of those proceedings.

Conclusion of proceedings

8.-(1) For the purpose of bringing to a conclusion any proceedings which are to be brought to a conclusion at a time appointed by this Order and which have not previously been brought to a conclusion, the Chairman or Mr Speaker shall forthwith put the following Questions (but no others) -

(a) any Question already proposed from the Chair;

(b) any Question necessary to bring to a decision a Question so proposed (including, in the case of a new Clause or new Schedule which has been read a second time, the Question that the Clause or Schedule be added to the Bill);

(c) the Question on any amendment or Motion standing on the Order Paper in the name of any Member, if that amendment or Motion is moved by a member of the Government;

(d) any other Question necessary for the disposal of the business to be concluded;

and on a Motion so moved for a new Clause or a new Schedule, the Chairman or Mr Speaker shall put only the Question that the Clause or Schedule be added to the Bill.

(2) Sub-paragraph (1) above has effect subject to paragraph 2(3) above.

(3) Proceedings under sub-paragraph (1) above shall not be interrupted under any Standing Order relating to the sittings of the House.

(4) If the allotted day is one on which a Motion for the adjournment of the House under Standing Order No.20 (Adjournment on specific and important matter that should have urgent consideration) would, apart from this Order, stand over to Seven o'clock -

(a) that Motion shall stand over until the conclusion of any proceedings on the Bill which, under this Order, are to be brought to a conclusion at or before that time;

(b) the bringing to a conclusion of any proceedings on the Bill which, under this Order, are to be brought to a conclusion after that time shall be postponed for a period equal to the duration of the proceedings on that Motion.

(5) If the allotted day is one to which a Motion for the adjournment of the House under Standing Order No.20 stands over from an earlier day, the bringing to a conclusion of any proceedings on the Bill which, under this Order, are to be brought to a conclusion on that day shall be postponed for a period equal to the duration of the proceedings on that Motion.

Supplemental orders

9.-(1) The proceedings on any Motion moved in the House by a member of the Government for varying or supplementing the provisions of this Order shall, if not previously concluded, be brought to a conclusion one hour after they have been commenced, and paragraph (1) of Standing Order No.14 (Exempted business) shall apply to the proceedings.

(2) If on the allotted day the House is adjourned, or the sitting is suspended, before the time at which any proceedings on the Bill are to be brought to a conclusion in accordance with this Order no notice shall be required of a Motion moved at the next sitting by a member of the Government for varying or supplementing the provisions of this Order.

Saving

10. Nothing in this Order shall -

(a) prevent any proceedings to which the Order applies from being taken or completed earlier than is required by the Order, or

(b) prevent any business (whether on the Bill or not) from being proceeded with on any day after the completion of all such proceedings on the Bill as are to be taken on that day.

Recommittal

11.-(1) References in this Order to proceedings on Consideration or Third Reading include references to proceedings, at those stages respectively, for, on or in consequence of recommittal.

(2) On the allotted day no debate shall be permitted on any Motion to recommit the Bill (whether as a whole or otherwise), and Mr Speaker shall put forthwith any Question necessary to dispose of the Motion, including the Question on any amendment moved to the Question.

Interpretation

12. In this Order -

"allotted day" means any day (other than a Friday) on which the Bill is put down as first Government Order of the Day provided that a Motion for allotting time to the proceedings on the Bill to be taken on that day either has been agreed on a previous day or is set down for consideration on that day;

"the Bill" means the Finance Bill.

SECRET

cc Chancellor
FST
EST
MST
Mr Scholar
Mr Newbert - MP
Mr Dyer

Office of the Parliamentary Counsel 36 Whitehall London SW1A 2AY

Telephone Direct line 01 210 6609
Switchboard 01 210

Miss J Rutter
PS/Chief Secretary to the Treasury
HM Treasury
Parliament Street
LONDON SW1

30 April 1987

Dear Jill,

PROCEEDINGS ON FINANCE BILL IN THE EVENT OF AN ELECTION

This letter is by way of postscript to my letter of yesterday which was mentioned at the Chancellor's meeting this morning.

In paragraph 10 of my letter of yesterday I suggested that it would be necessary to have a guillotined Third Reading on Thursday, 14 May because of the normal rule that two stages of a ways and means Bill cannot be taken on the same day. I was under the impression that we could not overcome this difficulty in a guillotine motion.

We have been doing a little more research and discovered that, in the guillotine motion which appeared on the Order Paper on 4 March 1975 (the Labour Government), paragraph 1(3) specifically provided that "the Third Reading of the Bill may be taken immediately after the consideration of the Bill, notwithstanding the practice of the House as to the interval between the stages of a Finance Bill".

SECRET

It follows that, by the use of the guillotine motion, we are able to deliver a procedure under which Report and Third Reading can take place on Wednesday, 13 May. At this morning's meeting, the Chief Secretary said that this was what the Whips wanted.

A copy of this letter goes to Murdo Maclean and to Carolyn Sinclair. Please copy it further if you wish.

Yours ever,

PETER GRAHAM

SECRET

cc. Chancellor
FST MST CST
Copy
RP

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Telephone Direct line 01 210 6609
Switchboard 01 210

Miss Jill Rutter
Private Secretary/
Chief Secretary to the Treasury
H M Treasury
Parliament Street
SW1

29 April 1987

PROCEDURE FOR COMPLETING PROCEEDINGS ON FINANCE BILL IN THE EVENT OF AN ELECTION

In this letter I discuss the means of securing the passage of a foreshortened Finance Bill in the event of an election. I assume for the purposes of this letter that, before the election is announced, Standing Committee B has already begun its deliberations on the Bill and has completed clauses 1 to 4 and Schedule 1.

2. In order to concentrate the mind, what follows is based on the hypothetical scenario of an announcement of an election being made on Monday 11 May with the requirement that the Finance Bill receive royal assent not later than Friday 15 May.

Procedure by agreement

3. First, I consider the procedure if the Opposition agree to the content of a foreshortened Bill (and its timetable). On this basis, we need a motion somewhat similar to that which was moved in 1983. I enclose, marked "A", a draft which is based on the

SECRET

1983 precedent but which contains additional material to take account of the fact that, this year, the proceedings in Standing Committee will already have begun and (as assumed above) that the Committee has stood part clauses 1 to 4 and Schedule 1. The modifications required because of this additional factor are somewhat technical and are still tentative but they will be settled before the motion is needed. For present purposes, however, the exact detail of the modifications is not important.

4. The motion "A" is debatable and, presumably, it would be tabled on the evening of Monday 11 May and, subject of course to the views of the Whips, would be taken on Tuesday 12th. Since I am assuming agreement with the Opposition, perhaps not too much time would be needed for the debate on the motion. Nevertheless, lacking agreement, the only way to conclude the debate on the motion would be by a closure.

5. It is essential to realise that the motion does three things. First, it lifts the remainder of the Bill out of Standing Committee. Secondly, it overrides the House rule that no two stages of a Bill brought in on ways and means resolutions may be taken on the same day. Thirdly, it makes provision for tabling amendments in advance.

6. Once the motion is agreed to, CWH would go through the rest of the Bill in Committee, making such omissions and amendments as necessary, and Report Stage and Third Reading would follow as soon as the Whips required.

Opposed Procedure

7. If the Opposition are not prepared to agree the content of a foreshortened Bill, we are, I think, necessarily looking at a guillotine motion. So far, however, I think that consideration has been given only to adding a guillotine motion to the procedure outlined above where there is agreement - the guillotine motion also being tabled on the evening of May 11th. It does seem to me, however, that this has a considerable drawback and that a better solution is available. The principal drawback of the procedure is that not only would time be needed to obtain motion "A" but also three hours of debate would be needed on the floor to deal with the guillotine motion itself. I should stress that the guillotine motion cannot cover all three aspects of a procedure motion along the lines of motion "A".

8. The different course which I would suggest is as follows. We dispense altogether with motion "A" and guillotine the Bill where it is, that is to say, in Standing Committee. The guillotine motion would still be tabled on the evening of Monday 11 May and be taken on Tuesday 12 May. It would provide for the Bill to be reported from the Standing Committee at the end of the sitting on Tuesday 12 May. On that day, proceedings in Standing Committee would begin, as usual, at 4.30 pm but it is unlikely that the guillotine motion would be obtained much before 7 pm. Effectively, therefore, the guillotine would bite when the Standing Committee returned from the dinner recess. It would, of

course, be essential to secure that the Standing Committee did not adjourn before the guillotine motion was obtained.

9. On this basis, the proceedings in Standing Committee will be concluded late on Tuesday (or early on Wednesday which, from the point of view of procedure, is the same as Tuesday evening). The Standing Committee would leave out all the clauses which are to be dropped and the House could then consider the foreshortened Bill on Report on Wednesday 13 May, relying on the motion which has already been carried (that is to say, at the conclusion of Second Reading on 22 April). The actual proceedings on Report would, of course, be regulated by the guillotine motion.

10. If the Whips could contemplate a guillotined Third Reading taking place first thing on Thursday 14 May, it would never be necessary to have a motion allowing two stages of the Bill to be taken on the same day. It would, however, be desirable to have a motion covering the advance tabling of amendments: but it seems unlikely that the Opposition would seek to spin out debate on this. In any event, it might be possible to incorporate this provision in the guillotine motion.

11. An incidental advantage of the procedure which I am suggesting is that all the divisions (if any) necessary to secure the foreshortening of the Finance Bill would be divisions in Standing Committee and would not take up the time of the House (either in Committee or on Report).

12. I should stress that any procedure which uses a guillotine assumes that the guillotine can require the chairman of the Standing Committee (or, as the case may be, the Chairman of Ways and Means) to put, en bloc, the question that groups of clauses stand part of the Bill, these being the groups which it is proposed to omit. The Principal Clerk of Public Bills and myself are reasonably confident that we can secure this result.

A copy of this letter goes to Murdo Maclean and to Carolyn Sinclair.

PETER GRAHAM

Enc

SECRET

138/4

"A"

DRAFT

FINANCE BILL

Mr Chancellor of the Exchequer

To move, That Standing Committee B shall forthwith report those clauses and Schedules of the Finance Bill the consideration of which has been completed and shall be discharged from considering the remaining provisions committed to it, and that those remaining provisions be committed to a Committee of the whole House; that any stage of the Bill may be proceeded with at the conclusion of the preceding stage, notwithstanding the practice of the House as to the interval between the various stages of such a Bill; that on being reported from the Committee, the Bill, together with those provisions reported from the Committee on 30th April and those reported from the Standing Committee, may be taken into consideration as amended without any Question being put; and that notice of any Amendment, Clause or Schedule to be proposed on consideration of the Bill may be given at any time after the making of this Order.

SECRET

IOD
Institute of Directors

MINISTER OF STATE
REC.
ACTION MR J. TRACEY - CwC
PS/CHANCELLOR
PS/CST, PS/FST, PS/MST MR CROPPER
MR SCHOLAR PS/CwC
MS SINCLAIR MST

M/S 5 MAY 1987

5 May 1987

The Hon Peter Brooke MP
Minister of State
Treasury Chambers
Parliament Street
LONDON SW1P 3AG

Dear Minister of State

FINANCE BILL CLAUSE 16 - TOUR OPERATORS

1. It has been brought to our attention that Clause 16, which purportedly concerns tour operators only, may have significant implications for businesses outside the main tour operator/travel agent industry. These implications cannot have been properly considered because crucial details of the scheme have yet to be made public and have been the subject of confidential consultation only with ABTA, which of course does not represent businesses outside its industry.

2. We have two major concerns with the proposed margin scheme for "tour operators":-

   a. the potentially wide scope of the definition of "tour operator" in subclause (3);

   b. the inability of a registered trader who is the customer of a "tour operator" to recover any input VAT in respect of a supply under the scheme.

   The latter point is not made clear in the Budget day press release or the Clause but has been confirmed to us verbally by Customs.

3. Without seeing the draft regulations, it is impossible to assess even in broad terms the number and kinds of businesses which will be within the scope of the margin scheme - although it clearly goes well beyond the kinds of business which join ABTA - nor to assess the scale of the resulting disallowance of VAT included in input prices on supplies to registered traders. We note that consultations have been taking place with ABTA for over a year, but not with other trade associations whose members may be involved in operating the scheme or general business representative bodies representing "tour operators'" business customers.

4. We understand that travel agents dealing with the business market do for the most part deal direct with the ultimate supplier and on a commission basis (as opposed to dealing with another intermediary or as principal) and so would not come within the margin scheme. ABTA's comments on the proposals may, therefore, not have revealed the difficulties for "any other person providing for the benefit of travellers services of any kind commonly provided by tour operators and travel agents", where the normal practice at present may be to act as principal. This practice may have arisen by historical accident in some cases, but we would suggest that the practice of buying in and selling as principal is the commercial function of a wholesaler which is essentially different from the commercial function of a broker or commission agent. For the efficient operation of a market either or both may be required and there should be no fiscal discrimination between the two.

5. We understand that Customs take the view that there is no problem for intermediaries adversely affected by the margin scheme because they can switch to acting as commission agents. That, however, could radically change the nature of the business and, therefore, its commercial viability. An obvious example is the businesses which organise training courses, conferences and exhibitions. They often include accommodation and/or travel in the prices they charge. We leave it to the trade association concerned to explain in detail why such businesses could not operate on a commission agent basis but it appears the proposals could undermine the commercial basis of the many small businesses operating in this sector.

6. The implications of the margin scheme mainly relate to accommodation at present, because transport is zero-rated and most other items of a kind commonly supplied by travel agents, e.g. car hire, hire of sports equipment, purchase of theatre/sporting event tickets, booking of restaurants etc are either of a kind which is not normally supplied to business customers or would be disallowable anyway for VAT purposes as supply of a motor car/entertainment. We note, however, that the press release says that "it is expected that transport will be zero rated". This is a curious remark given that transport is currently zero rated and we can only interpret it as indicating the possibility, if not the likelihood, that the EC may compel the UK as part of the harmonisation programme to end the zero rating of transport, if not next year, then soon thereafter. The proposals must therefore be considered with regard to their suitability if transport were subject to a positive rate of VAT. This would broaden the impact of the scheme substantially.

7. Promotional offers in the travel industry frequently include "free" accommodation and in the hotel industry frequently include "free" travel. A hotel could suffer a 15% cost disadvantage if it paid the local bus company to provide a courtesy service from the airport/railway station to the hotel rather than providing the service itself, etc, etc. There could be a host of traps for the unwary business which introduced a special offer, organised a trip for its OAP's or re-charged travel, hotel costs, etc to another group company without realising that it thereby became a "tour operator".

8. The justification given by the Government for introducing the margin scheme is that it is a mandatory requirement under Article 26 of the 6th VAT Directive. Article 26 has the dual aim of ensuring that VAT is effectively levied on the full price of services supplied by "travel agents" to travellers within the EC and that it is levied at the rates applicable in the respective Member States where the services are performed and is paid to the respective Exchequers. As far as we are aware, the denial of any right for the recipient of the services, if a registered trader, to any input tax deduction was never one of the intended purposes of Article 26; indeed it would be counter to the concept of value added tax which requires that registered traders be given full relief for the VAT element of their expenditure incurred bona fide in generating the value added. Moreover, the possible abuse of business travel including an element of private expenditure for which input VAT ought not to be recoverable is the subject of the draft 12th VAT Directive not Article 26 of the 6th Directive.

9. In any event, there is no justification for the UK implementing Article 26 with broader scope and more restrictions on recovery than other Member States which have already implemented it. In particular, we note that in Germany only supplies to non-entrepreneurs are taxed under the special scheme.

CONCLUSIONS

10. We are concerned that the proposed margin scheme for "tour operators" is unreasonable both in its broad scope and the undesirable side-effects of no VAT being recoverable where the ultimate customer is a business. The option of switching to a commission agent basis will often not be practicable.

11. There are serious implications for the training course/conference/exhibition sector which includes many small businesses and has ramifications for the UK tourist industry and balance of payments.

12. It may well be that Customs are unaware of the implications of the way they propose to implement Article 26 of the 6th Directive, because they have only consulted ABTA.

13. We appreciate that there are technical problems in "tour operators" providing a tax invoice which gives full credit for the actual VAT on both the agent's margin and the underlying supplies and does not disclose the agent's profits and buying power. Nevertheless, we believe that with full consultation a better method of implementing Article 26 with fewer undesirable side effects could probably be found. At this stage we would suggest that as an absolute minimum:

a. Clause 16 should follow Article 16 more closely - in particular the word "direct" should be inserted before "benefit to travellers".

b. Supplies to entrepreneurs should be taxed under normal rules as in Germany.

c. Single supplies (as opposed to package supplies) which are adequately taxed under normal rules should not be included unnecessarily in the margin scheme.

d. There should be a de minimis exemption for traders in unrelated businesses who happen to make occasional or small transactions which strictly would fall within the "tour operators" scheme.

e. The services which are regarded as "commonly provided by tour operators or travel agents" should be specified in the regulations to provide some certainty for traders.

14. We therefore urge you to publish immediately full details of the scheme as presently proposed and to initiate consultations with the other trade associations directly affected and with general business representative bodies. We further suggest that, if the present Bill has to be curtailed in the event of a general election, the opportunity should be taken to withdraw the present Clause 16 with a view to re-introducing a more considered proposal in the first Finance Bill after the election.

