This practice note describes the annual Budget and Finance Bill process, including the procedural aspects of the passing of a Finance Act. It describes the rules on the provisional collection of taxes (i.e., how tax changes are brought into effect and taxes collected before the Finance Bill has become law), the stages through which the Finance Bill must pass before it receives Royal Assent, the rules on the numbering of Finance Bills and Acts, and what happens in a general election year.

Every year, generally around the end of March, the Chancellor of the Exchequer presents the Budget to the House of Commons. Besides important information on the economy, the Budget sets out the government’s plans in relation to tax for the coming year, and sometimes further ahead. In recent years the majority of the measures to be included in that year’s Finance Bill have been announced and consulted upon in advance. There will also be some new announcements, some (chiefly anti-avoidance) measures to take effect immediately, and others which are intended to be included in the Finance Bill for the following year.

The Budget is also the precursor to the annual Finance Bill process. The Finance Bill, and the Finance Act that follows it, authorises HMRC to continue collecting income tax and corporation tax, and contains the new measures and changes that the government has decided to introduce in relation to tax.

National insurance contributions (NICs) are not regarded as taxes for this purpose so any new measures relating to NICs (which will often be the NICs equivalent of a new income tax measure) will require a separate Act or statutory instrument.

In this context the term ‘Budget’ can be used to mean:

- the Chancellor’s Budget speech to Parliament
- the Budget Report, which is a Treasury publication, entitled simply ‘Budget 2014’, ‘Budget 2013’ etc, containing information on the economy and public finances—this is sometimes referred to as the Red Book (for example, click here for the 2014 version), or
- more generally, the package of measures announced by the government on Budget day—this includes the Chancellor’s speech and Red Book but also, and generally of more interest to tax lawyers, more detailed announcements (or confirmations of previous announcements) of proposed changes to tax law.
Provisional collection of taxes

Income tax and corporation tax are annual taxes, meaning that they can only be charged in a year (a tax year for income tax, or a financial year for corporation tax) for which an Act provides that they may be charged. Authorising the government to continue collecting income and corporation tax is one of the functions of the annual Finance Act—arguably its most important function, although occupying only a couple of sentences in an Act that will typically be hundreds of pages long (ITA 2007, s 4 and CTA 2009, s 2(1)).

VAT and excise duties are permanent taxes, meaning that the government does not need a renewed authority each year to continue collecting them.

The Budget is normally in March, but the Finance Bill will typically not receive Royal Assent, and will therefore not become law in the form of a Finance Act, until mid to late July. The government therefore needs an authority for continuing to collect income and corporation tax from the beginning of the tax year (6 April) or financial year (1 April) until the time of Royal Assent. Parliament provides this authority by passing a number of ‘ways and means resolutions’, known as the Budget Resolutions, within ten sitting days (ie days on which the House of Commons sits) of the Budget.

In addition, the Budget will contain a number of measures (typically changes to alcohol and tobacco duty) that come into effect immediately. These are given legal force by a ‘provisional collection of taxes motion’ at the end of the Budget speech. This motion must be confirmed by the passing of the Budget Resolutions in order to continue in force (PCTA 1968, s 5).

For example, Budget 2014 provided for new rates of tobacco duty to come into force at 6pm on Budget day (19 March). This was contained in the Budget Resolutions (number 46) and brought into force on Budget day by a provisional collection of taxes motion.

Once passed, the Budget Resolutions have the force of an Act of Parliament. For the provisions to continue in effect, the Finance Bill must (PCTA 1968, s 1):

- have its second reading within 30 sitting days, and
- receive Royal Assent within seven months or, if earlier, the dissolution of Parliament in anticipation of a general election (PCTA 1968, s 1)

The passage of a Finance Bill

The Finance Bill is a piece of government legislation that must pass through Parliament, following the procedural rules that are necessary for a Bill to become law. Finance Bills are, in addition, subject to a number of rules that do not apply to every Bill:

- only the government can propose legislation imposing taxes—this extends to any new clauses or amendments to the Finance Bill tabled by the Opposition or back-benchers
- the Finance Bill is treated as a ‘money bill’ (whether or not it fulfils the technical definition of a money bill in the Parliament Act 1911), which means it can become law without the approval of the House of Lords

While the Finance Bill is a self-standing piece of legislation, the majority of its provisions consist of amendments to the existing tax statutes (and particularly the Acts covering income and corporation tax). This is why, in the Orange and Yellow Tax Handbooks, previous years’ Finance Acts appear relatively light: most of the legislation has been incorporated within earlier Acts.

Legislation Day (or L Day)

Since 2010, the annual Budget and Finance Bill cycle has begun with the publication of draft Finance Bill clauses, shortly after the Autumn Statement. At the Autumn Statement, formerly known as the Pre-Budget Report, the Chancellor makes a speech to the House of Commons, reporting on the economy and setting out the government’s plans for tax changes to be included in the following year’s Finance Bill. Despite its name, in recent years the Autumn Statement has taken place in December.

