

**NOTICES OF AMENDMENTS**  
**Monday 23 June 2014**  
**CONSIDERATION OF BILL**

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Mr Chancellor of the Exchequer

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\* Clause 291, page 199, leave out lines 23 to 29

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## **EXPLANATORY NOTE**

### **AMENDMENT 4 TO CLAUSE 291: REMOVAL OF EXTENDED TIME LIMIT RESTRICTION FOR EU CASES**

#### **SUMMARY**

1. This amendment widens the circumstances in which the extended time limit restriction is removed to all cases in which tax was charged contrary to EU law.

#### **DETAILS OF THE AMENDMENT**

2. Subsection (1) inserts new subsection 5A into section 107 of Finance Act (FA) 2007 (removal of extended time limits for mistakes of law in taxation matters). New subsection 5A disapples the claims restriction in section 107 where tax has been charged contrary to EU law.

3. The Government's intention is that section 107 of FA 2007 should accord with the Supreme Court's ruling in *Franked Investment Income Group Litigation v CIR [2012] UKSC 19*. That decision concerned claims relating to tax charged contrary to provisions relating to free movement in titles II and IV of Part 3 of the Treaty of the Functioning of the European Union. New subsection 5B provided that tax was charged contrary to EU law if it was charged contrary to these free movement provisions.

4. Amendment 4 removes new subsection 5B, so that the extended time limit restriction is removed for all cases in which tax was charged contrary to EU law under any EU Treaty or under primary or secondary EU legislation. This more fully reflects the principle of the Supreme Court's decision.

#### **BACKGROUND NOTE**

5. Section 107 of FA 2007 was introduced to ensure the time limit for direct tax recoverable by reason of a mistake of law was six years from the date of payment for all actions brought before 8 September 2003 which were not subject to a judgment of the House of Lords before December 2006. Section 32(1)(c) of the Limitation Act 1980 was disappplied in respect of such actions.

6. The Supreme Court held in *Franked Investment Income Group Litigation v CIR [2012] UKSC 19* that section 107 FA 2007 was incompatible with EU law and cannot apply to actions to recover tax paid contrary to EU law.

7. This provision amends section 107 FA 2007 to reflect the Supreme Court's decision so that the restriction does not apply to recover tax paid contrary to EU law. The amendment

**FINANCE BILL 2014**  
**CLAUSE 291**

is retrospective so that section 107 will be treated as always having been subject to this exception.