15. I am copying this letter to Customs & Excise.

Yours sincerely,

Sandy Anson

SANDY ANSON
Secretary, Taxation Committee

STANDING COMMITTEE B

FINANCE BILL

(Except Clauses 11, 18, 20 to 23, 33, 45, 147 and 160 and Schedule 4)

NOTE

The Amendments have been arranged in accordance with the Order to be moved by Mr John MacGregor.

Mr John MacGregor

To move, That the order in which proceedings in Standing Committee on the Finance Bill are to be taken shall be Clauses 1 and 2, Schedule 1, Clauses 3 to 10, Clauses 12 to 17, Clause 19, Schedule 2, Clauses 24 to 29, Schedule 3, Clauses 30 to 32, Clause 34, Schedule 5, Clauses 35 and 36, Schedule 6, Clause 37, Schedule 7, Clauses 38 to 44, Clauses 46 to 48, Schedule 8, Clauses 49 to 63, Schedule 9, Clauses 64 to 106, Schedule 10, Clauses 107 to 113, Schedule 11, Clauses 114 to 146, Schedule 12, Clause 148, Schedule 13, Clause 149, Schedule 14, Clause 150, Schedule 15, Clauses 151 to 153, Schedule 16, Clause 154, Schedule 17, Clause 155, Schedule 18, Clause 156, Schedule 19, Clause 157, Schedule 20, Clauses 158 and 159, Clauses 161 to 163, Schedule 21, Clause 164, new Clauses, new Schedules and Schedule 22.

Mr Teddy Taylor
Sir Anthony Meyer

1

Clause **4**, page **4**, at end of Table A insert—

'Chargeable at special rate for machines in arcades in seasonal coastal resorts . . . £100 per machine'.

Mr Ian Wrigglesworth
Mr Malcolm Bruce
Mr Matthew Taylor

2

Clause **4**, page **4**, leave out Table B.

Mr John MacGregor

3

Clause **9**, page **8**, leave out lines 4 to 12.

Finance Bill *continued*

Mr Ian Wrigglesworth
Mr Malcolm Bruce
Mr Matthew Taylor

C+E

4

Clause **14**, page **12**, line **27**, leave out '£7,250' and insert '£17,000'.

Mr Ian Wrigglesworth
Mr Malcolm Bruce
Mr Matthew Taylor

C+E

5

Clause **14**, page **12**, line **30**, leave out '£21,300' and insert '£50,000'.

Mr Ian Wrigglesworth
Mr Malcolm Bruce
Mr Matthew Taylor

C+E

6

Clause **14**, page **12**, line **34**, leave out '£21,300' and insert '£50,000'.

Mr Ian Wrigglesworth
Mr Malcolm Bruce
Mr Matthew Taylor

C+E

7

Clause **14**, page **12**, line **39**, leave out '£21,300' and insert '£50,000'.

Mr Ian Wrigglesworth
Mr Malcolm Bruce
Mr Matthew Taylor

C+E

8

Clause **14**, page **12**, line **44**, leave out '£20,300' and insert '£50,000'.

Mr Ian Wrigglesworth
Mr Malcolm Bruce
Mr Matthew Taylor

C+E

9

Clause **14**, page **13**, line **9**, leave out '£20,300' and insert '£50,000'.

Mr Ian Wrigglesworth
Mr Malcolm Bruce
Mr Matthew Taylor

C+E

10

Clause **14**, page **13**, line **23**, leave out '£20,300' and insert '£50,000'.

Mr Ian Wrigglesworth
Mr Malcolm Bruce
Mr Matthew Taylor

C+E

11

Clause **14**, page **14**, line **5**, leave out '£21,300' and insert '£50,000'.

Mr John MacGregor

IR

12

Clause **26**, page **18**, line **43**, at end insert—

'(*aa*) subsection (2) of section 14 of that Act (which, as applied by section 15A of that Act, determines the amount of widow's bereavement allowance), and'.

Finance Bill *continued*

Mr Ian Wrigglesworth
Mr Malcolm Bruce
Mr Matthew Taylor

1R

13

Clause **31**, page **22**, line **41**, at end add—

'(3) In section 338 of the Taxes Act, insert subsection (4)—" subscriptions paid to a registered trade union will be on allowable expense for the purpose of the Taxes Act section 189 ".'.

Mr Ian Wrigglesworth
Mr Malcolm Bruce
Mr Matthew Taylor

1R + 1AE3

14

Clause **109**, page **71**, line **30**, after 'from' insert 'basic rate'.

Mr Ian Wrigglesworth
Mr Malcolm Bruce
Mr Matthew Taylor

1R+1AE3

15

Clause **109**, page **71**, line **30**, at end insert 'and employers' National Insurance contributions up to a maximum of 10 per cent. of total pay as specified in subsection (3) below; three quarters up to a maximum of 15 per cent. and the whole of total pay up to a maximum of 20 per cent'.

Mr Ian Wrigglesworth
Mr Malcolm Bruce
Mr Matthew Taylor

1R

16

Schedule **11**, page **139**, line **49**, leave out 'twelve months' and insert 'at least two years'. years'.

Relief for expenditure on eligible securities

Mr Ian Wrigglesworth
Mr Malcolm Bruce
Mr Matthew Taylor

1R

NC1

To move the following Clause:—

'(1) This section has effect where an individual, who throughout a year of assessment is resident in the United Kingdom, incurs expenditure on acquiring eligible securities.

(2) For the purposes of this section eligible securities consist of:—

(*a*) shares or stock which at the time acquisition by an individual to whom the provisions of this section apply (or if later, on 5th April 1988) form part of the ordinary share capital of a company resident in the United Kingdom and are quoted on a recognised stock exchange; and

(*b*) units in such authorised unit trusts as the Board may by regulation prescribe.

(3) An individual to whom the provisions of this section apply and who has, in any year of assessment, incurred expenditure on acquiring eligible securities may, by notice in writing given within six months after that year, make a claim for relief from basic rate income tax on an amount of his income equal to so much of such expenditure as does not exceed £500.

(4) The Treasury may by order made by statutory instrument increase the amount of £500 in subsection (3) of this section to such amount as shall be specified in that order.

(5) The following provisions shall have effect as respects relief under this section—

(*a*) the amount of any expenditure in respect of which a claim for relief might otherwise be made under this section as regards any year of assessment shall be reduced

Finance Bill, *continued*

by the aggregate amount of the proceeds of any disposals of eligible securities made during that year by the individual concerned;

(*b*) in the event that an individual to whom relief has been given under this section as regards any year of assessment disposes of eligible securities in any subsequent year of assessment (being a year of assessment ending on or before 5th April 1988) and does not in such subsequent year of assessment incur expenditure on acquiring eligible securities in an amount equal to or exceeding the proceeds of all such disposals, then he shall forfeit so much of such relief as is equal to the amount by which such expenditure falls short of such proceeds, or, if there is no expenditure so much of such relief as is equal to such proceeds;

(*c*) a claim for relief may require it to be given only by reference to the income of the individual without extending to the income of his spouse;

(*d*) subject to paragraph (*c*) above, relief shall be given by treating the expenditure as reducing first the earned income of the individual, then his other income, then the earned income of his spouse and then his spouse's other income;

(*e*) the relief shall be given in priority to relief under section 168 of the Taxes Act or section 30 of the Finance Act 1978.

(6) Where the Board is of opinion that any acquisition or disposal of eligible securities which is material for any of the purposes of this section is not at arm's length and accordingly directs that this subsection shall apply, then for the purposes of this section there shall be substituted—

(*a*) in the case of an acquisition of eligible securities, for the expenditure on such acquisition; or

(*b*) in the case of a disposal of eligible securities, for the proceeds of such disposal; the market value of such securities at the time of such acquisition or disposal.

(7) This section shall not apply to individuals whose investment income exceeds £9,000 per year.'.

Approved share option schemes

IR

Sir William Clark

NC2

To move the following Clause:—

'(1) Schedule 10 to the Finance Act 1984 (approved share option schemes) shall have effect subject to the amendments in subsection (2) below.

(2) In paragraph 15(1) of Schedule 10 to the Finance Act 1984 for the definition of "qualifying employee" there shall be substituted the following words "qualifying employee" in relation to a company, means an employee of the company (other than one who is a director of the company or, in the case of a group scheme, of a participating company) who is required, under the terms of his employment, to work for the company for—

(*a*) at least twenty hours a week where the employee has been employed continuously by the company for more than one year, but not more than three years, or

(*b*) at least sixteen hours a week where the employee has been employed continuously by the company for not more than one year, or

(*c*) at least twelve hours a week where the employee has been employed continuously by the company for more than three years but not more than five years, or

(*d*) at least eight hours a week where the employee has been employed continuously by the company for more than five years.'.

Finance Bill, *continued*

First Year Allowances

Sir Ian Lloyd
Sir William Clark
Mr John Watts

NC3

To move the following Clause:—

'In section 42 of the Finance Act 1971 (rate of first year allowance for capital expenditure incurred on provision of machinery or plant) the following new subsection shall be added:—

"(2) (*a*) subsection (1) above shall not apply with respect to captital expenditure incurred after 1st April 1987 where that expenditure in any financial year is less than £10,000 in total.

(*b*) where subsection (2) above applies the first year allowance shall be of an amount equal to the expenditure of which it is made".'.

War widows pensions'

Mr Nicholas Winterton
Sir Bernard Braine
Mr Alfred Morris
Mr Alec Woodall
Mr Andrew Bowden
Sir Patrick Wall

NC4

To move the following Clause:—

'The second pension from the Department of Health and Social Security given to those widowed since the implementation of the 1973 Armed Forces Pensions Schemes in addition to the Forces Family Pension shall be granted to all those widowed before the 1973 Armed Forces Pension Scheme in addition to their existing War Widows' Pension.'.

Exemption from duty of hydrocarbon fuels used by engine manufacturers

Mr Roger King

NC5

To move the following Clause:—

'In the Hydrocarbon Oil Duties Act 1979, section 9, subsection (2)(*b*) after "article", delete the rest of the subsection and insert:

"(*c*) and use in the bench-testing of an internal combustion piston engine during the research, development, manufacture or preparation of such engine or any part thereof by a manufacturer of motor vehicles or of motor vehicle engines or parts thereof or by any organisation engaged in such engine research and development, but do not include except as provided in subsection (2)(*c*) above the use of oil as fuel or, except as provided by subsection (3) below, as a lubricant.".'.

THE ROYAL LONDON

M. J. Pickard
Chief General Manager

The Royal London
Mutual Insurance Society Limited
Royal London House Middleborough
Colchester Essex CO1 1RA
Telephone Colchester (0206) 44155
Telex 987723 RLM INS G
Fax (0206) 578449

The Rt. Hon. Norman Lamont, Esq., M.P.,
Financial Secretary to the Treasury,
Treasury Chambers,
Parliament Street,
London SW1P 3AG

RS

5 May 1987

Dear Mr Lamont,

Finance Bill 1987 - Clause 62

I appreciate that you have had formal representations from the ABI regarding the Chancellor's Budget proposals relating to life assurance policyholders' share of realised capital gains. However, our Non-Executive Director, Bob Erith, has told me that he was discussing this issue with you recently and that you indicated you are still prepared to receive representations. Accordingly I am writing this brief note to stress three particular points of concern to us.

Most importantly, CGT on gains within life assurance funds discriminates against all those men and women, the great bulk of the policyholders, who in the normal course of events would not fall into the CGT net. This is particularly so for the policyholders of Home Service companies like the Royal London. I think it may not be appreciated just how much potential liability is involved. In the Royal London's case, for example, we will have to increase our reserve for CGT by a figure approaching £40 million.

One reason for this large increase emanates from my second point of concern, namely the retrospective nature of the proposal. The decision to apply the higher rate of CGT to existing gains is of course in direct contrast to the position that obtained when CGT on long-term gains was first introduced in 1965.

Finally, we are also very concerned that by locking the CGT rate in with the Corporation Tax rate any increase in the future in the latter would increase further the liability that would have to be borne by our policyholders.

May I conclude by thanking you for inviting representations on this matter and I hope that the various points made, particularly my first point about discrimination against the savings through life assurance for the ordinary policyholder, will help towards a reconsideration of the Chancellor's proposal that is favourable to life assurance policyholders.

Yours sincerely,
Michael Pickard

012/2765

CONFIDENTIAL

RP · BIF with X or 8/5

FROM: JILL RUTTER
DATE: 5 May 1987

MR WALTERS

cc:
Chancellor
Financial Secretary
Economic Secretary
Minister of State
Sir Peter Middleton
Mr F E R Butler
Mr Wilson
Mr Anson
Mr Judd
Mr Gilmore
Mr Burgner
Mr Scholar
Mr Turnbull
Mr Mason
Mr Revolta
Miss Sinclair
Mr Bonney
Mr Bradley
Mr Dyer
Mr Jenkins (T. Sols)
Mr Graham (Parl. Counsel)

FINANCE BILL: AMENDMENTS

As I told you the Chief Secretary wants to ensure that all amendments to clauses up to number 46 are down so that they can be taken by end of Standing Committee on Thursday.

2 For clauses beyond 46 the Chief Secretary thinks we should put down amendments on the assumption that Standing Committee will proceed normally to its full term. Amendments should therefore be tabled as soon as possible where there is obvious need for them, and Ministers have agreed.

3 I have separately minuted Mr Bradley about the Fees and Charges new clause. The Chief Secretary would be grateful for an urgent report from the Minister of State on the position of Klondykers, and whether this can be announced in a Parliamentary Answer at the end of this week.

Jill Rutter

JILL RUTTER
Private Secretary

Inland Revenue

Policy Division
Somerset House

FROM: B A MACE
DATE: 5 MAY 1987

pup

CHIEF SECRETARY

FINANCE BILL: CLAUSE 26:
INCREASED PERSONAL RELIEF FOR THOSE AGED 80 AND OVER

1. An article by Sarah Hogg in today's "Independent" (copy attached) takes a passing swipe at the new age allowance for those aged 80 and over as a "further complication" in the personal tax system.

2. If this issue is raised during the debate in Committee on Clause 26 you could make the following points:

i) The new allowance has been very widely welcomed both in the House and more generally.

ii) The principle of the allowance is very simple. The rules for it match those for the existing age allowance for those aged 65 and over. Essentially the only new feature is the age at which taxpayers qualify for the higher level of allowance.

---

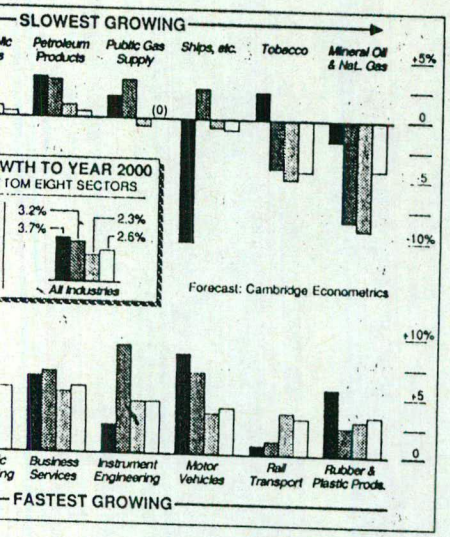
cc Chancellor
Financial Secretary
Mr Scholar
Miss Sinclair
Mr Cropper

Mr Isaac
Mr Lewis
Mr Mace
Mr R H Allen
Miss Dyall
Miss Murduck
PS/IR

iii) The new allowance is expected to have a negligible impact on Revenue manpower. Now that the computerised PAYE system (COP) is available throughout nearly the whole country, the computer can in most cases identify automatically those taxpayers who qualify for the new allowance and amend their PAYE codes accordingly. There is little need for manual intervention by tax office staff.

B A Mace

B A MACE



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and producing small balance of payments surpluses.

The industry by industry breakdown of trends over the next 12 years, shows that the service sector will play an increasing part in economic activity. Employment in services is forecast to grow by 100,000 a year, while in manufacturing job losses will continue at about 40,000 a year. By 2000 more than 64 per cent of the workforce will be employed in services, compared with 23.8 per cent in manufacturing.

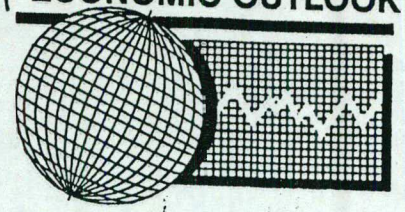
Industries with the best growth prospects to the end of the century are led by office machinery, electronic data-processing, and communications reflecting London's emergence as a world financial centre. Electrical engineering, instrument engineering and motor vehicles will also expand partly due to Britain's role as an assembly point for the European market.

Rail transport is another fast growing sector, partly due to the expected opening of the Channel tunnel in the early 1990s.

Among the slowest growing sectors are energy textiles and mechanical engineering.

Marrying allowances and benefits

ECONOMIC OUTLOOK



The most contentious issue involved in personal tax reform, on which I so foolhardily launched a two-part attack last week, is the treatment of marriage, and more broadly of economic dependence. Nigel Lawson and his predecessor have been circling around the subject for years, and those in government can hardly delay action beyond the turn of the decade — when the excuse of a quill-pen tax system is finally computerised away.

