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SCHEDULES

SCHEDULE 32 **U.K.**

Section 207

CLIMATE CHANGE LEVY: SUPPLIES SUBJECT TO THE CARBON PRICE SUPPORT RATES AND COMBINED HEAT AND POWER STATIONS

PART 1 **U.K.**

MAIN PROVISION

Amendments to Schedule 6 to FA 2000

- 1 Schedule 6 to FA 2000 (climate change levy) is amended as follows.
- 2 In paragraph 4(2)(b) (definition of “taxable supply”) after “24” insert “, 42C, 42D”.
- 3 (1) Paragraph 6 (supplies of gas) is amended as follows.
 - (2) In sub-paragraph (1A) for “but not sub-paragraph” substitute “ or ”.
 - (3) In sub-paragraph (2A) after “24” insert “, 42C, 42D”.
- 4 After paragraph 14(5) (exemption: supplies to electricity producers) insert—

“(6) A supply of a taxable commodity other than electricity to a person is exempt from the levy if—

 - (a) the commodity is to be used by that person in producing electricity in a generating station,
 - (b) the generating station is neither a fully exempt combined heat and power station nor a partly exempt combined heat and power station, and
 - (c) the capacity of the generating station for producing electricity is no more than 2 megawatts.

(7) If the generating station mentioned in sub-paragraph (6)(a) is one of a number of generating stations (which may include fully or partly exempt combined heat and power stations) which—

 - (a) are situated in the United Kingdom, and
 - (b) are owned by P or persons connected with P,

the reference to the capacity of the generating station in sub-paragraph (6)(c) is to be read as a reference to the capacity of all those generating stations taken together.

(8) For the purposes of sub-paragraph (7)(b)—

 - (a) “P” is the person who owns the generating station mentioned in sub-paragraph (6)(a), and
 - (b) section 1122 of the Corporation Tax Act 2010 (“connected” persons) applies.

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- (9) A supply of coal to a person is exempt from the levy if—
- (a) the coal is to be used by that person in producing electricity in a generating station which is neither a fully exempt combined heat and power station nor a partly exempt combined heat and power station, and
 - (b) the coal has a gross calorific value of no more than 15 gigajoules per tonne.”
- 5 (1) Paragraph 15 (exemption: supplies to combined heat and power stations) is amended as follows.
- (2) In sub-paragraph (1)—
- (a) for “a taxable commodity” substitute “ electricity ”,
 - (b) in paragraph (a), for “commodity” substitute “ electricity ”, and
 - (c) omit the final sentence.
- (3) In sub-paragraph (2)—
- (a) in paragraph (a), for “a taxable commodity” substitute “ electricity ”, and
 - (b) in paragraph (b), for “commodity” substitute “ electricity ”.
- (4) In sub-paragraph (3) for “a taxable commodity” substitute “ electricity ”.
- (5) After sub-paragraph (3) insert—
- “(3A) A supply of a taxable commodity other than electricity to a person is exempt from the levy if—
- (a) that person intends to cause the commodity to be used in—
 - (i) a fully exempt combined heat and power station, or
 - (ii) a partly exempt combined heat and power station,
in producing any outputs of the station, and
 - (b) the capacity of the station for producing electricity is no more than 2 megawatts.
- (3B) If the station mentioned in sub-paragraph (3A)(a) is one of a number of generating stations (which may include stations which are neither fully exempt combined heat and power stations nor partly exempt combined heat and power stations) which—
- (a) are situated in the United Kingdom, and
 - (b) are owned by P or persons connected with P,
- the reference to the capacity of the station in sub-paragraph (3A)(b) is to be read as a reference to the capacity of all those generating stations taken together.
- (3C) For the purposes of sub-paragraph (3B)(b)—
- (a) “P” is the person who owns the station mentioned in sub-paragraph (3A)(a), and
 - (b) section 1122 of the Corporation Tax Act 2010 (“connected” persons) applies.
- (3D) A supply of coal to a person is exempt from the levy if—
- (a) that person intends to cause the coal to be used in—
 - (i) a fully exempt combined heat and power station, or

