

EXPLANATORY MEMORANDUM TO
THE CAPITAL ALLOWANCES (ENVIRONMENTALLY BENEFICIAL
PLANT AND MACHINERY) (AMENDMENT) ORDER 2019

2019 No. 499

1. Introduction

- 1.1 This explanatory memorandum has been prepared by Her Majesty's Revenue and Customs on behalf of Her Majesty's Treasury and is laid before the House of Commons by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 This instrument amends the Capital Allowances (Environmentally Beneficial Plant and Machinery) Order 2003 (S.I. 2003/2076; "the principal Order"). The principal Order provides a scheme for 100% first-year allowances to encourage businesses to invest in environmentally beneficial plant and machinery. The principal Order also specifies environmentally-efficient technologies eligible for the scheme by reference to the Water Efficient Technologies Product List and the Water Technology Criteria List issued by the Secretary of State for the Department for Environment, Food and Rural Affairs. Revised lists were issued on 19 February 2019 and this instrument adopts the new lists for the purposes of the 100% first-year allowances

3. Matters of special interest to Parliament

Matters of special interest to the Select Committee on Statutory Instruments

- 3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.2 As this instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is the United Kingdom.
4.2 The territorial application of this instrument is the United Kingdom.

5. European Convention on Human Rights

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

6. Legislative Context

- 6.1 Sections 45H to 45J of the Capital Allowances Act 2001 contain the provisions relating to the Enhanced Capital Allowances (ECA) scheme.
6.2 Section 45H(1) provides that qualifying expenditure is expenditure 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(5) provides that the Treasury can specify the descriptions and criteria by reference to any technology list issued by the Secretary of State.

7. Policy background

What is being done and why?

- 7.1 The Government is committed to protecting the environment and conserving natural resources whilst continuing to ensure the competitiveness of United Kingdom 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 enables a business to claim accelerated tax relief on expenditure 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 environmentally beneficial criteria and qualifying technologies are reviewed annually to ensure investment in the most up-to-date technologies.
- 7.3 The current qualifying technologies and products for the ECA scheme are published in lists issued by the Secretary of State for the Department for Environment, Food and Rural Affairs on 6 October 2016. These lists are given statutory effect, for the purposes of the ECA scheme, by the Capital Allowances (Environmentally Beneficial Plant and Machinery) (Amendment) Order 2016 (S.I. 2016/926), which amended the principal Order.
- 7.4 This instrument gives effect, for the purposes of the ECA scheme, to a revised list of technologies and products that qualify for the scheme dated February 2019 and issued by the Secretary of State on 19 February 2019.
- 7.5 The new lists clarify the qualifying criteria for a number of technologies and to incorporate changes in technical standards. The revised lists for the ECA scheme are available at <https://www.gov.uk/government/publications/water-efficient-enhanced-capital-allowances>.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

- 8.1 This instrument does not relate to withdrawal from the European Union.

9. Consolidation

- 9.1 This Order amends the Capital Allowances (Environmentally Beneficial Plant and Machinery) Order 2003 (S.I. 2003/2076). The eligible criteria are listed in full, without need to refer to previous lists so no consolidation is necessary.

10. Consultation outcome

- 10.1 Although no formal consultation has taken place, a series of informal discussions are held annually with industry to establish market trends and developments. The technologies and the products included in the qualifying lists are reviewed every year

by the Secretary of State. This ensures that they remain current, and the wording of the qualifying criteria is discussed with suppliers to ensure that it is practicable.

11. Guidance

- 11.1 Relevant guidance currently published on <https://www.gov.uk/government/publications/water-efficient-enhanced-capital-allowances> will be updated in due course as part of the normal process of review.

12. Impact

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 A Tax Information and Impact Note covering this instrument will be published on <https://www.gov.uk/government/publications/ending-enhanced-capital-allowances-for-energy-and-water-efficient-plant-and-machinery/capital-allowances-ending-enhanced-allowances-for-energy-and-water-efficient-plant-and-machinery>.
- 12.4 It is not anticipated that there will be significant impact on the above-mentioned sectors due to the substantial increase in the Annual Investment Allowance (AIA) from £200,000 to £1,000,000. The AIA gives 100% allowance on qualifying plant and machinery. For most businesses, and almost all small businesses, the AIA will cover all their capital expenditure, which reduces the need for claims under ECA scheme.

13. Regulating small business

- 13.1 The legislation applies to activities that are undertaken by small businesses.
- 13.2 No specific action is proposed to minimise the impact of the requirements on small businesses (employing up to 50 people).
- 13.3 The basis for the final decision on what action to take to assist small businesses is that we expect almost all expenditure incurred by small businesses on plant and machinery to be covered by AIA, and so they will not need to claim under the ECA scheme.

14. Monitoring & review

- 14.1 The measure will be kept under review through communication with affected taxpayer groups.
- 14.2 No statutory review clause has been inserted as the first-year allowance for products on the Water Technology Lists will be removed from April 2020 onwards.

15. Contact

- 15.1 Arun Arul at Her Majesty's Revenue and Customs, telephone: 03000 584 720 or email: arun.arul@hmrc.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Michael Crabtree, Deputy Director for Corporation Tax Innovation and Growth at Her Majesty's Revenue and Customs can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Robert Jenrick MP at Her Majesty's Treasury can confirm that this Explanatory Memorandum meets the required standard.