

2020 No. 1499

CLIMATE CHANGE LEVY

CORPORATION TAX

INCOME TAX

EXITING THE EUROPEAN UNION

**The Taxes (State Aid) (Amendments) (EU Exit) Regulations
2020**

Made - - - - 9th December 2020

Laid before the House of Commons 10th December 2020

Coming into force in accordance with regulation 1

The Treasury make the following Regulations in exercise of the power conferred by section 90(1)(a) and (b), (2) and (6) of the Finance Act 2019(a) and sections 45DB(12)(a), 45M(15)(a) and 360L(8) of the Capital Allowances Act 2001(b).

Further to section 90(7)(b) of the Finance Act 2019, the Prime Minister has notified the President of the European Council, in accordance with Article 50(3) of the Treaty on European Union(c), of the United Kingdom's request to extend the period in which the Treaties shall still apply to the United Kingdom.

PART 1

Introduction

Citation and commencement

1. These Regulations may be cited as the Taxes (State Aid) (Amendments) (EU Exit) Regulations 2020 and come into force on IP completion day.

(a) 2019 c. 1.

(b) 2001 c. 2. Sections 45DB and 45M were inserted by paragraph 3 of Schedule 7 to the Finance (No.3) Act 2010 (c. 33) and amended by paragraphs 2(4) and 4(8) of Schedule 13 to the Finance Act 2014 (c. 26) respectively. Section 360L was inserted by paragraph 1 of Schedule 6 to the Finance Act 2005 (c. 7) and substituted by section 66(8) of the Finance Act 2014.

(c) OJ No. C 326, 26.10.2012, p. 13.

PART 2

Amendments to primary legislation

Finance Act 2000

2.—(1) Paragraph 44 of Schedule 6 to the Finance Act 2000(a) is amended as follows.

(2) In sub-paragraph (2C)(b) at the beginning of sub-paragraph (b) insert “in a case described in sub-paragraph (2CA),”.

(3) After that sub-paragraph insert—

“(2CA) That case is where the result is required to be compatible with the common market by virtue of relevant separation agreement law (as defined in section 7C(3) of the European Union (Withdrawal) Act 2018).”.

Capital Allowances Act 2001

3.—(1) The Capital Allowances Act 2001 is amended as follows.

(2) In section 45DB(11) in the definition of “General Block Exemption Regulation”, after “(General block exemption Regulation)” insert “as it had effect in the United Kingdom immediately before IP completion day”.

(3) In section 45M(12) in the definition of “General Block Exemption Regulation”, after “(General block exemption Regulation)” insert “as it had effect in the United Kingdom immediately before IP completion day”.

(4) In section 212T(6)(c) after “(General block exemption Regulation)” insert “as it had effect in the United Kingdom immediately before IP completion day”.

(5) In section 212U(5)(d) in the definition of “single investment project”, after “(General block exemption Regulation)” insert “as it had effect in the United Kingdom immediately before IP completion day”.

(6) In section 360L(6) in the definition of “General Block Exemption Regulation”, after “(General block exemption Regulation)” insert “as it had effect in the United Kingdom immediately before IP completion day”.

Income Tax Act 2007

4.—(1) The Income Tax Act 2007(e) is amended as follows.

(2) In section 173A(3)(c)(f)—

(a) after “approved by the European Commission” insert “before IP completion day”;

(b) for “(as those guidelines may be amended or replaced from time to time)” substitute “(as those guidelines had effect at the time of the approval)”.

(3) In section 175A(8)(g)—

(a) 2000 c. 17.

(b) Inserted by section 117(2) of the Finance Act 2009 (c. 10) and amended by paragraph 2 of Schedule 31 to the Finance Act 2012 (c. 14).

(c) Inserted by paragraph 6 of Schedule 7 to the Finance (No.3) Act 2010 and amended by paragraph 6 of Schedule 13 to the Finance Act 2014.

(d) Inserted by paragraph 7(1) of Schedule 11 to the Finance Act 2012 and amended by paragraph 7 of Schedule 13 to the Finance Act 2014.

(e) 2007 c 3.

(f) Section 173A was inserted by paragraph 5(3) of Schedule 16 to the Finance Act 2007 (c. 11). Subsection (3)(c) was inserted by paragraph 7(3)(b) of Schedule 7 to the Finance Act 2012 and amended by paragraph 7(3)(b) of Schedule 5 to the Finance (No. 2) Act 2015 (c. 33).

