Editorial

Tax Havens — Beginning of the End?

The Chancellor looks likely to announce in his budget on March 15 legislation to impose imputed tax charges on UK companies which control companies in tax havens. Earlier proposals were the subject of much criticism but new, more polished, proposals were published at the end of last year. The Government clearly feel the new proposals are reasonable and workable and now "firmly reject any suggestion that the loss to the Exchequer through multinationals pulling out of the UK might outweigh the actual and potential loss of tax through the abuse of tax havens".

The Consultative Document details the results of an Inland Revenue survey into the ways in which tax haven companies can be used to shelter business income which would otherwise be taxable in the UK, such as "money box", "dividend trap" and "patent holding" companies and the amounts of tax which are thereby being lost to the Exchequer.

Aspects of the proposals which the Revenue believe have been improved include: the intended publication of lists of tax haven and non-tax haven countries; more clearly defined provisions exempting overseas companies carrying on "exempt activities" particularly in the banking and insurance fields; tax paid under the proposals to be available for offset against surplus advance corporation tax and against surplus double taxation relief arising from foreign withholding taxes on dividends paid by the overseas company to the UK company.

We doubt the wisdom of these proposals; whilst clearly the Government must be seen, in the interests of equity between taxpayers, to discourage blatant abuses of the tax system, the amounts of additional tax which would be likely to accrue to the Exchequer from the proposals are not particularly significant in overall fiscal terms and we believe it would be unfortunate for this country's future trading position if the UK were to cease to be an attractive base for multinationals.

The question of "upstream loans" (made in lieu of taxable dividend remittances to the UK) is not likely to be dealt with in this budget but may be expected to be dealt with later following further review. The proposed redefinition of company residence (which caused much uncertainty and concern in the business community) has been dropped, but legislation to close some loopholes can be expected.

Insolvency Law Reform

The Cork Report on the Reform of Insolvency Law and Practice (see our July 1982 editorial) received a good reception from business and the professions but concern was felt that the recommendations were not likely to be implemented for some considerable time. We therefore welcome the recent indications that the most urgent parts of the Report should be translated into legislation in the current session of Parliament.

According to a report in "Accountancy Age" (10.2.83) a small committee of members of the Cork Committee has been set up under the chairmanship of Sir Kenneth Cork with a mandate from the responsible Minister to report on the areas in which the legislation is being abused. Likely areas for early legislation include:

— strengthening the provisions for imposing liability on directors if guilty of "wrongful trading" or if they are involved in a series of company insolvencies;

— restricting appointments of liquidators or receivers to professionally qualified and bonded persons (evidence has recently been published in the media indicating serious abuses by "cowboy" liquidators);

— making provision for the Court to be empowered to appoint an "Administrator" of a company with all the powers normally given to a receiver and manager under a floating charge; the aim would be wherever possible to keep the business as a going concern (here it must be said that much will also depend on creditor banks being prepared to take a more constructive line).