The easiest attitude to take, in the late twentieth century, is that every man (and woman) *is* an island: that for adults, there is no such thing as dependence, or at least that it has no place in the tax system.

Everyone an island

On this argument, the married man's income tax allowance, which almost everyone agrees to be a sexist nonsense (one which bizarrely confers most benefit on couples of which the wife in the sole breadwinner) should simply be abolished. Every man and woman should carry the same, individual tax allowance with them through their working lives, unaffected by marriage.

This, after all, is the attitude now taken to parenthood, which is assisted by benefits but no longer by child tax allowances. The logic of this position is not, however, followed through by the rest of the income tax system. There remain extra tax allowances for single parents (justified by the continuance of the married man's allowance). There are higher tax allowances for the over-65s, and in this year's Budget Nigel Lawson introduced the further complication of a higher allowance for the over-80s. And there remain such admirable complications as the special income tax allowances for the blind.

Thus the notion that special circumstances should affect one's tax treatment is, however erratically, embedded deep in the income tax system. Pull out one root, and you expose the others.

One set of proponents of "independent" taxation argue that there is a difference between one's own personal circumstances — age, disability — and one's marital state. Yet even the strongest advocates of independent tax tend to jib at complete separation, disliking the opportunity it would give to rich married couples to arrange their investment income in a tax-minimising way.

It is, in fact, simply incredible that the tax system should be required to ignore marriage altogether. No one is prepared to take the argument to its logical conclusion, which would be that regular sums paid by one spouse to the other should be treated and taxed as income, just as if it came from any other source. Hence the Lawson solution to marriage and tax: that everyone should be entitled to the identical, single, personal allowance: but that husband or wife without independent income should be entitled to transfer all (or part) to the other. This, however, has met opposition: on the grounds that it would increase tax complications between husbands and wives, rather than greater independence; that it would deter wives from going out to work; and that it would confer the greatest benefit on the lotus-eating rich.

A further complication will arise if a poll tax — which would transform property taxation into personal taxation — is introduced. If breadwinners with incomes above a certain level are obliged to pay poll tax for non-working spouse, marriage will be dug even deeper into the personal tax system. If spouses with little or no independent income are simply exempt, the scheme will favour rich couples with only one earner — and introduce a heavy new marginal tax on working spouses. Meanwhile, few people have seriously argued that social security payments should ignore family circumstances.

It is, however, argued that this indicates the proper route to reform. Benefits can be hand-crafted to reflect a variety of circumstances; the tax system should ignore them. Child-rearing, old age, even caring for the elderly should all be supported by the social security system — not by the Inland Revenue.

The virtue of such an approach is that benefits are equally valuable to rich and poor (whereas tax allowances of course give most to those facing the highest marginal rates). Moreover, it would give nothing to those with no identifiable call on social support. But its defects are inflexibility — and scale.

Benefits are difficult to fine-tune. Suppose the social security system were to try and compensate fairly for all the circumstances in which one spouse or other might find themselves unable to earn: besides child care, these range from the increasing modern burdens of looking after elderly relations — in sickness and in health? — to living in places and circumstances necessitated by the other spouse's job. (This last is important; and what's more, too often forgotten by the members of the urban middle class who take the lead in such policy debates.)

Universal benefits, on a scale sufficient to support the poor, require an awful lot of money to be handed out to the better-off. If the benefits are trimmed by tax, the treatment of married couples is again an issue.

Move to integration

But this, perhaps, more encouragingly points the long-term route to reform. It is clear that, however erratically, the tax and social security systems are moving towards integration. A Conservative government, after all, embarked on this route as long ago as 1973: elements of the tax-credit idea re-emerged in Norman Fowler's social security reforms during this Parliament.

Were we ever to get so far, the distinction between benefits and tax allowances would disappear in the creation of a series of tax credits. Only then, perhaps, could this fundamental dispute be dissolved; along with the last excuse for a separate tax and national insurance system, an anachronism against which I launched the first part of this little debate last week.

Sarah Hogg

Water 'optimistic'

Nigel

PJ keep for reference

T.

Private Secretary to the Deputy Chairmen
Board of Inland Revenue
Somerset House London WC2R 1LB
Direct line 01-438
Switchboard 01-438 6622
CR58

Memorandum

To PS/Chancellor
PS/CST
PS/FST
PS/MST
PS/EST

c, Mr Hutson (Parl^y. Section).

5 May 1987

Finance Bill 1987.

I attach a list of Inland Revenue responsibilities for this year's Finance Bill, for your information.

Mark

Clause	Schedule	Subject	US	AS	Principal	Technical	Statistics
		PART II INCOME TAX CORPORATION TAX AND CAPITAL GAINS TAX					
		CHAPTER I GENERAL					
20		Charge of Income Tax for 1987-88	Lewis	Mace	Payne	O'Brien	Eason
21		Charge of Corporation Tax for Financial Year 1987	McGivern	Reed	Carr	Campbell	Greenslade
22		Corporation Tax: Small Companies	McGivern	Reed	Carr	Campbell	Greenslade
23		Deduction rate for sub-contractors in construction industry	Corlett	Sullivan	Dunbar	James (M4/4)	Eason
24		Personal reliefs: Operative date for PAYE	Lewis	Mace	Payne	O'Brien	Eason
25		Relief for Interest	Pitts	O'Connor	Gray	Whitear	Eason
26		Increased personal relief for those aged Eighty or over	Lewis	Mace	Dyall	O'Brien	Eason
27		Invalid care allowance and unemployment benefit	Lewis	Mace	Dyall	O'Brien	Eason
28		Increased relief for blind persons	Lewis	Mace	Payne	O'Brien	Eason
29	3	Income support etc	Lewis	Farmer	Fraser	O'Brien	Eason
30		Registered Friendly Societies	Corlett	Munro	McNicol	Newstead	Pritchard
31		Relief in respect of certain income of Trade Unions	McGivern	Reed	Huffer	Davenport	Pritchard
32		Charities: payroll deduction scheme	Corlett	Stewart	Fletcher	Davenport	Eason
33	4	Employee share schemes etc	Lewis	Prescott	Green	German	Eason
34	5	Occupational Pension schemes	Corlett	Munro	Hinton	Lusk (SFO)	Eason
35		Employees seconded to educational bodies	McGivern	Elliott	Brand	Pattison	Fitzpatrick
36	6	Relief costs of training etc	Lewis	Rhodes	Wilcox	Northend	Eason
37	7	Time for payment of Corporation Tax by certain long-established companies and building societies	McGivern	Reed	Carr	Campbell/ Whitear	Greenslade
38		Payments of interest etc between related companies	McGivern	Reed	Carr	Campbell/ Whitear	Greenslade
39		Close companies: meaning of "associate"	Lewis	Prescott	Green	Campbell	Greenslade
40		Apportionment of income etc of close companies	McGivern	Reed	Huffer	Campbell	Greenslade
41		Authorised unit trusts	McGivern	Spence	Boltcn	Davenport	Fitzpatrick
42		Other unit trusts	McGivern	Spence	Boltcn	Davenport	Fitzpatrick

Clause	Schedule	Subject	US	AS	Principal	Technical	Statistics
		PART II INCOME TAX CORPORATION TAX AND CAPITAL GAINS TAX					
		CHAPTER I GENERAL (cont'd)					
43		Unit trusts: miscellaneous amendments	McGivern	Spence	Bolton	Davenport	Fitzpatrick
44		Investment companies, etc	McGivern	Spence	Bolton	Pattison	Fitzpatrick
45		(BES) carry back of relief	McGivern	Reed	Carr	German	Eason
46		Films	McGivern	Reed	Carr	German	Eason
47		United Kingdom members of partnerships controlled abroad	Taylor-Thompson	Fawcett	Linford	Hall/Sadler	Dearman
48	8	Limitation of group relief in relation to certain dual resident companies	Taylor-Thompson	Fawcett	Linford	Hunter	Greenslade
49		Limitation of other reliefs in dealings involving dual resident companies	Taylor-Thompson	Fawcett	Linford	Hunter	Greenslade
50		Controlled foreign companies: acceptable distribution policy	Taylor-Thompson	Bryce	Smyth	Hunter	Fitzpatrick
51		Offshore Funds	Taylor-Thompson	Bryce	Mason	Davenport	Dearman
52		Double taxation relief: interest on certain overseas loans	Taylor-Thompson	Shepherd	Sharp	Hall/Hunter	Greenslade
53		Double taxation relief: underlying tax reflecting interest on loans	Taylor-Thompson	Shepherd	Sharp	Hall/Hunter	Greenslade
54		Limited right to carry back surrendered ACT	Pitts	Hubbard	Evans	Elliss (OTO)	Parker
55		Surrender of ACT where oil extraction company owned by a consortium	Pitts	Hubbard	Evans	Elliss (OTO)	Parker
56		ACT on redeemable preference shares	Pitts	Hubbard	Evans	Elliss (OTO)	Parker
57		Disclosure of employment information obtained from Inland Revenue	Jones	Newcombe	Gledhill [M1/5]		Fitzpatrick
58		Lloyd's underwriters	McGivern	Spence	Bolton	Skinner	Dearman
59		Allowances for dwelling-houses let on assured tenancies	McGivern	Driscoll	Elmer	Pearson	Pascoe
60		Recognised investment exchanges	McGivern	Spence	Bolton	Skinner	Fitzpatrick
	9	**CHAPTER II: CAPITAL GAINS**					
61		General rules	Houghton	Cayley	Michael	Hamilton	Greenslade
62		Life assurance business	Houghton	Cayley	Michael	Hamilton	Greenslade

Clause	Schedule	Subject	US	AS	Principal	Technical	Statistics
		CHAPTER II: CAPITAL GAINS (cont'd)					
63		Gains from oil extraction activities etc	Pitts	Hubbard	Evans	Elliss (OTO)	Fitzpatrick
64		Double Taxation relief	Houghton	Cayley	Michael	Hamilton	Greenslade
65		Collective investment schemes	Houghton	Cayley	Gordon	Hamilton	Greenslade
66		Building Societies: groups of companies	Houghton	Cayley	Michael	Hamilton	Greenslade
67		Retirement relief	Houghton	Cayley	Michael	Hamilton	Quinn
68		Commodity and financial future and options	Houghton	Cayley	Gordon	Hamilton	Quinn
	10	CHAPTER III: PERSONAL PENSION SCHEMES					
69		Interpretation	Corlett	Munro	Hinton	Lusk (SFO)	Eason
70		Approval of schemes	Corlett	Munro	Hinton	Lusk (SFO)	Eason
71		Providers of benefits	Corlett	Munro	Hinton	Lusk (SFO)	Eason
72		Scope of benefits	Corlett	Munro	Hinton	Lusk (SFO)	Eason
73		Annuity to member	Corlett	Munro	Hinton	Lusk (SFO)	Eason
74		Lump sum to member	Corlett	Munro	Hinton	Lusk (SFO)	Eason
75		Annuity after death of member	Corlett	Munro	Hinton	Lusk (SFO)	Eason
76		Lump sum on death of member	Corlett	Munro	Hinton	Lusk (SFO)	Eason
77		Return of contributions on death of member	Corlett	Munro	Hinton	Lusk (SFO)	Eason
78		Scheme Administrator	Corlett	Munro	Hinton	Lusk (SFO)	Eason
79		Transfer payments	Corlett	Munro	Hinton	Lusk (SFO)	Eason
80		Excess contributions	Corlett	Munro	Hinton	Lusk (SFO)	Eason
81		Restriction on contributors	Corlett	Munro	Hinton	Lusk (SFO)	Eason
82		Deduction from relevant earnings	Corlett	Munro	Hinton	Lusk (SFO)	Eason
83		Limit on deductions	Corlett	Munro	Hinton	Lusk (SFO)	Eason
84		Carry-back of contributions	Corlett	Munro	Hinton	Lusk (SFO)	Eason
85		Carry-forward of relief	Corlett	Munro	Hinton	Lusk (SFO)	Eason
86		Meaning of "relevant earnings"	Corlett	Munro	Hinton	Lusk (SFO)	Eason
87		Earnings from pensionable employment	Corlett	Munro	Hinton	Lusk (SFO)	Eason
88		Meaning of "net relevant earnings"	Corlett	Munro	Hinton	Lusk (SFO)	Eason

Clause	Schedule	Subject	US	AS	Principal	Technical	Statistics
		CHAPTER III: PERSONAL PENSION SCHEMES (cont'd)					
89		Employer's contributions					
90		Exemption for scheme investments	Corlett	Munro	Hinton	Lusk (SFO)	Eason
91		Treatment of annuities	Corlett	Munro	Hinton	Lusk (SFO)	Eason
92		Minimum Contributions under Social Security Act 1986	Corlett	Munro	Hinton	Lusk (SFO)	Eason
93		Withdrawal of approval	Corlett	Munro	Hinton	Lusk (SFO)	Eason
94		Tax on unauthorised payments etc	Corlett	Munro	Hinton	Lusk (SFO)	Eason
95		Relief by deduction from contributions	Corlett	Munro	Hinton	Lusk (SFO)	Eason
96		Claims for relief	Corlett	Munro	Hinton	Lusk (SFO)	Eason
97		Appeals	Corlett	Munro	Hinton	Lusk (SFO)	Eason
98		Adjustment of relief	Corlett	Munro	Hinton	Lusk (SFO)	Eason
99		Exclusion of double relief	Corlett	Munro	Hinton	Lusk (SFO)	Eason
100		Information about payments	Corlett	Munro	Hinton	Lusk (SFO)	Eason
101		Information: penalties	Corlett	Munro	Hinton	Lusk (SFO)	Eason
102		Remuneration of Ministers of other offices	Corlett	Munro	Hinton	Lusk (SFO)	Eason
103		Contributions under unapproved arrangements	Corlett	Munro	Hinton	Lusk (SFO)	Eason
104		Transitional provisions: General	Corlett	Munro	Hinton	Lusk (SFO)	Eason
105		Transitional provisions: Approvals	Corlett	Munro	Hinton	Lusk (SFO)	Eason
106		Minor and consequential amendments	Corlett	Munro	Hinton	Lusk (SFO)	Eason
	11	Chapter IV: Profit-related pay					
107		Interpretation	Lewis	Farmer	Collen/Fraser	O'Hare (M4)	Eason
108		Taxation of profit-related pay	Lewis	Farmer	Collen/Fraser	O'Hare (M4)	Eason
109		Relief from tax	Lewis	Farmer	Collen/Fraser	O'Hare (M4)	Eason
110		Exceptions from relief	Lewis	Farmer	Collen/Fraser	O'Hare (M4)	Eason
111		Persons who may apply for registration	Lewis	Farmer	Collen/Fraser	O'Hare (M4)	Eason
112		Excluded employments	Lewis	Farmer	Collen/Fraser	O'Hare (M4)	Eason
113		Applications for registration	Lewis	Farmer	Collen/Fraser	O'Hare (M4)	Eason

Clause	Schedule	Subject	US	AS	Principal	Technical	Statistics
		Chapter IV: Profit-related pay (cont'd)					
114		Registration	Lewis	Farmer	Collen/Fraser	O'Hare (M4)	Eason
115		Change of Scheme employer	Lewis	Farmer	Coller/Fraser	O'Hare (M4)	Eason
116		Cancellation of registration	Lewis	Farmer	Coller/Fraser	O'Hare (M4)	Eason
117		Recovery of tax from Scheme employer	Lewis	Farmer	Coller/Fraser	O'Hare (M4)	Eason
118		Annual returns etc	Lewis	Farmer	Collen/Fraser	O'Hare (M4)	Eason
119		Other Information	Lewis	Farmer	Collen/Fraser	O'Hare (M4)	Eason
120		Information: penalties	Lewis	Farmer	Collen/Fraser	O'Hare (M4)	Eason
121		Appeals	Lewis	Farmer	Collen/Fraser	O'Hare (M4)	Eason
122		Independent accountants	Lewis	Farmer	Collen/Fraser	O'Hare (M4)	Eason
		CHAPTER V: TAXES MANAGEMENT PROVISIONS					
123		Returns of profits	Corlett	Shaw	Barlow	Sutcliffe [M4/1]	Fitzpatrick
124		Failure to make return for Corporation Tax	Corlett	Shaw	Barlow	Sutcliffe [M4/1]	Fitzpatrick
125		Assessment of amounts due by way of penalty	Corlett	Sullivan	Dunbar	Sutcliffe [M4/1]	Fitzpatrick
126		Appeals against assessments under Section 124	Corlett	Sullivan	Dunbar	Sutcliffe [M4/1]	Fitzpatrick
127		Interest on overdue corporation tax etc	Corlett	Shaw	Barlow	Sutcliffe [M4/1]	Fitzpatrick
128		Supplementary provisions as to interest on overdue tax	Corlett	Shaw	Barlow	Sutcliffe [M4/1]	Fitzpatrick
129		Interest on tax overpaid	Corlett	Shaw	Barlow	Sutcliffe [M4/1]	Fitzpatrick
130		Recovery of overpayment of tax etc	Corlett	Shaw	Barlow	Sutcliffe [M4/1]	Fitzpatrick
131		Prescribed rate of interest	Corlett	Shaw	Barlow	Sutcliffe [M4/1]	Fitzpatrick
132		Corporation tax to be payable without assessment	Corlett	Shaw	Barlow	Sutcliffe [M4/1]	Fitzpatrick
133		Close companies: loans to participators	Corlett	Shaw	Barlow	Sutcliffe [M4/1]	Fitzpatrick
134		Amendments relating to PAYE	Corlett	Sullivan	Dunbar	Northend	Eason
135		Sub-contractors in the construction industry	Corlett	Sullivan	Dunbar	James M4/4	Eason
136		Failure to do things within a limited time	Corlett	Sullivan	Dunbar	Sutcliffe [M4/1]	Fitzpatrick
137		Interpretation of Chapter V and consequential and Supplementary provisions	Corlett	Shaw	Barlow	Sutcliffe [M4/1]	Fitzpatrick