The publication of draft Finance Bill clauses, sometimes known as Legislation Day or L Day, is to fulfil the government’s commitment in its Tax Consultation Framework that draft Finance Bill clauses will be published for consultation at least three months before the Bill is introduced to Parliament, allowing at least eight weeks for comments to be made. If a Finance Bill provision is given substantive effect by secondary legislation, this is to be published in draft at the same time. (HMRC Tax Consultation Framework, 1 March 2011)
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The Budget Resolutions

As described above, the Budget Resolutions are the means by which the government can bring any tax changes into force, and continue to collect income and corporation tax, between Budget day and the day on which the Finance Bill receives Royal Assent.

The exceptions to this timetable include anti-avoidance measures, and changes to rates, allowances and thresholds. For anti-avoidance measures, legislation is published in draft, for inclusion in the Finance Bill but with retrospective effect from the date on which the measure was announced.

The draft legislation is accompanied by explanatory notes and tax information and impact notes (TIINs) giving more detail on the measures.

From a tax lawyer’s perspective, L Day can be more interesting than the Budget, because it will be the first time some of the Finance Bill measures will have been announced. Many L Day announcements will not be new, however, as they will already have been published as a proposal for public consultation, often in the previous summer. For example, see the draft Finance Bill 2015 legislation (described as ‘policy papers’) published on 10 December 2014.

No legislation is introduced to Parliament at L Day.

Budget Resolutions

The Budget Resolutions are also the first step in the parliamentary Finance Bill process. Under parliamentary rules, a Bill imposing taxes must begin with the passing of ways and means resolutions. In the case of the Finance Bill, these are the Budget Resolutions.

A ways and means resolution must cover all of the provisions of the Bill to which it relates, so the Budget Resolutions usually include one resolution for the general amendment of the law, otherwise it would be very difficult to make subsequent changes to the Finance Bill.

The remainder of the Budget Resolutions covers the topics that will appear in the Finance Bill, normally in very general terms (for example, ‘that provision may be made about capital allowances’). The exception is legislation coming into effect immediately, which is set out in full, although it is still possible for changes to be made before Royal Assent. For example, the Budget Resolutions 2014 set out in full (at number 43) the legislation relating to salaried members of LLPs that came into effect on 6 April 2014, but resolution 42 states ‘that provision (including provision having retrospective effect) may be made in relation to partnerships and limited liability partnerships’. Hence the legislation could still change before Royal Assent. (Budget Resolutions 2014)

House of Commons–first reading

Following the passing of the Budget Resolutions, the Finance Bill is presented to the House of Commons. This also counts as the Bill’s first reading, although only its title is read to the House and there is no debate (although this follows several days of debates on the Budget Resolutions).

After its first reading, the Finance Bill is printed and published.

House of Commons–second reading and Committee stage

The second reading of the Finance Bill is normally within a week or two of the first reading, and is the first opportunity for MPs to debate the contents of the Bill. This is followed by the Committee stage of the Bill, which somewhat confusingly begins with the Committee of the Whole House. This is another debate on the floor of the House of Commons, this time about a small selection of specific clauses of the Bill chosen by the Opposition. This may include some new clauses tabled by the Opposition. Under parliamentary rules, these new clauses cannot increase the burden of taxation, but to generate debate they may propose, for instance, that the government prepare a report on implementing some measure favoured by the Opposition.

After the Committee of the Whole House, the Bill is considered by a Public Bill Committee. This takes place in a committee room in the House of Commons and is attended by MPs representing the main parliamentary parties, their numbers representing the number of MPs each party has in the House. There are around 35 MPs in the Public Bill Committee considering the Finance Bill (known as the Finance Bill Committee).

The Finance Bill Committee will go through the Finance Bill clause by clause (except for the clauses already considered by the Committee of the Whole House). This takes several weeks. In 2013 there were 20 sittings of the Finance Bill Committee over about eight weeks, normally sitting on two days per week, with two sittings on each day.

The detailed nature of the analysis of the Finance Bill clauses at Committee stage means that the Hansard reports of the debates can provide interesting insights into the government’s thinking. It is also generally at Committee stage that the majority of the amendments to the Finance Bill will be tabled. Amendments tabled by the Opposition or back-benchers are invariably rejected (due to the government’s majority), while government amendments are invariably passed, for the same reason. This does not, however, mean that non-government amendments have no effect: besides generating debate, they can raise issues that the government may concede to be valid, in which case they may be used as the basis for a new government amendment.
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House of Commons–Report stage and third reading
When the Committee stage has finished, the Finance Bill returns to the House of Commons for its Report stage. This involves a debate on some selected new or amended clauses of the Bill. This is also the government’s final chance to introduce amendments. The Bill then receives its third reading, which is a formality, after which it is passed to the House of Lords.

House of Lords stages
The stages of the Finance Bill in the House of Lords are the same as in the House of Commons: first and second readings, Committee and Report stages, and third reading. These are largely regarded as technicalities, as the House of Lords has no power to amend a money bill.

