

Status: Point in time view as at 17/07/2012.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2012, PART 2. (See end of Document for details)

SCHEDULES

SCHEDULE 30

CLIMATE CHANGE LEVY

PART 2

TAXABLE SUPPLIES ON OR AFTER 1 APRIL 2012 FOR USE IN RECYCLING PROCESSES

- 2 Schedule 6 to FA 2000 (climate change levy) is amended as follows.
- 3 In paragraph 4(2)(b) (definition of taxable supply) for “45A” substitute “ 43B ”.
- 4 In paragraph 5(3) (taxable supplies: deemed supplies of electricity) for “45A” substitute “ 43B ”.
- 5 In paragraph 6(2A) (taxable supplies: deemed supplies of gas) for “45A” substitute “ 43B ”.
- 6 In paragraph 14(3A)(a) (use of electricity in an “exemption-retaining” way) for “, 18 and 18A” substitute “ and 18 ”.
- 7 Omit paragraph 18A (exemption: supply for use in recycling processes).
- 8 In paragraph 34 (time of supply of commodities other than gas and electricity: deemed supplies)—
 - (a) in sub-paragraph (1)(b), for “45A” substitute “ 43B ”, and
 - (b) in sub-paragraph (4), for “45A” substitute “ 43B ”.
- 9 In paragraph 39(1)(c) (regulations as to time of supply) for “45A” substitute “ 43B ”.
- 10 In paragraph 42 (amount payable by way of levy)—
 - (a) in sub-paragraph (1)—
 - (i) in paragraph (a) after “supply” (in the second place it occurs) insert “ or a supply for use in scrap metal recycling ”,
 - (ii) in paragraph (c) for “were not a reduced-rate supply.” substitute “ were a supply to which paragraph (a) applies; ”, and
 - (iii) after paragraph (c) insert—
 - “(d) if the supply is a supply for use in scrap metal recycling, 20 per cent of the amount that would be payable if the supply were a supply to which paragraph (a) applies.”, and
 - (b) after that sub-paragraph insert—
 - “(1ZA) If a taxable supply is both a reduced-rate supply and a supply for use in scrap metal recycling, the amount payable by way of levy on the supply under sub-paragraph (1) is the lower of the two amounts provided for that supply under that sub-paragraph.”

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11 Before the cross-heading before paragraph 44 insert—

“Supplies for use in scrap metal recycling

43A(1) For the purposes of this Schedule, a taxable supply is a supply for use in scrap metal recycling if—

- (a) the person to whom the taxable commodity is supplied intends to cause the commodity to be used as fuel in a process (“the recycling process”) to be carried out by that person which is the shredding (or fragmentation), pre-treatment and melting of scrap metal for recycling, and
 - (b) the condition in sub-paragraph (2) is satisfied.
- (2) The condition is that there is another process (“the competing process”) that—
- (a) uses taxable commodities otherwise than as fuel,
 - (b) produces a product of the same kind as one produced by the recycling process,
 - (c) uses a greater amount of energy than the recycling process to produce a given quantity of that product, and
 - (d) involves a lesser charge to levy for a given quantity of that product than would, but for paragraph 42(1)(d), be the case for the recycling process.
- (3) For the purposes of sub-paragraph (2)(a), taxable commodities are used “otherwise than as fuel” only if the supplies of those commodities to the person using them are exempted from the levy by virtue of paragraph 18.
- (4) Sub-paragraphs (5) and (6) apply where the recycling process or the competing process, as well as producing a product of the same kind as one produced by the other process (“the corresponding product”), also produces one or more products that are not (“different products”).
- (5) If the production of the different products is merely incidental to the production of the corresponding product, the different products are to be treated for the purposes of sub-paragraph (2)(c) and (d) as being of the same kind as the corresponding product.
- (6) If the production of the different products is not merely incidental to the production of the corresponding product—
- (a) the amounts of energy referred to in sub-paragraph (2)(c), and the amounts of the charge to levy referred to in sub-paragraph (2)(d), are to be determined on a just and reasonable apportionment, and
 - (b) in calculating the amount payable by way of levy on the taxable supply, only the proportion of the supply that is the same as the proportion of the energy used by the recycling process to produce the corresponding product (as determined for the purposes of paragraph (a)) is to be treated as being a supply for use in scrap metal recycling.
- (7) In this paragraph—
- “melting” means—