Clause	Schedule	Subject	US	AS	Principal	Technical	Statistics
		PART III					
		STAMP DUTY AND STAMP DUTY RESERVE TAX					
138		Unit trusts	Corlett	Draper	Adderley	Pipe (C of S)	Pape
139		Contract notes	Corlett	Draper	Adderley	Pipe (C of S)	Pape
140		Warrants to purchase Government Stock, etc	Corlett	Draper	Adderley	Pipe (C of S)	Pape
141		Bearer Instruments relating to stock in foreign currencies	Corlett	Draper	Adderley	Pipe (C of S)	Pape
142		Clearance Services	Corlett	Draper	Adderley	Pipe (C of S)	Pape
143		Borrowing of stock by market makers	Corlett	Draper	Adderley	Pipe (C of S)	Pape
144		Shared ownership transactions	Corlett	Draper	Adderley	Pipe (C of S)	Pape
145		Crown exemption	Corlett	Draper	Adderley	Pipe (C of S)	Pape
146	12	Stamp duty reserve tax	Corlett	Draper	Adderley	Pipe (C of S)	Pape
		PART IV					
		INHERITANCE TAX					
147		Reduced rates of tax	Houghton	Battersby	Evans	Spencer	Brown
148	13	Interests in possession	Houghton	Thompson	Lakhanpaul	Kent	Pape
149	14	Securities, other business property and Agricultural property	Houghton	Battersby	Jaundoo	Draper	Pape
150	15	Maintenance Funds for historic buildings etc	Houghton	Thompson	Denton	Kent	Pape
151		Acceptance in lieu: waiver of interest	Houghton	Thompson	Denton	Kent	Pape
152		Personal pension schemes	Houghton	Thompson	-	Kent	Brown
		PART V					
		OIL TAXATION					
153	16	Nominations of disposals and appropriations	Pitts	Hill	Hay	Elliss	Parker
154	17	Market value of oil to be determined on a monthly basis	Pitts	Hill	Hay	Elliss	Parker
155	18	Blends of oil from two or more fields	Pitts	Hill	Hay	Elliss	Parker
156	19	Relief for research expenditure	Pitts	Hubbard	Evans	Elliss	Parker

Clause	Schedule	Subject	US	AS	Principal	Technical	Statistics
		PART V (cont'd)					
157	20	Cross-field allowance of certain expenditure incurred on new fields	Pitts	Hubbard	Evans	Elliss	Parker
158		Oil allowance: adjustment for final periods	Pitts	Hubbard	Evans	Elliss	Parker
159		Variation of decisions on claims for allowable expenditure	Pitts	Hubbard	Evans	Elliss	Parker
		PART VI					
		MISCELLANEOUS AND SUPPLEMENTARY					
160		Abolition of enactments relating to exchange control	-	*Cayley/ Bryce	Michael	-	-
161		Regulation of financial dealings	Treasury				
162		Arrangements specified in Orders in Council relating to double taxation relief etc.	Taylor-Thompson	Shepherd	Pattison	Hall	Fitzpatrick
163	21	Pre-consolidation amendments	Beighton	Johns Mr Hall (sols)	Walker	Moule	
164	22	Short-title, interpretation, construction and repeals					

*Clause 160 - Treasury clause with partial IR interest only.

Mr Hudson 13/2

NOTICES OF AMENDMENTS

given on

Tuesday 5th May 1987

For other Amendment(s), see the following page(s) of Supplement to Votes :
204-7

STANDING COMMITTEE B

FINANCE BILL

NEW CLAUSE

Transfer payments and preserved benefits (No. 2)

Sir Brandon Rhys Williams

12 **NC6**

To move the following Clause:—

(1) It shall be permissible for the trustees of an occupational pension scheme which is an exempt approved scheme under section 21 of the Finance Act 1970, to amend the rules of the scheme in regard to the calculation of transfer payments and of preserved benefits on behalf of any member ending pensionable service before the normal age of retirement under the scheme in accordance with the provisions of this section.

(2) For the purposes of this section " trustees ", in relation to a scheme which is not set up or established under a trust means the managers of the scheme.

(3) To comply with the provisions of this section, the amended rules of the scheme shall require the trustees in respect of any member withdrawing from pensionable service before the normal pension age under the rules of the scheme at the withdrawing member's option either—

(*a*) to pay to an approved scheme a transfer payment in respect of the withdrawing of Members' entitlement of the sum that would be required by the withdrawing member's scheme for the purpose of admitting a new member of the same age, sex and pensionable remuneration the withdrawing member in order to credit him with the same number of years of pensionable service as the withdrawing member, (but subject to modification in accordance with (4) below) or

(*b*) to award preserved benefits to the withdrawing member of the same actuarial value as that sum.

(4) In a case where an actuary certifies that on the date of the certificate the scheme is not fully funded, (which is to say that the scheme does not have sufficient assets to meet its liability in respect of the whole or any specified part of the accrued rights to benefit if its members), the transfer payment, or as the case may b, the part of the transfer payment which corresponds with that specified part of those accrued rights, may be reduced by the percentage by which the scheme is so shown to be deficient.

(5) A scheme which by 1st January 1987 has not amended its rules so that the transfer payments and the preserved benefits payable under the scheme are to be calculated on terms at least as favourable to the beneficiaries as those specified in this section shall not qualify as an exempt approved scheme in respect of liabilities incurred after that date except by the permission of the Occupational Pensions Board.

Finance Bill *continued*

(6) A scheme may apply to the Occupational Pensions Board for deferment of the its status as an exempt approved scheme in respect of its liabilities incurred after that date to a date not later than 1st January 1992.

(7) The Secretary of State for Health and Social Security shall lay before Parliament regulations under this section subject to affirmative resolution of the House of Commons which shall specify the grounds on which the Occupational Pensions Board may approve applications for deferment under subsection (6) above.'.

Mr John Butterfield C+E **21**

Clause **16**, page **16**, line **34**, after ' the ', insert ' direct '.

Sir Brandon Rhys Williams IR **22**

Clause **75**, page **56**, line **43**, leave out from ' member ' to end of subsection and insert ' or, if the member is not survived by a spouse, to a person or persons nominated by the member '.

Sir Brandon Rhys Williams IR **23**

Clause **74**, page **56**, line **33**, leave out subsection (4).

Sir Brandon Rhys Williams IR **24**

Clause **75**, page **57**, line **10**, leave out subsection (6).

Sir Brandon Rhys Williams IR **25**

Clause **75**, page **57**, line **32**, leave out subsection 9(*a*).

Sir Brandon Rhys Williams IR **26**

Clause **77**, page **58**, line **5**, at end add ' whichever provides the greater amount.'.

Sir Brandon Rhys Williams IR **27**

Clause **86**, page **62**, line **7**, leave out subsection (7).

Sir Brandon Rhys Williams IR **28**

Schedule **5**, page **128**, line **5**, leave out paragraph 14.

Sir Brandon Rhys Williams IR **29**

Clause **62**, line **49**, line **35**, leave out '35 ' and insert ' 30 '.

Sir Brandon Rhys Williams IR **30**

Schedule **5**, page **127**, line **37**, leave out from ' that ' to end of line 41 and insert ' the amount of his award shall not be such as to reduce the amount of the funds of the scheme available to meet the other commitments of the scheme below the amount required to meet those commitments '.

Finance Bill *continued*

Sir Brandon Rhys Williams IR

31

Clause **58**, page **47**, line **25**, leave out from 'subsection' to end of subsection and insert 'by a method consistent with what is necessary for solvency and for prudential underwriting.'.

Sir Brandon Rhys Williams IR

32

Schedule **5**, page **124**, leave out paragraph 2.

Sir Brandon Rhys Williams IR

33

Schedule **5**, page **125**, line **3**, leave out 'the benefits provided by the scheme.'.

Sir Brandon Rhys Williams IR

34

Schedule **5**, page **125**, line **16**, leave out '15 per cent' and insert 'a figure which, taken together with the contributions paid by his employer, is equal to 25 per cent.'.

Sir Brandon Rhys Williams IR

35

Schedule **5**, page **125**, line **26**, leave out '15 per cent' and insert 'a figure which taken together with the contributions paid by his employer, is equal to 25 per cent.'.

Sir Brandon Rhys Williams IR

36

Schedule **5**, page **126**, line **48**, leave out paragarph 12.

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF SCOTLAND

HEAD OFFICE: 27 QUEEN STREET EDINBURGH EH2 1LA TELEPHONE: 031-225 5673 TELEX: 727530 TELEFAX: 031-225 3813

BIR wish advice

Rt Hon John MacGregor OBE MP
The Chief Secretary
H M Treasury
Treasury Chambers
Parliament Street
LONDON
SW1P 3AG

CHIEF SECRETARY
REC. - 6 MAY 1987
ACTION Mr D Walters
COPIES TO CX FST MST EST
Mr Scholar
Miss Sinclair
PS/IR.

1411/DRA/SR

5 May 1987

Dear Mr MacGregor

The Institute has given considerable thought to ways of improving the 1987 Finance Bill, and has prepared a series of proposed amendments. In view of the uncertainty of the date of the next election, we are meantime restricting our comments to three major items. I am pleased to enclose copies of these proposed amendments. We intend, within the next few days, to send a much fuller memorandum to the Inland Revenue. If you would like any further information about our proposals, please do not hesitate to contact me.

I am writing in similar terms to each member of the Standing Committee.

Yours sincerely
D. R. Allen

D R ALLEN
Assistant Director, Parliamentary and Law (Taxation)

QUAERE VERUM

THE INSTITUTE OF
CHARTERED ACCOUNTANTS
OF SCOTLAND

HEAD OFFICE: 27 QUEEN STREET EDINBURGH EH2 1LA TELEPHONE: 031-225 5673 TELEX: 727530 TELEFAX: 031-225 3813

THE 1987 FINANCE BILL

PROPOSED AMENDMENTS

PROPOSED AMENDMENT:

Clause 62, page 49, line 35, leave out "35" and insert "30".

COMMENTARY:

Life companies' major competitors are the unit trust industry. Authorised unit trusts pay no tax on their chargeable gains. It may be argued that this imbalance is corrected because holders of units pay capital gains tax on disposal of their units. In practice most unitholders pay no such tax because they limit realisations to the amount of their annual CGT exemption. Thus there is no fiscal neutrality as between life companies and unit/investment trusts.

It is submitted that the present proposals, far from redressing the imbalance, make it worse by increasing the tax on policyholders' gains by 5%. The rate should be left at 30% until a proper scheme can be worked out to achieve true fiscal neutrality in this market. This problem should be addressed immediately with a view to legislation in 1988.

PROPOSED NEW CLAUSE:

CAPITAL GAINS TAX ON MARITAL SEPARATION

In section 44 of the Capital Gains Tax Act 1979, after subsection (1) there shall be added -

"(1A) Notwithstanding the provisions of subsection (1) above, if, in any year of assessment, assets are transferred between spouses or former spouses in pursuance of arrangements to implement their separation or a divorce settlement then, the transfer between them shall be treated as if the asset was acquired from the one making the disposal for a consideration of such amount as would secure that on the disposal neither a gain nor a loss would accrue to the one making a disposal."

COMMENTARY:

Under the present legislation, a transfer between separated spouses of assets may create a liability to capital gains tax. This capital gains tax liability can create problems for the dependent spouse and can cause additional stress on any children.

We recommend that the capital gains tax exemption at section 44 CGTA 1979, which exempts transfers of assets between husband and wife living together, should be extended to apply to assets transferred after separation in pursuance of arrangements relating to a separation or divorce settlement.

PROPOSED AMENDMENT:

New Clause RELEVANT CLASSES OF ASSETS

(1) In section 118 of the Capital Gains Tax Act 1979, after the word "goodwill" in Class 3, there shall be added "Milk Quotas, Potato Quotas and fishing rights determined under the relevant EC legislation."

(2) The above subsection shall be deemed always to have had effect

COMMENTARY:

Milk quotas were introduced under the Dairy Produce Quotas Regulations 1984 to regulate the quantity of dairy produce by the EEC and to prevent surpluses arising. The amount received is to compensate the farmer for his loss of the right to produce unlimited milk.

Assets qualifying for roll-over relief are listed in section 118 of the Capital Gains Tax Act 1979. A person disposing of a qualifying asset used exclusively for the purposes of a trade who expends the proceeds on other qualifying assets may claim roll-over relief to defer the capital gains tax which would otherwise arise on the sale of the old asset. Such relief encourages business and ensures that capital gains tax does not decrease the capital invested in the business. The Inland Revenue argue that a quota is not a qualifying asset because it is not included in the list at section 118. As a result, on the sale of a milk quota, even although the proceeds are reinvested in qualifying assets, roll-over relief is presently denied and the farmer receiving a payment for his quota has to suffer tax.

We recommend that the items listed as qualifying assets be increased to include agricultural quotas and fishing rights. This would allow the farmer to defer the capital gains tax due on the sale of such assets provided he reinvested the proceeds in qualifying assets.

002/2765

FROM: M C FELSTEAD
DATE: 6 May 1987

MR BRADLEY

cc:
Chancellor
Financial Secretary
Minister of State
Mr F E R Butler
Mr A Wilson
Mr Anson
Mr Judd
Mr Weatherly

FEES AND CHARGES: REVIEW OF DEFICIT SERVICES

The Chief Secretary was grateful for Mr Weatherly's note of 24 April providing details of the priority services in substantial deficit in 1985-86 and the steps we are taking to bring them to break-even.

2 We spoke about the Chief Secretary's wish to receive regular reports of progress on these services and agreed that you would let the Chief Secretary have a further progress report in July with later reports following at three monthly intervals.

M C FELSTEAD
Assistant Private Secretary

4077/22

CONFIDENTIAL

FROM: B O DYER
DATE: 6 May 1987

01 270 4520

MR BRADLEY
PS/CUSTOMS AND EXCISE

cc PS/Chancellor
PS/Chief Secretary
PS/Financial Secretary
PS/Economic Secretary
PS/Minister of State
Sir Peter Middleton
Mr F E R Butler
Mr A Wilson
Mr Anson
Mr Judd
Mr Gilmore
Mr Burgner
Mr Scholar
Mr Turnbull
Mr Mason
Mr Revolta
Miss Sinclair
Mr Bonney
Mr Walters
Mr Waller
Mr Jenkins (T.Sols)
Mr Graham (Parl. Counsel)

FINANCE BILL (NEW CLAUSES) : 'FEES AND CHARGES' AND 'KLONDYKERS'

Further to Miss Rutter's minutes of 5 May (appropriate copy attached for PS/Customs and Excise), if the Government is to announce its intentions in respect of 'Fees and Charges' and 'Klondykers' in a Parliamentary Answer at the end of this week, the enabling PQs will need to be **tabled tomorrow, Thursday 7 May.**

2. The texts of the 'inspired' Questions for this purpose will need to be cleared with the appropriate Minister and the Chief Secretary as a matter of urgency; and certainly, I would recommend, **before** Standing Committee meets at 4.30pm tomorrow.

B O DYER

4374/41

FROM: N WILLIAMS
DATE: 6 May 1987

MR THOMPSON IR

cc PS/Chancellor
PS/Chief Secretary
PS/Economic Secretary
PS/Minister of State
Sir P Middleton
Mr Cassell
Mr Monger
Mr Scholar
Miss Sinclair
Mr Cropper
Mr Haigh
Mr Graham OPC
Miss Johnson OPC
PS/IR

FINANCE BILL STARTER 177: IHT - INTERESTS IN POSSESSION

1. The Financial Secretary was grateful for your note of 29 April.

2. This is to confirm that the Financial Secretary's view is that both these amendments are best left until next year.

N Williams

NIGEL WILLIAMS
(Assistant Private Secretary)

4374/40

FROM: N WILLIAMS
DATE: 6 May 1987

MR THOMPSON IR

cc PS/Chancellor
PS/Chief Secretary
PS/Economic Secretary
PS/Minister of State
Sir P Middleton
Mr Cassell
Mr Scholar
Miss Sinclair
Mr Cropper
Mr Haigh
Mr Graham OPC
Mr Jenkins OPC
PS/IR

FINANCE BILL SCHEDULE 15

1. The Financial Secretary was grateful for your note of 30 April.

2. This is to confirm that the Financial Secretary is content for the amendment referred to in your note to be tabled for introduction in Committee.