(g) Inserted by paragraph 12 of Schedule 5 to the Finance (No. 2) Act 2015.

- (a) in the definition of “entering a new product or geographical market” after “(General block exemption Regulation)” insert “as it had effect in the United Kingdom immediately before IP completion day”;
 - (b) in the definition of “first commercial sale” for “(as those guidelines may be amended or replaced from time to time)” substitute “(as those guidelines had effect in the United Kingdom immediately before IP completion day)”.
- (4) In section 180B(3)(a) after “Community Guidelines on State Aid for Rescuing and Restructuring Firms in Difficulty (2004/C244/02)” insert “as those guidelines had effect in the United Kingdom immediately before IP completion day”.
- (5) In section 196A(b) after “30 December 2003” insert “, except that references in that Framework to building in the Union are to be read as including building in the United Kingdom”.
- (6) In section 257DE(3)(c) after “Community Guidelines on State Aid for Rescuing and Restructuring Firms in Difficulty (2004/C244/02)” insert “as those guidelines had effect in the United Kingdom immediately before IP completion day”.
- (7) In section 257MNC(d)—
- (a) in subsection (5)—
 - (i) in the opening words, after “laid down” insert “in Commission Regulation (EU) No 1407/2013(e) (de minimis aid) as it had effect in the United Kingdom immediately before IP completion day”;
 - (ii) omit paragraphs (a) and (b);
 - (b) in subsection (6) for “as amended from time to time” substitute “as it had effect in the United Kingdom immediately before IP completion day”.
- (8) In section 280B(4)(c)(f) for “(as those guidelines may be amended or replaced from time to time)” substitute “(as those guidelines had effect at the time of the approval)”.
- (9) In section 280C(9)(g)—
- (a) in the definition of “entering a new product or geographical market”, after “(General block exemption Regulation)” insert “as it had effect in the United Kingdom immediately before IP completion day”;
 - (b) in the definition of “first commercial sale” for “(as those guidelines may be amended or replaced from time to time)” substitute “(as those guidelines had effect in the United Kingdom immediately before IP completion day)”.
- (10) In section 286B(2)(h) after “Community Guidelines on State Aid for Rescuing and Restructuring Firms in Difficulty (2004/C244/02)” insert “as those guidelines had effect in the United Kingdom immediately before IP completion day”.
- (11) In section 292A(3)(c)(i)—
- (a) after “approved by the European Commission” insert “before IP completion day”;
 - (b) for “(as those guidelines may be amended or replaced from time to time)” substitute “(as those guidelines had effect at the time of the approval)”.
- (12) In section 294A(8)(j)—

(a) Inserted by paragraph 1(4) of Schedule 2 to the Finance (No. 3) Act 2010.
 (b) Inserted by paragraph 6 of Schedule 11 to the Finance Act 2008 (c. 9).
 (c) Inserted by paragraph 1 of Schedule 6 to the Finance Act 2012.
 (d) Inserted by paragraph 1(3) of Schedule 1 to the Finance (No. 2) Act 2017 (c. 32).
 (e) OJ No. L 352, 24.12.2013, p.1; amended by Commission Regulation (EU) No 2020/972, OJ No. L 251, 7.7.2020, p. 3.
 (f) Inserted by paragraph 3 of Schedule 8 to the Finance Act 2012 and amended by paragraph 4(5)(b) of Schedule 6 to the Finance (No. 2) Act 2015.
 (g) Inserted by paragraph 5 of Schedule 6 to the Finance (No. 2) Act 2015.
 (h) Inserted by paragraph 2(8) of Schedule 2 to the Finance (No.3) Act 2010.
 (i) Section 292A was inserted by paragraph 6(3) of Schedule 16 to the Finance Act 2007. Subsection (c) was inserted by paragraph 6(3)(b) of Schedule 8 to the Finance Act 2012 and amended by paragraph 7(3)(b) of Schedule 6 to the Finance (No. 2) Act 2015.
 (j) Inserted by paragraph 11 of Schedule 6 to the Finance (No. 2) Act 2015.