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- (ii) a partly exempt combined heat and power station,
in producing any outputs of the station, and
- (b) the coal has a gross calorific value of no more than 15 gigajoules per tonne.”
- (6) Before sub-paragraph (4)(a) insert—
“(za) outputs” has the meaning given by paragraph 148(9);”.
- 6 After paragraph 15 insert—
“15A(1) This paragraph applies to a supply of a taxable commodity mentioned in sub-paragraph (2) to a person if that person intends to cause the commodity to be used in—
(a) a fully exempt combined heat and power station, or
(b) a partly exempt combined heat and power station,
in producing any outputs of the station.
For this purpose “outputs” has the meaning given by paragraph 148(9).
- (2) The taxable commodities referred to in sub-paragraph (1) are—
(a) gas supplied by a gas utility or any gas supplied in a gaseous state that is of a kind supplied by a gas utility;
(b) any petroleum gas, or other gaseous hydrocarbon, supplied in a liquid state;
(c) coal which has a gross calorific value of more than 15 gigajoules per tonne.
- (3) The Treasury may by regulations provide that the non-electricity part of a supply to which this paragraph applies is exempt from the levy to the extent determined in accordance with the regulations.
- (4) In sub-paragraph (3) the reference to “the non-electricity part” of a supply is to the supply excluding so much of it as is referable to the production of electricity in the station, as determined in accordance with regulations under paragraph 42A(5B).
- (5) Regulations under sub-paragraph (3) may, in particular, include—
(a) provision in respect of the calculations, measurements, data and procedures to be made or used in determining the extent to which a supply is exempt;
(b) provision that, so far as framed by reference to any document, is framed by reference to that document as from time to time in force.
- (6) The first regulations made under sub-paragraph (3) may have retrospective effect.
- (7) If the exemption of a supply to any extent under this paragraph is part of an aid scheme within Article 25 of Commission Regulation (EC) No. 800/2008, paragraph 42(4) cites the title and publication reference of that Regulation for the purpose of complying with Article 3(1) of that Regulation.”
- 7 After paragraph 24(4) (deemed supplies) insert—
“(4A) Sub-paragraph (4B) applies if the supply mentioned in sub-paragraph (1A) or (1B) (or a part of the supply) would have been, or is determined to

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have been, a taxable supply subject to the carbon price support rates (see paragraph 42A).

(4B) The deemed taxable supply under sub-paragraph (3) (or the deemed taxable supply so far as it covers the part in question of the supply mentioned in sub-paragraph (1A) or (1B)) is to be subject to the carbon price support rates.”

8 After paragraph 26(3) (electricity or gas: supply when climate change levy accounting document issued) insert—

“(3A) Sub-paragraphs (2) and (3) are subject to paragraph 28A.”

9 After paragraph 28 insert—

“Gas: supply when actually supplied

28A(1) This paragraph applies to supplies of gas where—

- (a) the gas is supplied in a gaseous state and is of a kind supplied by a gas utility,
- (b) the supply by which the gas is supplied is a taxable supply, and
- (c) the person liable to account for the levy on that supply is the person to whom the supply is made.

(2) Where this paragraph applies, a supply is treated as taking place when the gas is actually supplied to that person.”

10 After paragraph 29(7) (electricity or gas: special utility schemes) insert—

“(8) This paragraph does not apply in relation to supplies of gas where paragraph 28A applies.”

11 In paragraph 34 (other commodities: deemed supplies)—

- (a) in sub-paragraph (1)(b), after “24” insert “ , 42C, 42D ”, and
- (b) in sub-paragraph (4), after “paragraph” insert “ 42C, 42D or ”.

12 In paragraph 39(1)(c) (regulations as to time of supply), after “24” insert “ , 42C, 42D ”.

13 (1) Paragraph 40 (persons liable to account for levy) is amended as follows.

(2) In sub-paragraph (1) for “(2) or (3)” substitute “ (2), (3), (4) or (5) ”.

(3) After sub-paragraph (3) insert—

“(4) In the case of a taxable supply subject to the carbon price support rates (see paragraph 42A), the person liable to account for the levy charged on the supply is the person to whom the supply is made.

(5) In the case of a taxable supply to a person who intends to cause the commodity supplied to be used in—

- (a) a fully exempt combined heat and power station, or
- (b) a partly exempt combined heat and power station,

in producing any outputs of the station, the person liable to account for the levy charged on the supply is the person to whom the supply is made.

For this purpose “outputs” has the meaning given by paragraph 148(9).”