NIGEL WILLIAMS
(Assistant Private Secretary)

FROM: S P Judge

DATE: 6 May 1987

MR COLLEN - INLAND REVENUE

cc PS/Chancellor
PS/Chief Secretary
PS/Financial Secretary
PS/Economic Secretary
Sir Peter Middleton
Mr Monck
Mr Scholar
Mr Gray
Mr Ilett
Mr Guy
Mr Cropper
Mr Ross Goobey
Mr Tyrie

PS/Inland Revenue

PROFIT RELATED PAY: FINANCE BILL

As I told you on the telephone, the Minister is content for you to put down the amendments mentioned in your submission of 1 May - on Friday or (if possible) Thursday.

S P JUDGE
Private Secretary

CONFIDENTIAL

CABINET OFFICE,
WHITEHALL, LONDON SW1A 2AS

Chancellor of the Duchy of Lancaster

Tel No: 270 0020
270 0296

6 May 1987

Alex Allan Esq
Principal Private Secretary to the
Chancellor of the Exchequer
Treasury Chambers
Parliament Street
LONDON
SW1 3AG

CH/EXCHEQUER	
REC.	07 MAY 1987
ACTION	
COPIES TO	
MR	Scholar

Mr. Munro/IC
PPS, CST, MST, EST
Sir. P. Middleton
Mr. Cassell
Miss. Sinclair. Miss Noble

Dear Alex,

The Chancellor of the Duchy has seen a copy of the Home Secretary's letter of 1 May to the Chancellor of the Exchequer concerning the possible implications of Schedule 5, Part II of the Finance Bill for the pension benefits of new entrants to the police and fire services.

The Chancellor shares the Home Secretary's concern about this, and agrees that it would be most desirable if the latter could be in a position, if necessary, to give an unqualified assurance that the present arrangements for the commutation of pension benefits to a lump sum will continue.

I am sending a copy of this letter to Mark Addison (No.10), William Fittall (Home Office), Robin Masefield (NIO), Robert Gordon (Scottish Office) and Murdo Maclean (Chief Whip's Office).

cc. Mr. Cropper
Mr. Ross. Godbey
PS/IC.

Yours Sincerely,

A. Lansley

ANDREW LANSLEY
Private Secretary

Inland Revenue

Policy Division
Somerset House

FROM: C STEWART
DATE: 6 MAY 1987

Economic Secretary

FINANCE BILL - CLAUSE 32 - PAYROLL GIVING

1. This note is to report the latest state of play on one or two points in view of the Standing Committee debate expected tonight.

Agencies

2. Paragraph 9 of the note on the Clause includes the original list of approved agencies. We have now approved one more - the Birmingham Council for Voluntary Service. This brings the total to 11.

Employers Participating

3. In answering an Oral PQ last week, you said that 300 employers had already made contracts to participate in the scheme. Since then, the total known to us has increased to nearly 350.

Civil Service Participation

4. In the Budget debate (19 March, Cols 1130-1) the Minister of State explained what the Government were doing to set up a scheme for the 216,000 people paid through the Chessington payroll system. An essential step is to select an agency. The Treasury have already approached all the approved agencies in England and Wales to see whether they would be interested. They will soon be

---

cc Chancellor
Chief Secretary
Financial Secretary
Minister of State
Mr Luce
Miss Sinclair
Mr Reed
Mrs Wiseman
Mr Cropper
Mr Corlett
Mr Elliott
Mr Davenport
Mrs Fletcher
Miss Sprowl
Mr Stewart
PS/IR

issuing invitations to tender. Departments covered by other Government payroll systems are expected to follow broadly similar procedures. Mr Tim Yeo, who is not on the Standing Committee, has put down a Question for answer in Monday 11 May about progress with the Civil Service scheme, and the Treasury Pay Division are putting forward a draft reply.

Other Points

5. At Question Time last week, there was some criticism of "political" campaigns by Oxfam and War on Want. As you said then, this is a matter for the Home Secretary and the Charity Commission. We understand that any complaints about the activities of an individual charity are strictly for the Commission to follow up.

6. You were also asked at Question Time whether an employer's administrative costs of operating the payroll giving scheme would be an allowable expense for tax purposes against his profits. You said - correctly - that they would.

7. A related point which might be raised is whether an employer would get relief for a payment to the agency to meet the agency's costs - ie the fee which the agency would otherwise deduct from the employees' donations going to the charities. This is a point which has been raised with us by CAF, and Mr Elliott is sending you a separate note about it today.

8. At Question Time you also made the point that giving has doubled since the Government came to power in 1979, and Mr Westhead's note of 5 May to Mrs Fletcher makes the point that it has doubled in real terms. At his Press Conference in December, the Chancellor put it as follows - "recorded giving to charity has doubled in real terms since 1979". The phrase "recorded giving" was used deliberately because no-one has any comprehensive figure for all giving to all charities. I understand that the statement was based on figures from CAF surveys of the "Top 200" charities. The latest CAF figures we have seen for the total voluntary income (ie gifts, legacies etc

rather than investment income or Government grants) of these charities are £m171 for 1978-79 and £m697 for 1985-86, an increase of 117 per cent in real terms. This amply supports the statements you and the Chancellor have made, though there may be an element of bias here because the charities reaching the Top 200 will tend to have been the more successfull fund-raisers, and we cannot prove that smaller charities have done equally well.

9. We have figures for tax-relieved giving (covenants and bequests). On the basis of these you said in answer to a written PQ last November:

> "After allowing for inflation, covenanted giving increased by nearly 60 per cent from 1978 to 1985 and bequests to charities increased by 140 per cent".

CS

C STEWART

30

1 Alex
2 Tony

From: R B SAUNDERS

Date: 6 May 1987

MR SCHOLAR

cc PPS
PS/Chief Secretary
Mr Culpin
Miss O'Mara
Mr Dyer
Mr Cropper
Mr Ross Goobey

SHORTENED FINANCE BILL: ANNOUNCEMENT

You discussed with Sir Peter Middleton today the question of publicising the clauses which would be included in a shortened Finance Bill, and those which would appear in a Finance (No 2) Bill after the Election.

2. Sir Peter Middleton thought that we must clearly announce, via a press notice, which clauses are to be retained in a shortened Bill in the event of an early Election. Otherwise there is likely to be widespread confusion as to what exactly had been enacted.

3. On announcing clauses which would be reintroduced in a new Bill after the Election, Sir Peter thought that we had no option but to accept the No 10 advice that such information could not be given out via a press notice. But he saw no objection to giving out the information in the form of a Written Answer. The information would then be in the public domain, and the attention of the press could be drawn to it by the Special Advisers or by Central Office.

R B SAUNDERS
Private Secretary

H.M. CUSTOMS AND EXCISE
KING'S BEAM HOUSE, MARK LANE
LONDON, EC3R 7HE
01-626 1515 382 5369

From: J W Tracey
Date: 6 May 1987

Private Secretary to the Minister of State

cc PS/Chancellor
Mr Scholar
Ms Sinclair
Mr Cropper

FINANCE BILL CLAUSE 16 - TOUR OPERATORS

I attach draft reply for the Minister of State to send to the Institute of Directors letter of 5 May after the Committee Stage Debate. The draft letter will also serve as additional defensive briefing material for the debate. My manuscript note prepared in haste on the evening of 5 May should now be destroyed.

J W TRACEY
VAT Administration

Internal circulation:

CPS Mr Knox Mr Jefferson Smith Mr Sinfield

Sandy Anson Esq.
Secretary of Taxation Committee
Institute of Directors
116 Pall Mall
LONDON SW1Y 5ED

FINANCE BILL CLAUSE 16 - TOUR OPERATORS

1. Thank you for your letter dated 5 May in which you expressed concern about two aspects of the proposed margin scheme for tour operators.

2. I should make clear initially that we are legislating for this scheme without any great enthusiam. We have in fact delayed implementing Article 26 of the EC Sixth VAT Directive as long as we could but in the face of prospective action against us by the Commission in the European Court we had to recognise that our case for resisting the implementation of a mandatory provision of the Directive was extremely weak.

3. I would also like to make one other general comment. Your concern is expressed in terms solely of UK traders and the UK domestic scene. One of the principles behind Article 26 is to allow a complete "internal market" to operate in travel/holiday services without the inequities of double taxation on the one hand or non-taxation on the other. In addition the scheme is designed to distribute the VAT charged on a given transaction fairly between the Member State where the service is physically enjoyed and the Member State where the transaction is effected. Travel, holiday and tourist services generally are, almost by definition, internationally based. While it is therefore reasonable for you to concentrate on the effect domestically, we must recognise that operators and agents in other EC Member States get involved in the UK market and we must be careful not to do anything which discriminates against them and brings renewed Commission action against us for being in breach of the Sixth Directive. We must therefore adhere as closely as possible to the principles laid down in Article 26.

4. Your first point relates to the potentially wide scope of the definition of "tour operator" in the proposed section 37A(3). Your concern here is reflected in all the points in the penultimate paragraph of your letter apart from (b). The purpose of the new section 37A is to allow a comprehensive Order to be made covering not only those supplies actually caught by the scheme but also other supplies in competition with those supplies. For example there is the problem of in-house supplies. Many operators have their own aircraft, coaches, hotels etc and they may use these assets to supply travel or hotel services along with supplies they buy in from others. It will very frequently be the case that a package tour will consist of both bought-in (margin) supplies and in-house supplies. It is therefore clear that the legislation underpinning the special scheme must allow Customs to deal with permutations and complications of this kind. Another complication is that our place of supply rules for tourist services are to some extent out of step with the corresponding rules in the EC Sixth Directive. It is vital to get these rules in step for in-house supplies as well as the margin supplies otherwise there will be a recipe for chaos. It is for this sort of reason that the clause has been drawn in fairly wide terms.

5. More specifically in relation to paragraph 13 of your letter.

a. Inclusion of the word "direct" in the proposed section 37A(3). This was in fact an amendment moved by John Butterfill in Standing Committee and I have nothing to add to what I said then.

b. Single supplies as opposed to package supplies should not be included. The Commission has told Member States quite specifically that Article 26 does apply to single supplies. It is difficult to see how this could be otherwise without causing distortion and artifical aggregation or disaggregation whichever way the advantage went. It would add to the complications of businesses if they had to adopt one set of rules for a single supply and one set of rules for a multiple supply containing a supply whose origins and purposes were the same as the single supply. For example, a tour operator might buy in a block of hotel rooms at an advantageous price, some of which he might want to supply singly to clients

making their own travel arrangements and some of which might be tied up in typical packages. Some of the tax on the block of rooms would be deductible and some would not if your suggestion were followed. Customs have looked at all this very carefully in conjunction with ABTA and they assure me that it is essential for all bought in supplies to be swept into a one overall margin calculation.

c. A de minimis exemption. This is something which the Customs and Excise have already been considering. In principle the clause must apply equally to all supplies of the same type whatever the particular supplier elects to call himself. For example a coach operator cannot escape being caught by the legislation if he sells inclusive holiday tours round Scotland or the Lake District. On the other hand, Customs recognise that it would be unreasonable to impose all the requirements of the scheme on a business which, almost as a sideline, buys in and resells supplies of the type covered in 37A(3). An example might be a hotelier who offers as an optional extra a facility for car-hire. In practice it would be better for the hotelier to act as an agent for the car hire firm rather than to buy in and resupply himself but it might nevertheless be possible for Customs to consider a special dispensation for incidental supplies of that type whose value in relation to total turnover is quite small. This is something on which Customs would like to have further discussions with the trade before deciding whether such a dispensation should definitely be made and if so in what form.

d. The services affected by the scheme should be specified in the regulations. [As I said in Standing Committee Debate] Customs and Excise are well aware of the need to spell out more precisely the types of goods and services that are to be covered by the margin scheme and which are for the direct benefit of the traveller as opposed to those services which are part of a tour operator's overheads and which are of only incidental benefit to travellers. They will be making this distinction clear in the VAT leaflet which will

be issued pursuant to the Treasury Order.

6. This brings me to the point that is clearly worrying you the most, the inability of a registered trader, who is a customer to a tour operator, to recover any input VAT in respect of a supply under the scheme. Your remedy for this is at point b. in para. 13 where you state that supplies to entrepreneurs should be taxed under the normal rules as in Germany. The problem here is twofold. How do we justify such a course under Article 26 of the Directive. (Customs are certainly not aware of how the Germans do.) Any input tax deduction by tour operators is prevented by Article 26.4. If 26.4 was intended to apply to supplies only for non-business use, it would have said so. Secondly even if it were right to read into the Article something that is not apparently permissible, we do not want to risk upsetting the workings of the scheme for what you admit to be very much a minority problem. As you say in paragraph 4 of your letter, the majority of businesses wanting travel or hotel accommodation services go either direct to the likes of BA or Trust House Forte or they use the services of travel agents. When the scheme is in force they will still be able to do that and get tax invoices and take input tax credits in the normal way. The minority of specialist tour operators specialising in supplying the needs of businesses for conferences, exhibitions and training courses will have the opportunity of switching to an agency basis so that their clients rights to input tax deduction are preserved.

7. Nevertheless, [as I indicated in Standing Committee,] we are prepared to have another look at this problem to see if we can meet the substance of the complaints that there have been made without:

a. unduly complicating the scheme and
b. inviting renewed Commission action against us in the European Court for being in breach of the Sixth Directive.

8. On the matter of further consultations, Customs are very willing to see all representative bodies which feel they have points they want to make. Such consultation would include access to drafts of the Treasury Order and VAT leaflet when they are sufficiently far advanced in the drafting process. I suggest it might be useful if you or someone in the IOD got in touch with Mr J W Tracey of Customs and Excise, VAT

Administration (01-382 5369) to arrange an early discussion. I will not rise to the bait in your penultimate sentence except to state that it is important for the legislation including the Treasury Order to be in place at the earliest stage possible so that tour operators can plan on a firm basis if our commitment to the effective date of 1 April 1988 is to be met.

PETER BROOKE

for the present uncertainty of liability to be prolonged until well after the Election. It is true that the order would come into effect on 21 May but then there would be reversion to the existing law if the 28 day period expired and there would be some doubt as to when or whether a new order could get its affirmative resolution.

Finally, despite lack of co-operation on the part of the Opposition Whips, the order is not particularly controversial and, at least in normal circumstances, ought not to detain the House for more than a few minutes.

Peter Brooke

Inland Revenue

Policy Division
Somerset House

FROM D Y PITTS
DATE 6 MAY 1987

FINANCIAL SECRETARY

CLAUSE 157: SOVEREIGN REPRESENTATIONS ABOUT THE EMERALD FIELD DEVELOPMENT

The cross-field allowance was introduced to improve the post-tax economics of fields which in the light of current oil-price uncertainty were likely to look insufficiently profitable and so hopefully to prevent delay in their being developed.

It seeks to achieve this by giving early relief against PRT of another field for the development expenditure of the field in question. It is therefore given for expenditure the bulk of which arises early. Nor was it thought right - at the other extreme in time - to relieve costs incurred after the field is making a profit, ie after payback.

a. The way of effecting both objectives - and in addition of avoiding a significant administrative complication - is to give relief for upliftable expenditure. This is expenditure most of which usually arises early, eg the costs of providing initial treatment or storage installations or of

---

cc Chancellor
Chief Secretary
Economic Secretary
Minister of State
Mr Cassell
Mr Scholar
Mr Williams
Miss Sinclair
Ms Leahy
Mr Graham
Parliamentary Counsel
Mr Painter
Mr Pollard
Mr Beighton
Mr Pitts
Mr Elliss - OTO
Mr Cleave
Mr Beauchamp - OTO
Mrs Hubbard
Miss Hill
Mr Alderman
Mr Pang
Mr Evans
Dr Parker
PS/IR

bringing about the commencement of winning oil (as distinct from the ongoing costs of winning it) and no expenditure qualifies for uplift after payback.

b. But the point of the "uplift" relief itself is to act as a substitute for financing costs, which are not allowed for PRT. So "hiring" costs, because they have an interest element wrapped up in them, do not get uplift, even if incurred for a qualifying purpose.

Putting a. and b. together means that CFA is not available for expenditure incurred for a development purpose if it is of a hiring nature. This - leasing of assets - is the method the Emerald participators had planned to use for some of the development assets. They argue it is effectively the same as if they had borrowed money and bought the assets - the cost would then have ranked for CFA.

As Mrs Hubbard points out in her minute below, if you wanted to accommodate them, it would need more than the straightforward amendment they suggest. You might well want

(i) to exclude tariff payments which also count as "hiring" but are probably less likely than leasing to result in new assets and so work for the offshore supplies industry (para 3):

(ii) to disallow payments made after payback - relief was not intended to run for costs incurred after payback, but in the case of leasing these would be ongoing costs of having secured development, and in addition one effect of leasing will be to advance payback (para 4).

You would clearly need

(iii) to provide rules for calculating and excluding the interest element (not necessarily at all

straightforward) (para 5)

(iv) to introduce administrative rules (para 6).

The arguments seem to be:

1. For giving relief:

   a. the costs are those of development which is what CFA is about:

   b. relief will reduce the cost of development and so could help an early decision to go ahead:

   c. the assets to be leased have to be converted and so will involve work for the offshore supplies industry:

   d. the additional cost - at c.£m2½- is minimal even if you were to let relief continue after payback in this case ((ii) above).

