# Finance Bill

# Public Bill Committee

# Proposed Amendments

**Subject**

This briefing calls on members to support Amendment 12, which would introduce a new safeguard for Her Majesty's Revenue and Customs new power to recover tax debt by direct deduction from accounts (Schedule 8). In addition, the briefing proposes two additional amendments to strengthen Amendment 12 in order to better protect the self-employed and joint account holders.

**Amendment 12**

Schedule 8, Page 188, line 2

at end insert—

*"Persons at a particular disadvantage in dealing with Revenue and Customs affairs*

4A (1) Before deciding whether or not to exercise the power under paragraph 3(2) or

4(1) in relation to a person, HMRC must consider whether or not, to the best of HMRC's knowledge, there are any matters as a result of which the person is, or may be, at a particular disadvantage in dealing with the person's Revenue and Customs affairs.

(2) If HMRC determines that there are any such matters, HMRC must take those matters into account in deciding whether or not to exercise the power concerned in relation to the person.

(3) The Commissioners must publish guidance as to the factors which are relevant to determining whether or not a person is at a particular disadvantage in dealing with the person's Revenue and Customs affairs for the purposes of this Schedule.

(4) In this paragraph "Revenue and Customs affairs", in relation to a person by whom a relevant sum is payable, means any affairs of the person which relate to the relevant sum."

**Further proposed amendments**

Schedule 8, Page 189, line 10

At end insert -

“( ) If any account held is used for business purposes, the HMRC must take into account this use when making a hold decision.”

Schedule 8, Page 190, line 1

Delete from beginning to the end of line 4 and insert –

“(4) In this paragraph “the appropriate fraction”, in relation to a joint account, will be ascertained by HMRC following a face-to-face meeting with relevant account holders.”

**Purpose of further proposed amendments**

1. This amendment would explicitly require HMRC to take into account business costs before proceeding to recover tax debt by direct deduction from accounts.
2. This amendment would explicitly require HMRC to ascertain the proportion of money held in a joint account by a non-debtor before proceeding to recover tax debt by direct deduction from accounts.

**Briefing**

Schedule 8 of the Finance Bill includes a new power for HMRC to recover tax debt directly from an individual’s bank account or accounts (‘enforcement by deduction from accounts’).

*Supporting Amendment 12*

The Bill as laid down did not include adequate safeguards for HMRC’s use of this new power. This raised the possibility that HMRC could use the power to enforce against people in a financially vulnerable position, for example individuals with multiple other debts.

Our evidence shows when an individual has help and support from their creditors and independent advice agencies they are far more likely to be able to recover financially. This is beneficial not only for the individual and their family, but for society, as financial worries have a significant negative effect on people’s mental and physical health, and their employment productivity. Problem debt has been estimated to cost society £8.3 billion.

Therefore, where HMRC encounters individuals with such financial vulnerability, we believe it should be a requirement to give them adequate breathing space via an independent, not-for-profit debt advice agency. This would be in line with best practice as laid out by the Financial Conduct Authority.

**We are therefore pleased the Government has moved to address this oversight via Amendment 12 and would strongly urge members of the committee to support this amendment.**

However, we are still concerned that if misused the power could seriously harm the self-employed and small business owners, people who share a joint account with an individual being enforced against.

*Self-employed / small business owners*

There is nothing in Schedule 8 safeguarding self-employed consumers or small traders from having money needed for business expenses taken by HMRC. The Bill assumes they will be covered by a proposed rule that £5,000 must be left across all accounts following enforcement.

However, self-employed people could quite easily be in a position where assets in excess of £5,000 are in their accounts, but with a significant proportion earmarked for immediate use as a business expense. They are likely to have larger daily and monthly fluctuations in their account balances due to regular payments. If the HMRC takes this money there is a danger that a struggling business either could collapse, or be forced to take out unsecured credit to cope with a sudden shortfall.

Many self-employed people already face financial difficulties attempting to keep their business afloat. In 2014, StepChange Debt Charity advised over 14,000 self-employed people, who owed on average £20,599 in unsecured debt, over £5,000 more than that owed by clients employed full-time. The Money Advice Trust's Business Debtline service helped a further 42,000 self-employed people and other small business owners in 2014 – and its recent Cost of Doing Business research showed the challenges many self-employed clients are facing. More than one in three of clients interviewed withdrew less than £100 from their business each month, with 76 percent cutting back on household spending as a result. Almost seven in 10 (69 percent) of those who had taken out a personal loan were using it to prop up their business, leading to a blurring of business and personal finances that can lead to serious financial difficulty.

If HMRC demonstrates greater forbearance in cases involving the self-employed and small business owners, research with StepChange Debt Charity clients shows the danger of businesses collapsing is much lower. A survey of these people found 60% said that their financial situation had stabilised once all of their creditors agreed to freeze further interest, charges and enforcement action. However, no one said their financial situation had stabilised in cases where none of their creditors had agreed to give them this help. Six in ten of those people that did not get the help they needed from their creditors went on to take out more credit to try to cope with their debt problems. This includes 21% who took out a payday loan.

In order to prevent HMRC unnecessarily forcing self-employed people out of business, the Bill needs amending so that HMRC must explicitly take business expenses into account when making an enforcement decision.

*Joint accounts*

The Bill currently proposes that HMRC will be able to withdraw money from joint accounts, with the non-debtors' assets being protected. However, again the Bill lacks adequate safeguards to ensure HMRC does not take money from people who do not have a tax debt. As currently written - Schedule 8, Clause 6 (4) - the Bill would allow HMRC to treat money in joint accounts as split 50:50, even in cases where this is not accurate.

This may be problematic, especially in households where financial abuse might be occurring.

In conversations with HMRC we have received assurances this will not happen. However, we believe it is crucial the Bill makes this it an explicit requirement for HMRC to ascertain the exact money in a joint account held by the non-debtor prior to placing a hold notice on an account.

*For more information*

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