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- 14 (1) Paragraph 42A (supplies subject to the carbon price support rates) is amended as follows.
- (2) In sub-paragraph (2)(a) for “, apart from electricity,” substitute “ mentioned in the Table in sub-paragraph (5) ”.
- (3) After sub-paragraph (2) insert—
- “(2A) A supply within sub-paragraph (3) is subject to the carbon price support rates so far as it is referable to the production of electricity in the station.”
- (4) In sub-paragraph (3) after “taxable commodity” insert “ mentioned in the Table in sub-paragraph (5) ”.
- (5) In sub-paragraph (5), in the Table—
- (a) in the first column of the final row, for “Any other taxable commodity (apart from electricity)” substitute “ Coal ”, and
- (b) in the second column of that row, for “£0.01188 per kilogram” substitute “ £0.44264 per gigajoule ”.
- (6) After sub-paragraph (5) insert—
- “(5A) Sub-paragraph (4) needs to be read with paragraph 42B.
- (5B) For the purposes of sub-paragraph (2A) the extent to which a supply is referable to the production of electricity in a station is to be determined in accordance with regulations made by the Treasury.
- (5C) Regulations under sub-paragraph (5B) may, in particular, include—
- (a) provision in respect of the calculations, measurements, data and procedures to be made or used;
- (b) provision that, so far as framed by reference to any document, is framed by reference to that document as from time to time in force.”
- (7) In sub-paragraph (6) after “paragraph” insert “ and paragraph 42B ”.
- (8) For sub-paragraph (7) substitute—
- “(7) Regulations under sub-paragraph (6) may, in particular, include provision—
- (a) for determining whether or not a taxable supply is subject to the carbon price support rates,
- (b) if the supply is subject to those rates, for determining whether or not paragraph 42B(2) applies in relation to the supply, and
- (c) if paragraph 42B(2) applies in relation to the supply, for determining the reduction in the relevant carbon price support rate.”
- 15 After paragraph 42A insert—
- “42B(1) Sub-paragraph (2) applies for the purposes of paragraph 42A(4) if—
- (a) the taxable supply is a supply of a taxable commodity to be used for producing electricity in a generating station, and
- (b) in the calendar year in which the supply is made, carbon capture and storage technology is operated in relation to carbon dioxide generated by the generating station in producing electricity.
- (2) In relation to the supply, only C% of the relevant carbon price support rate is to be applied (instead of the full rate).

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- (3) “C%” is 100% minus the generating station's carbon capture percentage for the calendar year.
- (4) The generating station's “carbon capture percentage” for the calendar year is the percentage of the station's generated carbon dioxide for that year which, through the operation of the carbon capture and storage technology, is—
- (a) captured, and
 - (b) then disposed of by way of permanent storage.
- (5) The generating station's “generated carbon dioxide” for the calendar year is the amount of carbon dioxide generated in the year by the station in producing electricity through the burning of taxable commodities mentioned in the Table in paragraph 42A(5).
- (6) In this paragraph “carbon capture and storage technology” and “carbon dioxide” have the meaning given by section 7(3) and (4) of the Energy Act 2010.
- (7) Sub-paragraph (8) applies for the purposes of sub-paragraph (4) in relation to any carbon dioxide if—
- (a) the carbon dioxide is captured but then leaks out and therefore is not disposed of by way of permanent storage, but
 - (b) the leak does not occur—
 - (i) on the land on which the generating station is situated,
 - (ii) on any other land under the control of the station's operator or a person connected with the station's operator, or
 - (iii) from any pipeline or other facility or installation which is operated by the station's operator or a person connected with the station's operator.
- Section 1122 of the Corporation Tax Act 2010 (“connected” persons) applies for the purposes of paragraph (b).
- (8) The carbon dioxide is to be treated as if it had been disposed of by way of permanent storage.
- (9) If the percentage mentioned in sub-paragraph (4) is not a whole number, it is to be rounded to the nearest whole number (taking 0.5% as nearest to the next whole number).
- 42C (1) This paragraph applies if—
- (a) a taxable supply (“the original supply”) subject to the carbon price support rates has been made to any person (“the recipient”),
 - (b) the original supply was made on the basis that paragraph 42B(2) applied in relation to the original supply, and
 - (c) it is later determined—
 - (i) that paragraph 42B(2) did not apply in relation to the original supply, or
 - (ii) that the reduction given, by virtue of paragraph 42B(2), in the amount payable by way of levy on the original supply was too much.
- (2) For the purposes of this Schedule—

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

42D(1) This paragraph applies if—

- (a) a taxable supply (“the original supply”) is made to a person (“the recipient”) on the basis that it is, or is to some extent, a taxable supply subject to the carbon price support rates, and
- (b) it is later determined that that basis was incorrect and, in consequence, the amount previously determined to be payable by way of levy on the original supply was too low.