2. Against:

   a. the costs will be spread over time and so will not all be early:

   b. a. also introduces the conceptual problems in (i) and (ii) above - how far to go to accommodate 'hiring' costs:

   c. if you stick to the 'not-after-payback' rule, only a relatively small proportion might get relieved:

   d. the assets in this case are not new, so not much work for the supplies industry:

   e. we are advised you are unlikely in practice to 'buy' an advancement in development and so <u>extra</u> orders

anyway (para 8 of Mrs Hubbard's minute).

I do not disagree with Mrs Hubbard's advice that the proposed extension to CFA is not worth the hassle of dealing with the conceptual problems and of adding to already cumbersome legislation - especially as leasing is often chosen because of its CT advantages - but these are not easy points to get across to Sovereign. You may prefer to reply on the lines that the cross-field allowance was intended to allow the costs of development to get early relief against the PRT of another field and in any case, as the Chancellor said in his Budget Statement, only until such time as the income of the new field exceeds the costs incurred. One of the purposes was to bring forward orders for the offshore supplies industry. It is not clear that hiring costs generally - quite apart from the fact that they include in effect a financing element which is inappropriate - fall sufficiently within this reasoning to justify what could be a rather messy extension to CFA or that more than a proportion of them - because of their being spread over time and the payback cut-off - would get relief anyway.

D Y PITTS

Inland Revenue

Policy Division
Somerset House

FROM: MRS C B HUBBARD
DATE: 6 MAY 1987

FINANCIAL SECRETARY

CLAUSE 157: SOVEREIGN REPRESENTATIONS ABOUT THE EMERALD FIELD DEVELOPMENT

1. The Cross Field Allowance (CFA) provisions in Clause 157 and Schedule 20 allow up to 10% of the cost of developing certain new offshore oil fields to be set against PRT liabilities in existing fields. The expenditure which qualifies for the CFA is expenditure which qualifies for uplift in the field for which it is incurred. Sovereign wrote to you on 16 April suggesting an amendment to Clause 157 and Schedule 20 to allow lease payments for the provision of production facilities to qualify for CFA if the leased assets would have been eligible for CFA if purchased direct.

2. On the face of it, this representation seems reasonable, but, on further examination, we have found that it entails considerable complexities and could not be met by a simple amendment.

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cc Chancellor
Chief Secretary
Economic Secretary
Minister of State
Mr Cassell
Mr Scholar
Mr Williams
Miss Sinclair
Ms Leahy

Mr Graham -
Parliamentary Counsel

Mr Painter
Mr Pollard
Mr Beighton
Mr Pitts
Mr Elliss - OTO
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Mr Beauchamp - OTO
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Miss Hill
Mr Alderman
Mr Pang
Mr Evans
Dr Parker
PS/IR

3. In the first place, there is a problem of definition: where to draw the line? Several new developments are likely to tariff into existing facilities, eg to share the use of existing pipelines in return for tariff payments. If, instead of paying tariffs, the companies were able to purchase an equity share in the pipeline or build their own, such expenditure would qualify for CFA. Tariff arrangements for existing assets do not lead to new opportunities in the offshore supplies industry, and are already adequately covered by the existing provisions in that the cost of the assets are fully relieved for the owner, and the tariff payments are deductible when payable (ie when production and throughput begins). We see no case for extending CFA to them, but might find it difficult and controversial to exclude them while meeting the Sovereign case.

4. CFA is only available until a field reaches payback. (Logically, there is no case for CFA relief beyond this point as the expenditure can thereafter get effective relief against the income stream of the field for which it was incurred.) This payback cut-off is achieved by linking CFA to expenditure which qualifies for uplift (which is not available once payback has been reached). But lease payments, viewed as a surrogate for direct capital expenditure, will spread the expenditure beyond payback, which will itself be advanced under this financing route (because the initial deductions for outgoings will be less as the payments are spread over time rather than all incurred upfront). If the rationale for giving CFA on the lease payments is that it would have been available on the whole of the capital expenditure if incurred direct, this would argue that CFA should continue to run on them as long as they are payable.

5. The 10% of the expenditure which is relieved under CFA in another field will not itself qualify for uplift in the field of relief. If PRT relief at 75% is being obtained soon after the expenditure is incurred there is no justification for giving uplift as well, which is a surrogate for financing costs which are not themselves deductible for PRT. Yet lease payments will contain an element of financing costs spread over the life of the

asset. If you were to accept the Sovereign representation, we would need to build in a formula for stripping out that financing element to put it on a par with direct capital expenditure. This is not impossible, but adds a further complication in what is already a fairly lengthy provision.

6. Likewise we would have to introduce some administrative provisions to accommodate lease payments. The CFA is currently built onto the existing machinery for decisions that expenditure qualifies for uplift. As lease payments expressly do not qualify for uplift (because they contain their own financing costs) we would have to introduce a procedure for certifying that the expenditure would have qualified for uplift if the asset had been bought direct, and then apply an appeals machinery to that certification procedure.

7. We understand that the Emerald licence group has changed recently; one of the original licensees has sold its interest to a company which does not at present have any PRT liabilities. Thus the amount of CFA at stake has now been reduced. Even if the production platform is financed by lease payments and thereby falls outside the CFA, there will still be about half of the development costs to be financed conventionally, and which will qualify for CFA. Against our earlier estimates of CFA worth about £m5 over the next three years, Emerald will probably, if they proceed with the leasing arrangement, enjoy CFA of about half that amount. Thus the amounts immediately at stake are probably not that great.

8. For these reasons, we do not think that the complexities involved in trying to meet this representation are worth the candle, and we understand that Department of Energy do not feel sufficiently strongly about it to intervene on behalf of Sovereign. They think that the development of Emerald will go ahead in any event, so this would be a deadweight cost.

9. We would be grateful to know whether you agree. In any event, at this stage it might be difficult to do much more than

to acknowledge the Sovereign representation. A fuller draft is provided should you wish to turn them down now.

MRS C B HUBBARD

D Biggins Esq
Managing Director
Sovereign Oil and Gas plc
Portland House
Stag Place
London SW1E 5BH

Thank you for your letter of 16 April about the proposals contained in Clause 157 and Schedule 20 of this years Finance Bill.

[I am afraid that your proposal that lease payments should be brought within the Cross Field Allowance is by no means as simple as you suggest. Your proposal would seem to bring within the CFA almost all tariff payments, as these are usually for the use of facilities which would, if purchased or constructed direct, have qualified for supplement. There is also the problem that lease payments normally incorporate a finance cost element spread over the life of the asset. As the percentage of expenditure actually relieved under the CFA does not attract supplement in the receiving field, it would be necessary to introduce some formula to strip out the financing costs from the lease payments too. Lease payments normally spread the cost of an asset over its working life. Thus, although CFA is cut off once a field reaches payback, to do so in relation to lease payments would not be putting this form of financing of development costs on a par with direct expenditure.

Finally, it would be necessary to introduce an administrative machinery for certifying that the

lease payments would have qualified for supplement etc in order to trigger the procedure for making CFA elections. (In the CFA provisions in the Finance Bill the opportunity for a CFA election does not arise until it is established that the expenditure is allowable as qualifying for supplement in the field of origin; this would not apply to lease payments for production facilities.) It might also be necessary then to have an appeals machinery for this certification procedure.

While none of these difficulties is insurmountable, it would nevertheless entail considerable modification of what is already a fairly complex provision. I cannot therefore hold out any hope of meeting your representation in this year's Finance Bill.]

SOVEREIGN

21 APR 1987

Miss M. A Hill / IR
PPS, Mr. Scholar
MR. M. Williams Mr. Haigh
Mr. Cropper
PS/IR.

PMT/mab.87.126

16 April 1987

Rt Hon Norman Lamont MP
Financial Secretary to the Private Secretary
Treasury
Parliament Street
London SW1

Dear Minister

1987 FINANCE BILL - PRT CHANGES

We have noted the amendments to existing PRT legislation proposed in the 1987 Finance Bill and in particular the change outlined in clause 157 thereof which allows 10% of certain development costs to be offset against PRT chargeable on other fields.

While we consider that this is a positive proposal which will encourage the development of certain marginal fields, we would have expected the relief to benefit fields such as Emerald for which we are currently preparing an Annex B and will shortly be submitting a plan to our partners for a development decision. Unfortunately the financing method being considered for the development of the Emerald Field, which was conceived prior to the recent Budget, precludes the claiming of this new relief due to the narrow construction of "development costs" in the draft Bill, a discrimination which we believe was not intended.

Rather than through direct project finance in the conventional manner, the funding for development of Emerald will be obtained through the field contractors who will charter or lease the field production facility to the field participants.

Since, as the Bill is presently drafted, only upliftable expenditure is defined as that for which the 10% offset is available, certain categories of lease payments, including those relating to provision of production facilities, are excluded. All lease payments are allowable against PRT. We do not believe that the relief was intended to exclude the leasing or hiring of assets, the purchase or construction of which would have qualified for supplement.

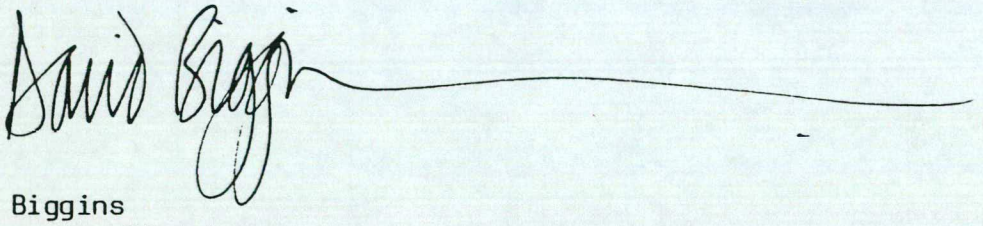
To address this inequity we would suggest clause 157 of the Finance Bill be amended on these lines:

> "For the purposes of this Section, there shall be deemed to be expenditure qualifying for supplement any expenditure in hiring an asset if expenditure in acquiring or constructing that asset would have qualified for supplement by virtue of sub-section (5) of Section 3 of the principal Act."

The relevant expenditure should qualify whether incurred before or after commencement of production. We believe that wording along the above lines achieves this objective.

In summary we believe such a drafting change will direct the new relief to include all the fields where the benefits are needed regardless of financing and on whose development the UK's future self sufficiency may well rely. We would also emphasise that in the current economic climate, conventional bank project finance would not be available for many oil projects such as Emerald and the charter arrangement contemplated is an important step forward in maintaining UKCS activity and the employment of British fabrication yards and services.

Yours sincerely



D Biggins
Managing Director

cc: Rt Hon A Buchanan-Smith MP

CONFIDENTIAL

I. Cathy

Inland Revenue

Policy Division
Somerset House

2.25

FROM D Y PITTS
DATE 7 MAY 1987

PS/CHIEF SECRETARY

FINANCE BILL: CONTINGENCY PLANNING

I think there may have been some misunderstanding at the Chancellor's meeting about the oil taxation clauses. The point Mr Graham was making was that Clauses 153 and 154 should go together. But they are not linked with the other Clauses in the Financial Secretary's package.

It remains very important for Clauses 153 and 154 - whatever happens to the other two Clauses in the package - to be in the pre-election Bill. Otherwise, they would need to be in a post-election Bill which is enacted by the Summer Recess, and there can clearly be no guarantee of that.

D Y PITTS

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c PS/Chancellor of the Exchequer
PS/Financial Secretary
Mr Painter
Mr Pitts
Miss Hill
PS/IR

Mr Hudson 13/2

STANDING COMMITTEE B

New Amendments handed in are marked thus ★

FINANCE BILL

(Except Clauses 11, 18, 20 to 23, 33, 45, 147 and 160 and Schedule 4)

NOTE

The Amendments have been arranged in accordance with the Order of the Committee [5th May] as follows:

Clauses 1 and 2, Schedule 1, Clauses 3 to 10, Clauses 12 to 17, Clause 19, Schedule 2, Clauses 24 to 29, Schedule 3, Clauses 30 to 32, Clause 34, Schedule 5, Clauses 35 and 36, Schedule 6, Clause 37, Schedule 7, Clauses 38 to 44, Clauses 46 to 48, Schedule 8, Clauses 49 to 63, Schedule 9, Clauses 64 to 106, Schedule 10, Clauses 107 to 113, Schedule 11, Clauses 114 to 146, Schedule 12, Clause 148, Schedule 13, Clause 149, Schedule 14, Clause 150, Schedule 15, Clauses 151 to 153, Schedule 16, Clause 154, Schedule 17, Clause 155, Schedule 18, Clause 156, Schedule 19, Clause 157, Schedule 20, Clauses 158 and 159, Clauses 161 to 163, Schedule 21, Clause 164, new Clauses, new Schedules and Schedule 22.

Mr John Watts C+E

37

★ Clause **15**, page **15**, line **20**, leave out ' the Commissioners are satisfied that '.

Mr John Watts C+E

43

★ Clause **15**, page **15**, line **27**, leave out ' its ' and insert ' the group's '.

Mr John Watts C+E

42

★ Clause **15**, page **15**, line **29**, leave out ' its ' and insert ' that '.

Mr John Watts C+E

41

★ Clause **15**, page **16**, line **2**, after ' if ', insert ' they are chattels or interests in land and '.

Mr John Watts C+E

40

★ Clause **16**, page **16**, line **33**, leave out from ' and ' to end of line 35.

Mr John Butterfield C+E

21

Clause **16**, page **16**, line **34**, after ' the ', insert ' direct '.

Finance Bill *continued*

Mr John Watts C+E 39

★ Clause **16**, page **16**, leave out lines 36 to 41.

Mr John MacGregor IR 12

Clause **26**, page **18**, line **43**, at end insert—

'(*aa*) subsection (2) of section 14 of that Act (which, as applied by section 15A of that Act, determines the amount of widow's bereavement allowance), and '.

Mr Ian Wrigglesworth
Mr Malcolm Bruce
Mr Matthew Taylor IR 13

Clause **31**, page **22**, line **41**, at end add—

'(3) In section 338 of the Taxes Act, insert subsection (4)—" subscriptions paid to a registered trade union will be on allowable expense for the purpose of the Taxes Act section 189 ".'.

Sir Brandon Rhys Williams IR 32

Schedule **5**, page **124**, leave out paragraph 2.

Sir Brandon Rhys Williams IR 33

Schedule **5**, page **125**, line **3**, leave out ' the benefits provided by the scheme.'.

Sir Brandon Rhys Williams IR 34

Schedule **5**, page **125**, line **16**, leave out ' 15 per cent ' and insert ' a figure which, taken together with the contributions paid by his employer, is equal to 25 per cent.'.

Sir Brandon Rhys Williams IR 35

Schedule **5**, page **125**, line **26**, leave out ' 15 per cent ' and insert ' a figure which taken together with the contributions paid by his employer, is equal to 25 per cent.'.

Sir Brandon Rhys Williams IR 36

Schedule **5**, page **126**, line **48**, leave out paragarph 12.

Sir Brandon Rhys Williams IR 30

Schedule **5**, page **127**, line **37**, leave out from ' that ' to end of line 41 and insert ' the amount of his award shall not be such as to reduce the amount of the funds of the scheme available to meet the other commitments of the scheme below the amount required to meet those commitments '.

Finance Bill, *continued*

Sir Brandon Rhys Williams

IR

28

Schedule **5**, page **128**, line **5**, leave out paragraph 14.

Sir Brandon Rhys Williams

IR

31

Clause **58**, page **47**, line **25**, leave out from ' subsection ' to end of subsection (3) and insert ' by a method consistent with what is necessary for solvency and for prudential underwriting.'.

Sir Brandon Rhys Williams

IR

29

Clause **62**, line **49**, line **35**, leave out '35 ' and insert ' 30 '.

Sir Brandon Rhys Williams

IR

23

Clause **74**, page **56**, line **33**, leave out subsection (4).

Sir Brandon Rhys Williams

IR

22

Clause **75**, page **56**, line **43**, leave out from ' member ' to end of subsection and insert ' or, if the member is not survived by a spouse, to a person or persons nominated by the member '.

Sir Brandon Rhys Williams

IR

24

Clause **75**, page **57**, line **10**, leave out subsection (6).

Sir Brandon Rhys Williams

IR

25

Clause **75**, page **57**, line **32**, leave out subsection 9(*a*).

Sir Brandon Rhys Williams

IR

26

Clause **77**, page **58**, line **5**, at end add ' whichever provides the greater amount.'.

Sir Brandon Rhys Williams

IR

27

Clause **86**, page **62**, line **7**, leave out subsection (7).

Finance Bill, *continued*

Mr Ian Wrigglesworth
Mr Malcolm Bruce
Mr Matthew Taylor

IR + IAE3

14

Clause **109**, page **71**, line **30**, after ' from ' insert ' basic rate '.

Mr Ian Wrigglesworth
Mr Malcolm Bruce
Mr Matthew Taylor

IR + IAE3

15

Clause **109**, page **71**, line **30**, at end insert ' and employers' National Insurance contributions up to a maximum of 10 per cent. of total pay as specified in subsection (3) below ; three quarters up to a maximum of 15 per cent. and the whole of total pay up to a maximum of 20 per cent '.

Mr Ian Wrigglesworth
Mr Malcolm Bruce
Mr Matthew Taylor

IR

16

Schedule **11**, page **139**, line **49**, leave out ' twelve months ' and insert ' at least two years '. years '.

