

**EXPLANATORY MEMORANDUM TO
THE CAPITAL ALLOWANCES (ENVIRONMENTALLY BENEFICIAL
PLANT AND MACHINERY) (AMENDMENT) ORDER 2009**

2009 No. 1864

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. **Purpose of the instrument**

These Regulations amend The Capital Allowances (Environmentally Beneficial Plant and Machinery) Order 2003 (S.I. 2003/2076). The effect is that from 4th August 2009, the revised lists of qualifying technologies issued by the Secretary of State for Environment, Food and Rural Affairs on 7th July 2009 have statutory effect for the purposes of 100 per cent first year capital allowances for expenditure on qualifying environmentally beneficial plant and machinery technologies ("the enhanced capital allowances (ECA) scheme to provide heat and power to known end users as an energy-saving technology. e for environmentally beneficial technologies").

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

None

4. **Legislative Context**

- 4.1 Sections 45H, 45I and 45J Capital Allowances Act (CAA) 2001 contain the rules for the ECA scheme for environmentally beneficial technologies.
- 4.2 Section 45H(1) provides that expenditure is qualifying spending if it is on environmentally beneficial plant or machinery. Sections 45H(2) and (3) define what is meant by environmentally beneficial plant and machinery. It is plant and machinery that is of a description specified by Treasury Order and meeting the environmentally beneficial criteria specified by Treasury Order. Section 45H(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 Environment, Food and Rural Affairs.

5. **Territorial Extent and Application**

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 Government is committed to protecting the environment and conserving natural resources whilst continuing to ensure the competitiveness of UK industry. The Government believes that environmental taxes and other economic instruments will continue to be key policy tools for achieving environmental improvements.
- 7.2 The ECA scheme for environmentally beneficial technologies enables a business to claim accelerated tax relief on its spending on qualifying water efficient technologies. The cash-flow benefit of accelerated tax relief can encourage businesses to invest in technologies that reduce water use and improve water quality. The scheme is dynamic with the detailed environmentally beneficial criteria and qualifying technologies being reviewed annually.
- 7.3 The current qualifying technologies for the ECA scheme are published in lists issued by the Secretary of State on 16 July 2008. These lists are given statutory effect by Treasury Order 2008 No. 1917.
- 7.4 This Treasury Order gives statutory effect, for the purposes of the ECA scheme, to the revised lists of qualifying technologies issued by the Secretary of State on 7th July 2009.
- 7.5 The new lists issued by Defra on 7th July 2009 update and clarify the qualifying criteria for some of the qualifying technologies. The revised lists are available on the website for the water efficient ECA scheme at www.eca-water.gov.uk

8. Consultation outcome

No specific consultation has taken place. The technologies and the products included in the qualifying lists are reviewed every year by the Secretary of State for Environment, Food and Rural Affairs. This ensures that they are still relevant, and the wording of the qualifying criteria discussed with suppliers to ensure that it is achievable.

9. Guidance

All guidance will be updated as appropriate as part of the normal process of review.

10. Impact

An Impact Assessment has not been produced for this instrument as it has a negligible impact on business, charities or voluntary bodies.

11. Regulating small business

This ECA scheme is primarily designed to improve cashflow for businesses that purchase qualifying products. Combined with the £50,000 Annual Investment Allowance that was introduced from April 2008, it should also help reduce the administrative burdens and compliance costs for small businesses.

12. Monitoring and review

The lists of technologies and products that qualify for the scheme are reviewed every year by the Secretary of State for the Environment, Food and Rural Affairs to ensure that they are still relevant, and the wording of the qualifying criteria discussed with suppliers to ensure that it is achievable.

13. Contact

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