The House of Lords is, nonetheless, regarded as having a powerful voice in scrutinising the Bill and will choose a few of its provisions on which it will report in detail. This task falls on the Finance Bill sub-committee (FBSC) of the House of Lords’ Select Committee on Economic Affairs, which begins its inquiries shortly after the publication of the draft Finance Bill provisions after the Autumn Statement.

For example, the FBSC published its report on the draft Finance Bill 2014 on 11 March 2014, a week before the Budget. The report concentrated on the proposed changes to partnership taxation, and, in particular, the proposed rules relating to salaried members of LLPs. The FBSC recommended delaying the introduction of the new rules until April 2015, although the government did not act on this recommendation, instead bringing in the rules from April 2014. For more information on the FBSC’s 2014 report, see: No postponement for LLP taxation changes.

Royal Assent
Once the Finance Bill has completed its House of Lords stages, it is ready to receive Royal Assent, generally within the following week or so. This normally happens in mid to late July, just before the parliamentary summer recess.

When the Finance Bill receives Royal Assent, it passes into law as the Finance Act. Any provisions of the Finance Act without a specified commencement date come into force on the date of Royal Assent. Many provisions will be given their own specific commencement dates; for an anti-avoidance measure this will generally be the date on which it was first announced.

Numbering of Finance Bills and Acts
A Finance Bill will require a number (eg the Finance (No 2) Bill) if it is not the first Finance Bill to have been introduced in that parliamentary session. By contrast, a Finance Act requires a number (eg the Finance (No 2) Act) if it is not the first Finance Act to be passed in that calendar year.

A parliamentary session normally lasts a year. In 2010, the Coalition government changed the dates of the parliamentary session so that it would run from spring to spring, rather than autumn to autumn, to fit in better with May general elections. One consequence of this change is that one parliamentary session ends, and another begins, during the passage of the Finance Bill—generally somewhere in the middle of Committee stage.

A change was therefore made to the law so that Finance Bills could be carried over, and Budget Resolutions continue to have effect, from one parliamentary session to the next. In 2013, for example, the Finance (No 2) Bill 2012-13 was introduced to the House of Commons on 25 March 2013, at the conclusion of the Budget debate. This was called the Finance (No 2) Bill because it was the second Finance Bill of that session, the first being the Finance Act 2012, which had received Royal Assent in July 2012 (PCTA 1968, s 1(5A).)

The Finance (No 2) Bill 2012-13 got as far as the fourth sitting of the Finance Bill Committee before the end of the 2012-13 parliamentary session. On 9 May 2013, at the start of the new session, the same Bill was re-introduced to Parliament as the new Finance Bill 2013-14, received a first and second reading without debate, and was then returned to the Finance Bill Committee, which resumed its consideration of the Bill at the place it had reached at the end of the previous session. This Bill received Royal Assent on 17 July 2013, and became the Finance Act 2013.
General elections

General elections held in May cut across the normal Finance Bill timetable. There is no set procedure for what happens to the Finance Bill in these circumstances, as in each previous general election it has been handled somewhat differently. As a rule, there will be at least one ‘extra’ Finance Act in a general election year.

In 2005, the Finance Bill was introduced in the House of Commons on 24 March. The general election was called on 5 April, and on the following day a shorter version of the Bill was published. That Bill received all its stages on the same day (6 April), and received Royal Assent on 7 April, becoming the Finance Act 2005. After the general election, the government introduced what was, in effect, the other half of the Finance Bill. This was later enacted as the Finance (No 2) Act 2005.

In 2010, the Finance Bill was introduced on 31 March, and was about half the length that would have been expected for a non-election year. The notes issued with the Budget report indicated whether a measure would be included in this, first, Finance Bill, or in another Bill to be introduced after the election. The general election was called on 6 April, and again all of the Finance Bill’s stages were taken in a single day, with Royal Assent for the Finance Act 2010 on 8 April.

With the coming to power of the Coalition government, the previous Labour government’s plans for the next Finance Bill were shelved, and the new Chancellor held an ‘emergency’ Budget on 22 June 2010. This was followed by a Finance Bill of just 11 clauses, introduced on 1 July 2010 and receiving Royal Assent as the Finance (No 2) Act 2010 on 27 July 2010. In that same July the new government also published draft legislation for a further Finance Bill, containing more detailed and technical measures. This was introduced to the House of Commons on 15 September 2010, and received Royal Assent on 16 December 2010, becoming the Finance (No 3) Act 2010.

Unsurprisingly, the practice of passing a Finance Bill in a single day has been criticised, as it almost entirely removes the opportunity for parliamentary scrutiny. This criticism is only partly addressed by the fact that such Bills tend to be shorter and to contain the government’s less controversial proposals.

In 2015, for the first time, the date of the general election is known in advance. It remains to be seen whether this will remove the need for the Bill to pass all its stages on one day.
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