Mr John MacGregor

IR

44

★ Schedule **15**, page **151**, line **6**, at end add—
' ( ) If the value of the property when it becomes held on the trusts referred to in subsection (1)(*b*) above is lower than so much of the value transferred on the death of the person referred to in subsection (1)(*a*) as is attributable to the property, subsection (2) above shall apply to the property only to the extent of the lower value.'.

NEW CLAUSES

Relief for expenditure on eligible securities

Mr Ian Wrigglesworth
Mr Malcolm Bruce
Mr Matthew Taylor

IR

NC1

To move the following Clause:—
' (1) This section has effect where an individual, who throughout a year of assessment is resident in the United Kingdom, incurs expenditure on acquiring eligible securities.
(2) For the purposes of this section eligible securities consist of:—
(*a*) shares or stock which at the time acquisition by an individual to whom the provisions of this section apply (or if later, on 5th April 1988) form part of the ordinary share capital of a company resident in the United Kingdom and are quoted on a recognised stock exchange ; and
(*b*) units in such authorised unit trusts as the Board may by regulation prescribe.
(3) An individual to whom the provisions of this section apply and who has, in any year of assessment, incurred expenditure on acquiring eligible securities may, by notice in writing given within six months after that year, make a claim for relief from basic rate income tax on an amount of his income equal to so much of such expenditure as does not exceed £500.

Finance Bill *continued*

(4) The Treasury may by order made by statutory instrument increase the amount of £500 in subsection (3) of this section to such amount as shall be specified in that order.

(5) The following provisions shall have effect as respects relief under this section—

(*a*) the amount of any expenditure in respect of which a claim for relief might otherwise be made under this section as regards any year of assessment shall be reduced by the aggregate amount of the proceeds of any disposals of eligible securities made during that year by the individual concerned ;

(*b*) in the event that an individual to whom relief has been given under this section as regards any year of assessment disposes of eligible securities in any subsequent year of assessment (being a year of assessment ending on or before 5th April 1988) and does not in such subsequent year of assessment incur expenditure on acquiring eligible securities in an amount equal to or exceeding the proceeds of all such disposals, then he shall forfeit so much of such relief as is equal to the amount by which such expenditure falls short of such proceeds, or, if there is no expenditure so much of such relief as is equal to such proceeds ;

(*c*) a claim for relief may require it to be given only by reference to the income of the individual without extending to the income of his spouse ;

(*d*) subject to paragraph (*c*) above, relief shall be given by treating the expenditure as reducing first the earned income of the individual, then his other income, then the earned income of his spouse and then his spouse's other income ;

(*e*) the relief shall be given in priority to relief under section 168 of the Taxes Act or section 30 of the Finance Act 1978.

(6) Where the Board is of opinion that any acquisition or disposal of eligible securities which is material for any of the purposes of this section is not at arm's length and accordingly directs that this subsection shall apply, then for the purposes of this section there shall be substituted—

(*a*) in the case of an acquisition of eligible securities, for the expenditure on such acquisition ; or

(*b*) in the case of a disposal of eligible securities, for the proceeds of such disposal ; the market value of such securities at the time of such acquisition or disposal.

(7) This section shall not apply to individuals whose investment income exceeds £9,000 per year.'.

Approved share option schemes

Sir William Clark

IR

NC2

To move the following Clause:—

'(1) Schedule 10 to the Finance Act 1984 (approved share option schemes) shall have effect subject to the amendments in subsection (2) below.

(2) In paragraph 15(1) of Schedule 10 to the Finance Act 1984 for the definition of "qualifying employee" there shall be substituted the following words "qualifying employee" in relation to a company, means an employee of the company (other than one who is a director of the company or, in the case of a group scheme, of a participating company) who is required, under the terms of his employment, to work for the company for—

(*a*) at least twenty hours a week where the employee has been employed continuously by the company for more than one year, but not more than three years, or

(*b*) at least sixteen hours a week where the employee has been employed continuously by the company for not more than one year, or

Finance Bill, *continued*

(*c*) at least twelve hours a week where the employee has been employed continuously by the company for more than three years but not more than five years, or

(*d*) at least eight hours a week where the employee has been employed continuously by the company for more than five years.'.

First Year Allowances

Sir Ian Lloyd
Sir William Clark
Mr John Watts

IR

NC3

To move the following Clause:—

'In section 42 of the Finance Act 1971 (rate of first year allowance for capital expenditure incurred on provision of machinery or plant) the following new subsection shall be added:—

"(2) (*a*) subsection (1) above shall not apply with respect to captital expenditure incurred after 1st April 1987 where that expenditure in any financial year is less than £10,000 in total.

(*b*) where subsection (2) above applies the first year allowance shall be of an amount equal to the expenditure of which it is made".'.

War widows pensions'

Mr Nicholas Winterton
Sir Bernard Braine
Mr Alfred Morris
Mr Alec Woodall
Mr Andrew Bowden
Sir Patrick Wall

IR

NC4

To move the following Clause:—

'The second pension from the Department of Health and Social Security given to those widowed since the implementation of the 1973 Armed Forces Pensions Schemes in addition to the Forces Family Pension shall be granted to all those widowed before the 1973 Armed Forces Pension Scheme in addition to their existing War Widows' Pension.'.

Exemption from duty of hydrocarbon fuels used by engine manufacturers

Mr Roger King

C+E **NC5**

To move the following Clause:—

'In the Hydrocarbon Oil Duties Act 1979, section 9, subsection (2)(*b*) after "article", delete the rest of the subsection and insert:

"(*c*) and use in the bench-testing of an internal combustion piston engine during the research, development, manufacture or preparation of such engine or any part thereof by a manufacturer of motor vehicles or of motor vehicle engines or parts thereof or by any organisation engaged in such engine research and development, but do not include except as provided in subsection (2)(*c*) above the use of oil as fuel or, except as provided by subsection (3) below, as a lubricant.".'.

Finance Bill, *continued*

Transfer payments and preserved benefits (No. 2)

Sir Brandon Rhys Williams

12 **NC6**

To move the following Clause:—

(1) It shall be permissible for the trustees of an occupational pension scheme which is an exempt approved scheme under section 21 of the Finance Act 1970, to amend the rules of the scheme in regard to the calculation of transfer payments and of preserved benefits on behalf of any member ending pensionable service before the normal age of retirement under the scheme in accordance with the provisions of this section.

(2) For the purposes of this section " trustees ", in relation to a scheme which is not set up or established under a trust means the managers of the scheme.

(3) To comply with the provisions of this section, the amended rules of the scheme shall require the trustees in respect of any member withdrawing from pensionable service before the normal pension age under the rules of the scheme at the withdrawing member's option either—

(*a*) to pay to an approved scheme a transfer payment in respect of the withdrawing of Members' entitlement of the sum that would be required by the withdrawing member's scheme for the purpose of admitting a new member of the same age, sex and pensionable remuneration as the withdrawing member in order to credit him with the same number of years of pensionable service as the withdrawing member, (but subject to modification in accordance with (4) below) or

(*b*) to award preserved benefits to the withdrawing member of the same actuarial value as that sum.

(4) In a case where an actuary certifies that on the date of the certificate the scheme is not fully funded, (which is to say that the scheme does not have sufficient assets to meet its liability in respect of the whole or any specified part of the accrued rights to benefit of its members), the transfer payment, or as the case may be, the part of the transfer payment which corresponds with that specified part of those accrued rights, may be reduced by the percentage by which the scheme is so shown to be deficient.

(5) A scheme which by 1st January 1988 has not amended its rules so that the transfer payments and the preserved benefits payable under the scheme are to be calculated on terms at least as favourable to the beneficiaries as those specified in this section shall not qualify as an exempt approved scheme in respect of liabilities incurred after that date except by the permission of the Occupational Pensions Board.

(6) A scheme may apply to the Occupational Pensions Board for deferment of the latest date for the amendment of its rules in accordance with this section and to retain its status as an exempt approved scheme in respect of its liabilities incurred after that date to a date not later than 1st January 1992.

(7) The Secretary of State for Health and Social Security shall lay before Parliament regulations under this section subject to affirmative resolution of the House of Commons which shall specify the grounds on which the Occupational Pensions Board may approve applications for deferment under subsection (6) above.'.

Mr Hudson 13/2

NOTICES OF AMENDMENTS

given on

Thursday 7th May 1987

For other Amendment (s), see the following page (s) of Supplement to Votes :
217-21

STANDING COMMITTEE B

FINANCE BILL

(Except Clauses 11, 18, 20 to 23, 33, 45, 147 and 160 and Schedule 4)

Mr John MacGregor 1R+1AE3 **46**

Clause **122**, page **78**, line **40**, at end insert—

'( ) He is the employer of employees to whom the scheme relates, or '.

Mr Wiliam Cash 1R+1AE3 **47**

Clause **122**, page **78**, line **37**, after 'auditor)', insert 'or who is an accountant within section 50(5) of the Taxes Management Act 1970'.

Mr John MacGregor 1R+1AE3 **45**

Schedule **11**, page **141**, line **1**, leave out from beginning to end of line 2 and insert—

'(*b*) the percentage mentioned in paragraph (*a*) above reduced (if it is more than 100) or increased (if it is less than 100) by a specified fraction of the difference between it and 100 ;

and the reference in paragraph (*b*) above to a specified fraction is a reference to a fraction of not more than one half specified in the scheme.'.

Mr John MacGregor 1R+1AE3 **48**

Schedule **22**, page **176**, line **28**, at end insert—

'In section 112(1), the word "vehicles".

1981 c. 35.	The Finance Act 1981.	In Schedule 8, paragraph 6(*a*).
1983 c. 28.	The Finance Act 1983.	Section 7(4).'

SECRET

cc Chancellor
FST MST EST
Mr Scholar
Mr Neubert MP.

Office of the Parliamentary Counsel 36 Whitehall London SW1A 2AY
Telephone Direct line 01 210 6609
Switchboard 01 210

Miss J Rutter
PS/Chief Secretary to the Treasury
HM Treasury
Parliament Street
LONDON SW1

8 May 1987

Dear Jill,

PROCEEDINGS ON FINANCE BILL IN THE EVENT OF AN ELECTION

I enclose revised versions of documents "B" and "Y". These replace the documents which I sent you with my letter of yesterday.

The revisions take account of two factors, first, the fact that the Committee got to the end of Schedule 6 last night, secondly your fax of today. So far as concerns the latter, I have included all the clauses (and related Schedules) in your list headed "to be considered further" and also clause 67. You told me that it was probable that clause 40 would not be proceeded with and I have also heard from the Economic Secretary's Private Secretary that clauses 52 and 53 may not be going ahead. Nevertheless, it seems sensible to have a complete list and we can move clauses which are to be dropped from the first part of the motions to the second part once we know precisely what is wanted.

There will obviously be corresponding changes to document "X" (the guillotine motion) but I do not propose to generate further paper by sending any revision of that until we have a much better idea whether it will be needed and, if it is, what are the various times to be inserted into it.

SECRET

11/142

SECRET

B

COMMITTEE OF THE WHOLE HOUSE

FINANCE BILL

Mr Chancellor of the Exchequer

To move, That the order in which the remaining proceedings in Committee of the whole House on the Finance Bill are to be taken shall be

Clause 37, Schedule 7, Clauses 38 to 44, Clauses 46 to 48, Schedule 8, Clauses 49 to 57, Clauses 59 and 60, Clause 67, Clauses 123 to 146, Schedule 12, Clause 149, Schedule 14, Clause 150, Schedule 15, Clause 151, Clause 153, Schedule 16, Clause 154, Schedule 17, Clause 155, Schedule 18, Clause 156, Schedule 19, Clause 157, Schedule 20, Clauses 158 and 159, Clauses 161 to 163, Schedule 21, new Clauses, Clause 58, Clauses 61 to 66, Clauses 68 to 122, Clause 148, Clause 152, Schedules 9 to 11, Schedule 13, Clause 164, Schedule 22 and new Schedules.

SECRET

11/142

SECRET

STANDING COMMITTEE B

FINANCE BILL (Except Clauses 11, 18, 20, 21, 22, 23, 33, 45, 147 and 160 and Schedule 4)

Mr John MacGregor

To move, That the order in which the remaining proceedings in Standing Committee on the Finance Bill are to be taken shall be Clause 37, Schedule 7, Clauses 38 to 44, Clauses 46 to 48, Schedule 8, Clauses 49 to 57, Clauses 59 and 60, Clause 67, Clauses 123 to 146, Schedule 12, Clause 149, Schedule 14, Clause 150, Schedule 15, Clause 151, Clause 153, Schedule 16, Clause 154, Schedule 17, Clause 155, Schedule 18, Clause 156, Schedule 19, Clause 157, Schedule 20, Clauses 158 and 159, Clauses 161 to 163, Schedule 21, new Clauses, Clause 58, Clauses 61 to 66, Clauses 68 to 122, Clause 148, Clause 152, Schedules 9 to 11, Schedule 13, Clause 164, Schedule 22 and new Schedules.

SECRET

SECRET

Office of the Parliamentary Counsel 36 Whitehall London SW1A 2AY

Telephone Direct line 01 210 6609
Switchboard 01 210

Miss J Rutter
PS/Chief Secretary to the Treasury
H M Treasury
Parliament Street
SW1

8 May 1987

Dear Sir,

FINANCE BILL: NEXT WEEK'S BUSINESS

Assuming that we are to proceed by agreement, I now understand (by way of the Commons Public Bill Office) that the intention of the Whips is to take all that remains of the Finance Bill in one chunk on Tuesday of next week. This is clearly a matter for the Government's business managers, but it has some technical implications which I should draw to your attention.

In principle, we shall still need to use documents A and B (the latter adapted to whatever is finally agreed). However, so far as concerns document A, the words which follow the final semi-colon will be pointless. We shall be tabling the motion on Monday night and there will be no opportunity to give notice of any amendment etc. for report once the motion is obtained-because we shall have already started on the Bill. Accordingly, this last phrase will have to be left out.

I am not sure whether the Whips realise that there are now to be Government amendments on report. At the very least we need

SECRET

amendments to leave out clause 34 and Schedule 5. As I have already explained, it will not be possible to give notice of these two amendments and so they will have to be circulated as manuscript amendments. It follows, therefore, that someone (I presume in the Treasury) should be geared up to run off some copies of the relevant draft. For this reason, I enclose a copy of what will be wanted.

While it is possible to move amendments on report in a manuscript form, it is not possible to have new clauses without notice. So far as I am aware, there is no intention of having Government new clauses on report and I suppose that the Government is not particularly concerned to ensure that anybody else is in a position to put down a new clause. The one point which does remain, however, is the Opposition's wish to have a debate and vote on clause 20. That will mean that the Opposition will have to be ready with a manuscript amendment for report to leave out clause 20. I assume that someone will explain that to them.

No doubt this saga will continue on Monday. In the meantime, I am sending a copy of this letter (but not of the enclosure) to Murdo Maclean.

Yours ever,

PETER GRAHAM

Encs

CONSIDERATION OF BILL

FINANCE BILL, AS AMENDED

Page 23, line 20, leave out clause 34.

Page 124, line 10, leave out Schedule 5.

3752/038

1 IR
2 PWP

FROM: P D P BARNES
DATE: 8 May 1987

MR DRAPER - IR

cc PS/Chancellor 2
PS/Chief Secretary
PS/Financial Secretary
Sir P Middleton
Mrs Lomax
Miss Sinclair
Mr Ilett
Mr Cropper
Mr Ross Goobey

Mr Jenkins - Parly Counsel

Mr Isaac - IR
Mr Beighton - IR
Mr Corlett - IR

STAMP DUTY: FINANCE BILL AMENDMENTS

The Economic Secretary was grateful for your submission of 8 May.

2. The Economic Secretary agrees that Parliamentary Counsel should be instructed to table the amendment discussed in paragraphs 1 to 3 of your submission. The Economic Secretary would also be content for an agency agreement amendment to be tabled if Parliamentary Counsel are able to draft it in time.

PB

P D P BARNES
Private Secretary

3752/037

FROM: P D P BARNES
DATE: 8 May 1987

MR SHEPHERD - IR

cc PS/Chancellor 2
PS/Chief Secretary
PS/Financial Secretary
PS/Minister of State
Miss Sinclair
Mrs Case
Mr Cropper
Mr Ross Goobey

Mr Graham - Parly Counsel

Mr Painter - IR
Mr Taylor-Thompson - IR
PS/IR

CLAUSES 52 and 53: BRITISH BANKERS' ASSOCIATION REPRESENTATIONS

The Economic Secretary was grateful for your submission of 6 May.

2. The Economic Secretary would like to defer for the time being a decision on the technical amendment suggested in paragraph 5 of your submission.

P D P BARNES
Private Secretary

CONFIDENTIAL

Inland Revenue

Policy Division
Somerset House

FROM: N C MUNRO
8 May 1987

1. Mr Corlett 10/5 8/5

2. Economic Secretary

3. Financial Secretary

PERSONAL PENSIONS : FRIENDLY SOCIETIES
CLAUSE 71 FINANCE BILL 1987

Introduction

1. At present, retirement annuity business may be conducted only by life assurance companies and certain friendly societies. One important aspect of the current pensions reform package is that the range of pension providers is to be widened, so as to include other institutions, such as unit trusts, building societies and banks.

