

EXPLANATORY MEMORANDUM TO

THE CAPITAL ALLOWANCES ACT 2001 (AMENDMENT OF SECTION 45K) ORDER 2020

2020 No. 260

1. Introduction

- 1.1 This explanatory memorandum has been prepared by Her Majesty's Revenue and Customs (HMRC) 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

- 2.1 100% first-year capital allowances (known as enhanced capital allowances (ECAs)) are available as a tax deduction to companies investing in equipment primarily for use in designated assisted areas within Enterprise Zones (EZs). This Order ensures that they remain available for expenditure incurred in relation to all designated areas, whenever designated, until at least 31 March 2021.

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 the 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 The Rt Hon Jesse Norman MP, the Financial Secretary to the Treasury, has made the following statement regarding Human Rights:

“In my view the provisions of the Capital Allowances Act 2001 (Amendment of Section 45K) Order 2020 are compatible with the Convention rights.”

6. Legislative Context

- 6.1 The Order is made under Section 45K(1A) Capital Allowances Act 2001 (CAA 2001). This is the first Order to be made under this power.
6.2 Schedule 11 to the Finance Act 2012 introduced new Sections 45K to 45N into CAA 2001.

- 6.3 Section 45K provides for 100% ECAs for companies investing in plant or machinery for use primarily in designated assisted areas within EZs. To qualify for this relief the expenditure must be incurred at a time when an area is (or is treated as) designated under Subsection (2)(a) and must be incurred in the period specified in subsection (1)(b). Section 45K(1A) provides that the Treasury may by order amend subsection (1)(b) so as to extend the period specified.

7. Policy background

What is being done and why?

- 7.1 The Government announced at Budget 2011 that it would introduce EZs which would feature a number of benefits for business, including simplified planning rules and business rates discounts. The government also announced it would introduce ECAs for expenditure on plant and machinery in certain designated areas within EZs. These measures were enacted in Finance Act 2012.
- 7.2 Capital allowances allow businesses to write down the costs of qualifying capital expenditure on plant or machinery against their taxable income. Where ECAs are available, the entire expenditure can be written down against taxable income in the tax period in which the expenditure is incurred. Otherwise the expenditure is allocated to a pool, which would be eligible for a writing down allowance for the tax period in which the expenditure is incurred and succeeding tax periods on a reducing balance basis against taxable income at rates lower than 100%, being the main rate (currently 18%) and the special rate (currently 6%).
- 7.3 100% ECAs are designed to encourage investment by capital intensive companies in designated areas within EZs. Budget 2016 gave all designated areas eight years of ECAs from the date they are designated or treated as designated.
- 7.4 This Order ensures that ECAs remain available for expenditure incurred in relation to all designated assisted areas, whenever designated, until at least 31 March 2021. The earliest designated assisted areas were treated as having been designated on 1 April 2012 and the availability of ECAs for investment within these would otherwise expire on 31 March 2020.
- 7.5 Maps delineating designated assisted areas can be found at <https://www.gov.uk/government/publications/enterprise-zones>.

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 There are no plans to consolidate the legislation which is amended by this instrument.

10. Consultation outcome

- 10.1 No consultation has taken place as this instrument will ensure that ECAs remain available for expenditure incurred in relation to all designated assisted areas, whenever designated, until at least 31 March 2021.

11. Guidance

- 11.1 HMRC will update the enterprise zones guidance on Gov.uk following Budget 2020 (<https://www.gov.uk/capital-allowances/first-year-allowances>).

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 the website at <https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins>.

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 regulatory burdens on small businesses.
- 13.3 The basis for the final decision on what action to take to assist small businesses is affected by the availability of another capital allowance known as the Annual Investment Allowance (AIA). This is available to individuals, partnerships (where all members are individuals) and companies. The permanent rate for AIA is £200,000 but it has been temporarily increased to £1,000,000 for investment during the two-year period up to 31 December 2020. AIA is likely to cover the investment in equipment of small businesses whether it is used in an EZ or not. These ECAs are therefore more likely to benefit businesses undertaking large capital investments and therefore no mitigating action is proposed for small businesses.

14. Monitoring & review

- 14.1 The approach to monitoring of this legislation is that it will be kept under review through communication with affected taxpayer groups.
- 14.2 The instrument does not include a statutory review clause. None is required under Section 28(3)(a) of the Small Business, Enterprise and Employment Act 2015 because the power by which this instrument is made is being exercised so as to make or amend provisions imposing, abolishing or varying any tax duty, levy or other charge or provisions in connection with such provisions.

15. Contact

- 15.1 John Rodgers at H.M. Revenue and Customs Telephone: 03000 514188 or email: john.p.rodgers@hmrc.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Mike Crabtree, Deputy Director for CT Growth and Innovation, at H.M. Revenue and Customs can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 The Rt Hon Jesse Norman MP, the Financial Secretary to the Treasury, can confirm that this Explanatory Memorandum meets the required standard.