

Explanatory Note

Clause 81: Extension of provisions about set-off to Scotland

Summary

1. Clause 81 extends the provisions of sections 130 and 131 of the Finance Act (FA) 2008 to Scotland.

Details of the clause

2. Subsection (1) provides that the provisions of section 130 and section 131 of FA 2008, which currently extend to England, Wales and Northern Ireland, will extend also to Scotland.
3. Subsection (3) amends Section 130, which currently extends to England, Wales and Northern Ireland and provides the basis for HM Revenue & Customs (HMRC) to set-off sums payable to a person by HMRC ('a credit') against amounts owed to HMRC by the same person ('a debit'), to extend its application to Scotland.
4. Subsection (4) amends Section 131, which currently provides that set-off will not apply under section 130 where an insolvency procedure has been applied to set a post-insolvency credit against a pre insolvency debit, to extend those provisions to Scotland and to include certain insolvency procedures that are applied in Scotland.

Background note

5. FA 2008 introduced a legislative basis for set-off in England, Wales and Northern Ireland. At this time the Scottish Common Law provisions were deemed sufficient for the purposes of set off. However, for the avoidance of any doubt and consistency of approach, this clause is introduced to provide the same legislative basis for set off across the UK.
6. Section 131 provides that set-off will not be applied where the person is subject to an insolvency procedure to set a post-insolvency credit against a pre-insolvency debit and this clause extends the same provisions to Scotland. This will mean that the set off provisions will not apply anywhere in the UK when the person concerned is subject to such an insolvency procedure.
7. If you have any questions about this change, or comments on the legislation, please contact Helen Sawyer on 03000 568355 (email: helen.sawyer@hmrc.gsi.gov.uk).