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cc Chancellor of the Exchequer
Chief Secretary
Minister of State
Sir P Middleton
Mr Cassell
Mr Scholar
Mrs Lomax
Miss Noble
Miss Sinclair
Mr Cropper
Mr Ross Goobey
Mr Tyrie
Mr Wilson (RFS)
Mr Isaac
Mr Beighton
Mr Corlett
Mr Newstead
Mr Lusk
Mr Munro
Mr Hawes
Mr Hinton
PS/IR

2. As from next January, retirement annuities will be replaced by the new personal pensions. Under the 1986 Social Security Act such personal pensions can be contracted-out of SERPS, if they satisfy certain prudential requirements. One such requirement - a transitional provision pending the coming into force of the EC Life Directive - is that any Friendly Societies writing such business must have had income above a certain level in 1986 and 1987.

3. This level is expressed in current DHSS Regulations as net income from contributions in 1986 and 1987 of not less than £300,000. The tax legislation in the current Finance Bill mirrors this provision. However, the Economic Secretary has now agreed that, for 1987, the figure should be £400,000.

The problem

4. In the past ten years or so, a number of friendly societies have been established by professional partnerships - solicitors, accountants and the like - solely with the purpose of conducting retirement annuity business for the partners. About 70 are in existence - and their number is growing. Their attraction, as compared with retirement annuities from a life office, is that the partnership retains control of the fund, which can be used (say) to purchase the business premises.

5. All but one of these societies will have net contribution income in 1986 of less than £300,000 (and, almost certainly, income of less than £400,000 in 1987). The legislation in this year's Finance Bill will prevent them from conducting new personal pensions business after next January, although existing business will continue to enjoy tax relief. In effect, therefore, they will be 'closed funds', unable to take on new members.

6. In addition, there is one very small 'traditional' society - the Hunt Servants' Benefit Society - which would also be unable to conduct personal pension business.

7. The Friendly Societies Liaison Committee have now written to me on behalf of these societies, to ask whether this result was intended.

The issues

8. Neither we nor the Registry hold much of a brief for the 'partnership societies'. Most, if not all, have been set up in order to exploit the self-investment/loanback opportunities afforded by self-administered pension arrangements - a problem which, in the occupational pensions field, gives rise to continuing concern. But Ministers have decided against any general attack on self-investment by pension schemes, where the main scope for abuse lies. So it may appear odd to single out these, much smaller, targets for attack.

9. The Registry are concerned for prudential reasons that only those friendly societies which are large enough to be subject to the positive supervision regime following authorisation under the proposed EC Life Directive regulations should be allowed to be providers of personal pensions to members generally. But the Registry consider that partnership societies, in which membership is restricted to partners in the same partnership and business is limited to section 226 retirement annuity benefits only, are an exception to their prudential concerns: in the case of partnership societies the principle of caveat emptor can properly apply.

10. There is no strong reason why the Finance Bill legislation has to follow the Social Security provisions, which relate only to contracting-out of SERPS. And any change in the tax legislation should not lead to pressure for a change in the contracting-out rules: by definition partners are self-employed and not in SERPS in the first place.

The options

11. If Ministers are minded to amend the current Finance Bill to accommodate these 'partnership societies' there are two main options.

12. The first option - which we favour - would be to remove the income restriction on friendly societies altogether so that, for tax purposes, any society could write personal pension business (provided it satisfied any requirements which might be imposed by DHSS, the Registry or under investor protection legislation).

13. The second option, which the Registry prefer for mainly prudential reasons, would be to retain the DHSS limitation on the size of societies able to write personal pension schemes which are contracted-out of SERPS, but to amend the Finance Bill limitation, at present in clause 71(1)(b). The threshold of £300,000 contribution income for 1986 and £400,000 contribution income for 1987 would remain (to be replaced eventually by the criterion that they were authorised under the proposed EC Life Directive regulations) for societies offering personal pensions to the general public. But either the 70 partnership societies now in existence would be permitted to write personal pension business as active bodies, and be able to recruit additional members as new partners join the firm, or any existing or future partnership society should be permitted to write partnership personal pensions business if that is the only business they do; ie they would not be allowed to write the new personal pensions business on a wider scale unless they were over the contributions income threshold. Their treatment as a class is quite feasible as all such societies now registered have been individually and specifically authorised in the past under section 27 of the Finance Act 1974.

14. The first option would be simpler than the second. Apart from that we favour the first option because:

- it would allow the Hunt Servants' Benefit Society to continue to provide retirement benefits for its members; and

- if there are strong prudential reasons for excluding small friendly societies from personal pensions, such an exclusion arguably does not belong in tax legislation;

15. Moreover, the first variant of the second option would discriminate unfairly against those partnerships which had not yet

got around to establishing their own friendly societies (unless large enough to be within the terms of the EC Life Directive).

Timing

16. Either option would require an amendment to clause 71. On the present accelerated timetable for the Finance Bill, there is little scope for tabling even a relatively simple amendment. Nor is there any urgency: the personal pensions legislation comes into force next January. Given that a few other amendments will be needed to the personal pensions legislation at Report Stage or in a subsequent Finance Bill, it would look odd to single out this relatively minor point for action now. But it would be possible to announce a change now, to be legislated for at a later date.

17. The Registry have seen this note in draft and are content.

N C MUNRO

RP

Inland Revenue

Policy Division
Somerset House

FROM: D G DRAPER
8 May 1987

ECONOMIC SECRETARY

STAMP DUTY: FINANCE BILL AMENDMENTS

1. The Chief Secretary has said (Miss Rutter 5 May) that amendments to clauses beyond 46 should be put down as soon as possible. We expect to finalise during the course of the morning the drafting of an amendment to cover the two agreed starters Parliamentary Counsel was unable to deal with in time to include in the original Bill. These were:

Starter 137D: Exemption for issuing houses; and

Starter 137F: Removal of double charge on offers for sale involving the issue of a renounceable letter of allotment.

Both these are relieving provisions for which the new issues market has been asking.

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cc Chancellor of the Exchequer 2
Chief Secretary
Financial Secretary
Sir P Middleton
Mrs Lomax
Miss Sinclair
Mr Ilett
Mr Cropper
Mr Ross Goobey
Mr Jenkins - Parliamentary Counsel
Mr Isaac
Mr Beighton
Mr Corlett
Mr Johnston
Mr Johns
Mr Pipe
Mr Adderley
PS/IR
Mr Draper

2. Parliamentary Counsel has managed to cover both points in a single amendment to Schedule 12 of the Bill. If the Bill is split next week Clause 146, which introduces Schedule 12, would not be reached. If the amendment was not published until the remnants of the present Finance Bill are reintroduced this would give the representative bodies very little time in which to raise any technical points on the drafting. The representative bodies have on a number of occasions recently made the point that stamp duty legislation has not been given adequate exposure. This particular amendment deals with complex legal matters and the outside world would undoubtedly welcome the opportunity to see the amendment at this stage. The most satisfactory way of doing this would be to table the amendment and this would accord with the Chief Secretary's request.

3. Originally it was proposed that these starters, which make a substantive change in the law, should take effect from the date on which the Bill is published. In accordance with precedent it is proposed they should now take effect from the day on which the proposals are announced ie 8 May if the amendment can be tabled today. If we are to table the amendment today we need to give Parliamentary Counsel the necessary authority before lunch to be sure of getting the amendment down. May the authority be given for this if the drafting is completed in time?

4. Your Private Secretary asked this morning about the possibility of taking all the stamp duty clauses next week. If this is an option we think the Economic Secretary should support the proposal. There are three points to mention.

i. <u>Agency agreements</u>

One of the original proposals (Starter 137C) was an exemption where stamp duty was paid but the agreement to buy was made by an agency broker. It was originally thought that the provisions which prevent a double charge to reserve tax and stamp duty did not work properly for Stock Exchange transactions where the agreement to buy shares is made by a broker acting as agent for an undisclosed purchaser. At the December stamp duty starters

meeting you indicated your provisional agreement to this proposal. Subsequently we were advised that legislation was not necessary to deal with the point, though the reserve tax regulations would require amendment. Work on preparing revised regulations is in hand.

Further consideration has, however, suggested that a subsection in the 1986 Act which provides that where a purchase agreement is made on behalf of the buyer by his nominee the purchaser (and not the nominee) should be liable for the tax, should be repealed. This is because it is inconsistent with the view that the provisions which prevent a double charge treat agreements made by an agent as made by the agent's principal. Subject to the views of Parliamentary Counsel, we recommend an additional amendment to Schedule 12 to deal with this minor drafting point. We will ask Parliamentary Counsel if there is any chance of getting an amendment drafted in time.

ii. Clearance services

It has been announced in the press that Barclays Bank is proposing to make a simultaneous issue of its shares in Tokyo and New York. The New York issue will be into ADRs and will attract the one and a half per cent reserve tax. The Tokyo issue is into a clearance service and similarly ought to attract the one and a half per cent tax. We have been told privately that the Tokyo issue may be structured in such a way that seeks to avoid the one and a half per cent charge. Our lawyers think we may be able to defeat the scheme on Ramsay lines. The avoidance loophole is likely to be highlighted shortly in an article in the British Tax Review and there is a case for considering whether any amendment to the one and a half per cent tax legislation is necessary to prevent avoidance. There is no real possibility of dealing with this in time for next week. The point would have to be left for consideration on its merits after the election.

iii. Relief for market makers in traded options (Starter 138F)

Paragraph 4 of Schedule 12 provides, as agreed, a reserve tax exemption for market makers in traded options. My note of 11 February proposed that this exemption should apply both to market makers in ordinary traded options and market makers in the FTSE index. The provision in the Bill has not succeeded in covering market makers in the index. Because, however, of the implications for other taxes doubts have arisen as to whether this would be appropriate and the Treasury are proposing to put a note to you and to the Financial Secretary in due course. This also would have to be left for consideration after the election.

D G DRAPER

Inland Revenue

Policy Division
Somerset House
FROM: J H REED

DATE: 8 May 1987

PS/CHIEF SECRETARY

LETTER FROM THE INSTITUTE OF TAXATION
FINANCE BILL 1987, CLAUSE 40

I understand that the Chief Secretary wishes to reply to this letter this week. I attach a draft reply which does not go into detail. It suggests that the Revenue and the Institute should endeavour to reach agreement about the nature and scale of the difficulties arising out of the apportionment legislation but rules out amending legislation in the current Finance Bill.

Taxes Management Act, Section 50(5)

2. The IOT letters to you and the Lord Chancellor continue an unsubtle campaign on two Keith Committee matters which specifically would benefit IOT members. These are giving a right of audience before the appeal Commissioners to

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cc PS/Chancellor
PS/Financial Secretary
PS/Minister of State
PS/Economic Secretary
Mr Butler
Mr Scholar
Miss Sinclair
Miss C Evans
Mr Cropper
Mr Tyrie
Mr Ross Goobey
Mr Painter
Mr McGivern
Mr Beighton
Mr Corlett
Mr Johns
Mr Sullivan
Mr Campbell
Mr D Shaw
Mr Reed
Mr Walker
PS/IR

(amongst others) those IOT members who do not qualify under existing legislation as lawyers or qualified accountants; and giving protection equivalent to legal professional privilege to the tax advice of IOT members. Extension of rights of audience and privilege protection are very sensitive areas. While they would 'level the playing field' between classes of adviser, they would erode existing advantages. In both cases, those other than IOT members have a strong interest in acquiring rights. Ex-Revenue Inspectors and unqualified accountants are obvious examples. There are potential trade-offs with another Keith recommendation about over-riding professional privilege.

3. Irrespective of the balance of arguments in a difficult area, it is inappropriate to legislate on either issue before the 31 October expiry date for comments on non-priority items (which these are) in the Inland Revenue 12 December consultative document on the Keith recommendations.

4. The Lord Chancellor's Department have a close interest in the override of legal privilege; some interest in provision of equivalent protection to other professions; and an interest in rights of audience. Any change in the last item would probably be undertaken by that Department in procedural rules for the Commissioners on this and other matters, following an amendment of the Taxes Management Act. That Department has referred to the Treasury the letter to the Lord Chancellor.

J H REED

R M Ivison Esq

FINANCE BILL 1987, CLAUSE 40

Thank you for your letter of 21 April.

I should explain that the purpose of Clause 40 is simply to bring the law on apportionment into line with the way the Inland Revenue operated it before the Lansing Bagnall case.

This is being done by making obligatory various wide-ranging discretionary powers given to the Inspector which we feel are inappropriate in tax legislation. There is therefore no reason to expect that in future the apportionment legislation will be applied by Inspectors in a different manner from how it was applied in the past.

The Inland Revenue advise me that they are not aware that significant problems arise under Paragraph 3A of Schedule 16 to the Finance Act 1972 either in connection with overseas income or otherwise. They do not believe that in general this is because Inspectors have used a wide-ranging discretion when considering apportionment - before the Lansing Bagnall case the training of Inspectors and the instructions to them were on the basis that the relevant provisions were obligatory, subject to the normal and continuing power of an Inspector

not to pursue amounts of tax which would be disproportionately expensive to collect. So the Revenue do not expect Clause 40 to cause the apportionment legislation to be applied in a way significantly different from the way it was applied before the Lancing Bagnall decision.

However, I recognise your concerns about the effect of the existing legislation. On such complex matters, it would I think be wrong to rush into legislation before your Institute and the Revenue have been able to agree on the nature and seriousness of any problems and the possible solutions. I have therefore asked the Revenue to get in touch with you soon to commence this process but I think it would be unrealistic to expect this to result in any amending legislation in the current Finance Bill.

I turn now to your point about the rights of audience of IOT members before the appeal Commissioners. You enclosed a copy of your letter to the Lord Chancellor about rights of audience and about the extension to IOT members of protection equivalent to legal professional privilege. Perhaps you would treat this reply as a response to both letters.

The consultative document "The Inland Revenue and the Taxpayer" covers the Keith Committee recommendations on rights of audience and

professional privilege. These aspects were not amongst those indicated as for priority consideration. Thus the closing date for representations is 31 October this year. In the circumstances I do not think it would be appropriate to address these aspects in the present Finance Bill.

JOHN MacGREGOR

Mr Hudson

NOTICES OF AMENDMENTS

given on

Friday 8th May 1987

For other Amendment (s), see the following page (s) of Supplement to Votes :
217-21 and 223.

STANDING COMMITTEE B

FINANCE BILL

(Except Clauses 11, 18, 20 to 23, 33, 45, 147 and 160 and Schedule 4)

Mr John MacGregor

12 **49**

Schedule **12**, page **143**, line **18**, at end insert—

'Public issues

"Section 87: exceptions for public issues.

4A.—(1) After section 89 there shall be inserted—

89A.—(1) Section 87 above shall not apply as regards an agreement to transfer securities other than units under a unit trust scheme to B or B's nominee if—

(*a*) the agreement is part of an arrangement, entered into by B in the ordinary course of B's business as an issuing house, under which B, as principal, is to offer the securities for sale to the public,

(*b*) the agreement is conditional upon the admission of the securities to the Official List of The Stock Exchange,

(*c*) the consideration under the agreement for each security is the same as the price at which B is to offer the security for sale, and

(*d*) B sells the securities in accordance with the arrangement referred to in paragraph (*a*) above.

(2) Section 87 above shall not apply as regards an agreement if the securities to which the agreement relates are newly subscribed securities other than units under a unit trust scheme and—

(*a*) the agreement is made in pursuance of an offer to the public made by A as principal under an arrangement entered into in the ordinary course of A's business as an issuing house,

(*b*) a right of allotment in respect of, or to subscribe for, the securities has been acquired by A under an agreement which is part of the arrangement ;

(*c*) both those agreements are conditional upon the admission of the securities to the Official List of The Stock Exchange, and

(*d*) the consideration for each security is the same under both agreements,

and for the purposes of this subsection, " newly subscribed securities " are securities which, in pursuance of the arrangement referred to in paragraph (*a*) above, are issued wholly for new consideration.

(3) Section 87 above shall not apply as regards an agreement if the securities to which the agreement relates are registered securities other than units under a unit trust scheme and—

(*a*) the agreement is made in pursuance of an offer to the public made by A,

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(*b*) the agreement is conditional upon the admission of the securities to the Official List of The Stock Exchange, and

(*c*) under the agreement A issues to B or his nominee a renouncable letter of acceptance, or similar instrument, in respect of the securities.

(4) The Treasury may by regulations amend paragraph (*b*) of subsection (1) above, paragraph (*c*) of subsection (2) above, and paragraph (*b*) of subsection (3) above (as they have effect for the time being); and the power to make regulations under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.".

(2) This paragraph shall have effect in relation to agreements to transfer securities made on or after 8th May 1987.'.

Mr John MacGregor

IR

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Schedule **19**, page **162**, line **12**, after ' purposes ', insert ' which, subject to subsection (1A) below, are '.

Mr John MacGregor

IR

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Schedule **19**, page **162**, line **21**, at end insert—

'(1A) For the purposes only of subsection (1)(*d*) above, any reference in section 5A(2) of this Act to the territorial sea of the United Kingdom shall be taken to include a reference to the United Kingdom itself.'

Mr John MacGregor

CTE

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Schedule **22**, page **176**, line **28**, at end insert—

' 1983 c. 28.	The Finance Act 1983.	Section 7(4).'