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- (a) the pre-heating and first melting of scrap metal before casting into items (“intermediates”) for further processing or re-melting, or
- (b) the heating of scrap metal as part of the recycling process before any solidification and re-melting,

but excluding the melting of any metal which is not scrap but which is added at any stage to improve the quality or adjust the composition of the recycled metal or intermediates, and

“metal” means aluminium or steel.

- (8) The Commissioners may by regulations make provision for giving effect to this paragraph.
- (9) Regulations under this paragraph may, in particular, include provision for determining whether or not a taxable supply is a supply for use in scrap metal recycling (to any extent).

*Supplies for use in scrap metal recycling
and reduced-rate supplies: deemed supply*

43B (1) This paragraph applies where—

- (a) a taxable supply (“the original supply”) has been made to any person (“the recipient”),
- (b) the original supply was made on the basis that it was, to any extent, a supply for use in scrap metal recycling or a reduced-rate supply,
- (c) it is later determined that the original supply was (or was to some extent) a different kind of supply, and
- (d) the amount payable on the supply on the basis mentioned in paragraph (b) is less than the amount payable on the supply on the basis of the later determination.

(2) For the purposes of this Schedule—

- (a) the recipient is deemed to make a taxable supply to itself of the taxable commodity, and
- (b) the amount payable by way of levy on that deemed supply is—
 - (i) the amount payable on the original supply on the basis of the later determination mentioned in sub-paragraph (1)(c), less
 - (ii) the amount payable on the original supply on the basis mentioned in sub-paragraph (1)(b).

(3) This paragraph does not apply where a supply is treated as not being a reduced-rate supply by virtue of paragraph 45B.”

12 Omit paragraph 45A (reduced-rate supplies: deemed supply).

13 After paragraph 62(1)(c) (tax credits) insert—

- “(ca) after a taxable supply has been made on the basis that it was not a supply for use in scrap metal recycling, it is determined that the supply was (to any extent) a supply for use in scrap metal recycling;
- (cb) after a taxable supply has been made on the basis that it was (to any extent) a supply for use in scrap metal recycling, it is determined

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that the supply was such a supply to a greater extent than previously determined.”.

- 14 In paragraph 101(2)(a) (penalty for incorrect notification)—
- (a) in sub-paragraph (ii) omit “, 18A”,
 - (b) omit the “or” after sub-paragraph (ii), and
 - (c) before sub-paragraph (iv) insert—
 - “(iia) a supply (or supplies) for use in scrap metal recycling, or”.
- 15 In paragraph 146(3) (regulations subject to affirmative resolution procedure) omit “18A,”.
- 16 In paragraph 147 (interpretation)—
- (a) in the definition of “prescribed”, omit “, 18A”, and
 - (b) insert at the appropriate place—
 - ““supply for use in scrap metal recycling” has the meaning given by paragraph 43A(1);”.
- 17 Omit section 188 of FA 2003 (climate change levy: exemption for fuel used in recycling process).
- 18 (1) FA 2011 is amended as follows.
- (2) In section 79 (which provides for a lower rate of climate change levy for Northern Ireland gas supplies treated as taking place before 1 November 2013), in subsection (2)—
- (a) omit the “and” after paragraph (b), and
 - (b) after that paragraph insert—
 - “(ba) the supply is not a supply for use in scrap metal recycling (within the meaning of that Schedule (see paragraph 147)), and”.
- (3) Omit section 80 (power to suspend exemption for supplies used in recycling process).
- 19 The amendments made by paragraphs 2 to 18 have effect in relation to supplies of taxable commodities so far as the commodities are actually supplied on or after 1 April 2012.

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