- (a) in the definition of “entering a new product or geographical market”, after “(General block exemption Regulation)” insert “as it had effect in the United Kingdom immediately before IP completion day”;
- (b) in the definition of “first commercial sale” for “(as those guidelines may be amended or replaced from time to time)” substitute “(as those guidelines had effect in the United Kingdom immediately before IP completion day)”.

(13) In section 307A(a) after “30 December 2003” insert “, except that references in that Framework to building in the Union are to be read as including building in the United Kingdom”.

Corporation Tax Act 2009

5.—(1) The Corporation Tax Act 2009(b) is amended as follows.

(2) In section 1123(6) for “(as amended from time to time)” substitute “as it had effect in the UK immediately before IP completion day”.

(3) In section 1217KC(3)(c)—

(a) for paragraph (a) substitute—

“(a) was in force under Article 1 of Council Regulation (EC) No 994/98(d) immediately before IP completion day, and”;

(b) in paragraph (b) for “makes” substitute “made”.

(4) In section 1217RJ(e) after “with the internal market” insert “(as that Regulation had effect immediately before IP completion day)”.

Finance Act 2016

6.—(1) Section 182 of the Finance Act 2016(f) is amended as follows.

(2) In subsection (1), in paragraph (b) of the definition of “relevant EU obligations”, for “obligations under EU law” substitute “post-withdrawal obligations”.

(3) In subsection (2), at the end insert “as it has effect by virtue of the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement”.

(4) After subsection (2) insert—

“Post-withdrawal obligations” means obligations that arise or continue by virtue of the EU withdrawal agreement (including the Protocol on Ireland/Northern Ireland)..

PART 3

Amendments to subordinate legislation

The Climate Change Levy (General) Regulations 2001

7.—(1) The Climate Change Levy (General) Regulations 2001(g) are amended as follows.

(2) In regulation 51M—

(a) at the beginning of paragraph (1) insert “In a case described in paragraph (3),” and

(b) after paragraph (2), insert—

(a) Inserted by paragraph 9 of Schedule 11 to the Finance Act 2008.
 (b) 2009 c 4.
 (c) Inserted by paragraph 1 of Schedule 4 to the Finance Act 2014.
 (d) OJ No. L, 141 14.05.1998, p. 1; repealed and replaced by Council Regulation (EU) 2015/1588, OJ No. L 248, 24.09.2015, p.1.
 (e) Inserted by paragraph 1 of Schedule 8 to the Finance Act 2016 (c. 24).
 (f) 2016 (c. 24).
 (g) S.I. 2001/838, amended by SI 2003/604; there are other amending instruments but none is relevant.

“(3) For the purposes of paragraph (1), the case is where relevant separation agreement law applies (as defined in section 7C(3) of the European Union (Withdrawal) Act 2018).”.

James Morris
Rebecca Harris

9th December 2020

Two of the Lords Commissioners for Her Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend various provisions of tax legislation to ensure the effective operation of that legislation at the end of the implementation period.

Part 1 provides for introductory provisions, Part 2 amends primary legislation and Part 3 amends subordinate legislation.

The Regulations make amendments to certain tax legislation in connection with the State Aid (Revocations and Amendments) (EU Exit) Regulations 2020 (S.I. 2020/1470) that have been made under section 8 of the European Union (Withdrawal) Act 2018 (c. 16) (the “EUWA 2018”) to remedy deficiencies arising from the withdrawal of the United Kingdom from the European Union. The amendments will not affect the application of European Union State aid law under Article 10 and Annex 5 of the Protocol on Ireland/Northern Ireland in the Withdrawal Agreement with the EU on 19th October 2019(a), which will have effect in domestic law under section 7A of the EUWA 2018.

A Tax Information and Impact Note has not been prepared for this Instrument as it contains no substantive changes to tax policy.

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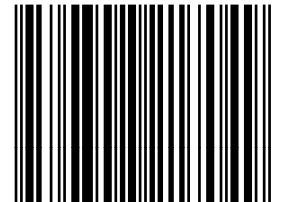
(a) See the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community 2019/C 384 1/01 at <https://www.legislation.gov.uk/eut/withdrawal-agreement/contents/adopted>. A hard copy is available for inspection free of charge at the offices of HMRC at 100 Parliament Street, London, SW1A 2BQ.

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