EXPLANATORY MEMORANDUM TO

THE CAPITAL ALLOWANCES ACT 2001 (CARS EMISSIONS) (AMENDMENT) ORDER 2017

2017 No. 740

1. Introduction

1.1 This explanatory memorandum has been prepared by HM Revenue and Customs (HMRC) 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 Act 2001 (Car Emissions) Order 2016 (S.I. 2016/984), which reduced the emissions threshold for low emissions cars for the main rate of capital allowances with effect from 1 April 2018. The emissions threshold determines whether the car lease rental restriction applies to expenditure incurred on the hiring of a low emissions car. The changes in this instrument specify that the reduced emissions threshold will not apply to expenditure on certain leases entered into before 1 April 2018 (for corporation tax) and 6 April 2018 (for income tax).

3. Matters of special interest to Parliament

Matters of special interest to the Select Committee on Statutory Instruments

3.1 None.

Other matters of interest to the House of Commons

3.2 As this instrument is subject to the negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

4.1 S.I. 2016/984 amended section 104AA(4) of the Capital Allowances Act 2001 (CAA 2001). It reduced the qualifying emissions threshold for a car with low C02 emissions from 130 grams to 110 grams per kilometre driven, for the purposes of qualifying for the main rate of capital allowances, with effect from 1 April 2018.

4.2 A car that has low CO2 emissions is defined in section 104AA CAA 2001. Section 104AA(4) provides that the applicable CO2 emissions figure in relation to cars must not exceed 110 grams per kilometre driven to qualify for the main rate of capital allowances after 1 April 2018.

4.3 Section 48 of the Income Tax (Trading and Other Income) Act 2005 (ITTOIA 2005) and section 56 of the Corporation Tax Act 2009 (CTA 2009) restrict by 15 per cent, for income tax and corporation tax respectively, the deduction available in calculating trading profits for car hire costs for certain cars, including cars which do not have low CO2 emissions. This restriction is known as the lease rental restriction [LRR].

4.4 Section 49(1A) of ITTOIA 2005 and section 57(1A) of CTA 2009 define "a car that has low CO2 emissions" for the purposes of the lease rental restriction by reference to the same definition in section 104AA of CAA 2001.

4.5 This instrument amends S.I. 2016/984 to include a savings provision, so that to determine whether the lease rental restriction applies for expenses incurred on the hiring of a car for a period of hire beginning and under a contract entered into before 1 April 2018 (for corporation tax) or 6 April 2018 (for income tax), the definition of "a car that has low CO2 emissions" shall be read as if the changes to section 104AA(4) CAA 2001 did not have effect.

5. Extent and Territorial Application

5.1 The extent of this instrument is the United Kingdom.

5.2 The territorial application of this instrument is the United Kingdom.

6. European Convention on Human Rights

6.1 The Financial Secretary to HM Treasury has made the following statement regarding Human Rights:

In my view the provisions of the Capital Allowances Act 2001 (Cars Emissions) (Amendment) Order 2017 are compatible with the Convention rights.

7. Policy background

What is being done and why

7.1 This statutory instrument amends S.I. 2016/984.

7.2 S.I. 2016/984 extended the first-year allowance for cars with low carbon dioxide emissions for a further three year period and reduced the qualifying emissions threshold for the main rate of capital allowances from 130 grams to 110 grams per kilometre driven, in relation to expenditure incurred on or after 1st April 2018. This reduced threshold also affected the definition of "a car that has low emissions" for the purposes of the LRR.

7.3 The LRR ensures that where a business hires a car for over 45 days, and does not sub-hire it, it is subject to a restriction on the amount of car lease rental payments that can be deducted for tax purposes. The restriction does not apply to expenditure on the hiring of a car that has low emissions.

7.4 The amendment made in this statutory instrument ensures that expenditure incurred under car hire contracts entered into before 1st April 2018 for corporation tax purposes or 6th April 2018 for income tax purposes and for period of hire beginning before those dates is not affected by the 2018 changes to the emissions threshold. This is in line with previous changes to the emissions threshold for main rate capital allowances.

Consolidation

7.5 This Order amends another Statutory Instrument. HMRC does not intend to produce a consolidated version.

8. Consultation outcome

8.1 HMRC considered that formal consultation was not required as the Government does not generally consult on legislation containing straightforward technical changes.

9. Guidance

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

10. Impact

10.1 The impact on business, charities or voluntary bodies is negligible.

10.2 There is no impact on the public sector.

10.3 The measure will benefit businesses that lease cars by ensuring that the changes to the LRR will not have an impact on expenditure incurred under car hire contracts entered into before 1st April 2018 for corporation tax purposes or 6th April 2018 for income tax.

10.4 A Tax Information and Impact Note covering this instrument covering this instrument was published on 2 November 2016 and is available on the website at https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins. It remains an accurate summary of the impacts that apply to this instrument.

11. Regulating small business

11.1 The legislation applies to activities that are undertaken by small businesses.

11.2 No specific action is proposed to minimise regulatory burdens on small businesses.

12. Monitoring & review

12.1 The measure will be kept under review through periodic communication with affected taxpayer groups.

13. Contact

13.1 Tunde Ojetola at the HM Revenue and Customs, telephone: 03000 585 916 or email: tunde.ojetola@hmrc.gsi.gov.uk can answer any queries regarding the instrument.