

**EXPLANATORY MEMORANDUM TO  
THE CAPITAL ALLOWANCES (ENERGY-SAVING PLANT AND  
MACHINERY) (AMENDMENT) ORDER 2008**

**2008 No. 1916**

1. This explanatory memorandum has been prepared by Her Majesty's Revenue & Customs (HMRC) and is laid before the House of Commons by Command of Her Majesty.

This memorandum contains information for the Select Committee on Statutory Instruments.

2. **Description**

This Order amends the Capital Allowances (Energy-Saving Plant and Machinery) Order 2001 (S.I. 2001/2541). The effect is that from 11th August 2008, the revised lists of qualifying technologies issued by the Secretary of State for the Department of the Environment, Food and Rural Affairs on 16th July 2008 have statutory effect for the purposes of 100 per cent first year capital allowances for expenditure on qualifying energy saving plant and machinery technologies ("the enhanced capital allowances (ECA) scheme for energy-saving technologies").

3. **Matters of special interest to the Select Committee on Statutory Instruments**

The explanatory note to this Instrument explains that:

"A full and final Impact Assessment has not been produced for this instrument as a negligible impact on the private or voluntary sectors is foreseen."

This is because the accepted Government practice is that no IA will be published for HMRC and HM Treasury tax measures for which:

- the total effect of the changes across all UK business is less than £100,000 of administrative burden costs/savings and/or £3m of compliance cost in total; and
- the Department's Better Regulation and Policy team has confirmed that:
  - there are no disproportionate impacts on any business or sector; and
  - there are no other issue that might make publication of an IA advisable.

This is such a measure.

HMRC are working with the Department for Business, Enterprise and Regulatory Reform to ensure that the next edition of the Statutory Instrument Practice reflects these changes.

#### **4. Legislative Background**

- 4.1 Sections 45A to 45C of the Capital Allowances Act 2001 contain the rules for the ECA scheme for energy-saving technologies.
- 4.2 Section 45A(1) provides that expenditure is qualifying spending if it is on energy-saving plant or machinery. Section 45A(2) and (3) define what is meant by energy-saving plant and machinery. It is plant and machinery that is of a description specified by Treasury Order and meeting the energy-saving criteria specified by Treasury Order. Section 45A(4) provides that the Treasury Order can deal with the descriptions and criteria by reference to any technology list published by the Secretary of State for the Department of the Environment, Food and Rural Affairs.

#### **5. Extent**

This instrument applies to all of the United Kingdom.

#### **6. European Convention on Human Rights**

As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

#### **7. Policy Background**

- 7.1 The ECA scheme for designated energy-saving technologies is one of a range of measures to encourage the reduction in the UK's carbon emissions. The scheme enables a business to claim accelerated tax relief on its spending on qualifying energy-saving technologies. The cash-flow benefit of accelerated tax relief can encourage businesses to invest in energy-saving equipment that can reduce their energy use, their energy bills and their payments under the Climate Change Levy. The scheme is dynamic with the detailed energy saving criteria and qualifying technologies being reviewed annually.
- 7.2 The current qualifying technologies are published in lists issued by the Secretary of State on 19th July 2007. Those lists are given statutory effect by Treasury Order 2007 No. 2165.
- 7.3 This Treasury Order gives statutory effect, for the purposes of the ECA scheme for energy-saving technologies, to the revised lists of qualifying technologies issued by the Secretary of State on 16th July 2008.
- 7.4 The new lists issued on 16th July 2008 update the qualifying criteria for some qualifying technologies, add four new sub-technologies and expand the good quality combined heat and power (CHP) technology criteria to ensure that the scheme includes all the necessary equipment for CHP facilities to use solid refuse waste (SRF) as a fuel source. (SRF is produced by the mechanical and biological treatment of waste which has been diverted from landfill.) The revised lists are available on the website for the energy-saving ECA scheme at [www.eca.gov.uk/etl](http://www.eca.gov.uk/etl).

**8. Impact**

8.1 A full and final Impact Assessment has not been prepared for this instrument as a negligible impact on the private or voluntary sectors is foreseen.

8.2 There is no impact on the public sector.

**9. Contact**

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