(2) For the purposes of this Schedule—

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

16 After paragraph 62(1)(b) (tax credits) insert—

- “(ba) after a taxable supply subject to the carbon price support rates (see paragraph 42A) is made on the basis that paragraph 42B(2) does not apply in relation to the supply, it is determined that paragraph 42B(2) does apply;
- (bb) after a taxable supply subject to the carbon price support rates is made on the basis that paragraph 42B(2) applies in relation to the supply, it is determined that the reduction given, by virtue of paragraph 42B(2), in the amount payable by way of levy on the supply was too little;
- (bc) after a taxable supply is made on the basis that it is, or is to some extent, subject to the carbon price support rates, it is determined that that basis was incorrect and, in consequence, the amount previously determined to be payable by way of levy on the supply was too much;”.

Provision relating to Schedule 20 to FA 2011

17 The amendment of paragraph 101(2) of Schedule 6 to FA 2000 (civil penalties: incorrect certificates) made by paragraph 7 of Schedule 20 to FA 2011 is not to have effect; and paragraph 7 of Schedule 20 to FA 2011 is omitted.

18 (1) Paragraph 8 of Schedule 20 to FA 2011 (commencement) is amended as follows.

(2) In sub-paragraphs (1) and (3), for “7” substitute “ 6 ”.

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- (3) In sub-paragraph (2), omit paragraph (b) and the “and” before it.

Commencement

- 19 (1) Paragraph 8 of Schedule 20 to FA 2011 (as amended by paragraph 18 above) applies in relation to the amendments made by paragraphs 1 to 16 above as it applies in relation to the amendments made by paragraphs 1 to 6 of that Schedule.
- (2) In paragraph 9(1)(c) of Schedule 20 to FA 2011 the reference to paragraph 42A of Schedule 6 to FA 2000 is to be read as a reference to paragraph 42A as amended by paragraph 14 above.
- (3) In relation to a supply within paragraph 42A(3) of Schedule 6 of FA 2000 (as amended by paragraph 14 above), paragraph 9(5) of Schedule 20 to FA 2011 applies as if for “23 March 2011” there were substituted “21 March 2012”.

PART 2 U.K.

CARBON PRICE SUPPORT RATES FROM 1 APRIL 2014

- 20 (1) In paragraph 42A(5) of Schedule 6 to FA 2000 (supplies subject to the carbon price support rates) (as amended by paragraph 14 above)—
- (a) for “£0.00091 per kilowatt hour” substitute “ £0.00175 per kilowatt hour ”,
- (b) for “£0.01460 per kilogram” substitute “ £0.02822 per kilogram ”, and
- (c) for “£0.44264 per gigajoule” substitute “ £0.85489 per gigajoule ”.
- (2) The amendments made by this paragraph have effect in relation to supplies treated as taking place on or after 1 April 2014.

PART 3 U.K.

ELECTRICITY PRODUCED IN COMBINED HEAT AND POWER STATIONS

- 21 (1) Paragraph 20A of Schedule 6 to FA 2000 (climate change levy: exemption in relation to electricity produced in combined heat and power stations) is amended as follows.
- (2) In sub-paragraph (1)—
- (a) omit the “and” after paragraph (c), and
- (b) after paragraph (d) insert “; and
- (e) the electricity is actually supplied before 1 April 2018.”
- (3) In sub-paragraph (4)(a)—
- (a) in sub-paragraph (i), after “station” insert “ before 1 April 2013 ”, and
- (b) in sub-paragraph (ii), after “station”, in the first place it occurs, insert “ before 1 April 2013 ”.
- 22 (1) The following repeals are made in consequence of paragraph 21.
- (2) In Schedule 6 to FA 2000—
- (a) in paragraph 5(3), omit “20B(6)(a),”,
- (b) omit paragraphs 20A and 20B,
- (c) in paragraph 24(2)—

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- (i) omit “or 20A,”
 - (ii) omit “or in combined heat and power stations”, and
 - (iii) omit “or 20B”, and
 - (d) omit paragraph 149A.
- (3) Omit sections 123 and 124 of FA 2002.
 - (4) Omit section 193(3) and (5) of FA 2003.
 - (5) The repeals made by this paragraph come into force on the day appointed by the Treasury by order made by statutory instrument.

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