EXPLANATORY MEMORANDUM TO

THE CAPITAL ALLOWANCES (ENERGY-SAVING PLANT AND MACHINERY) (AMENDMENT) ORDER 2015

2015 No. 1508

1. This explanatory memorandum has been prepared by Her Majesty's Revenue and Customs ("HMRC") and is laid before the House of Commons by Command of Her Majesty.

2. Purpose of instrument

This instrument amends the Capital Allowances (Energy-saving Plant and Machinery) Order 2001 (S.I. 2001/2541; "the principal Order"). The effect is that from 4 August 2015, the revised lists of qualifying technologies and products dated 2 July 2015 and issued by the Secretary of State for Energy and Climate Change ("the Secretary of State") on 2 July 2015 have statutory effect for the purposes of 100 per cent first year capital allowances for expenditure on qualifying energy saving plant and machinery technologies: the enhanced capital allowances scheme for energy-saving technologies ("the ECA scheme").

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

None.

4. Legislative Context

4.1 Sections 45A to 45C of the Capital Allowances Act 2001 contain the provisions relating to the ECA scheme.

4.2 Section 45A(1) provides that expenditure is qualifying expenditure if it is on energy-saving plant or machinery. Section 45A(2) and (3) define energy-saving plant and machinery. It is plant and machinery that is of a description specified by Treasury order and which meets the energy-saving criteria specified by Treasury order. Section 45A(4) provides that the Treasury can specify the descriptions and criteria by reference to any technology or product list issued by the Secretary of State.

5. Territorial Extent and Application

This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

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

7. Policy Background

7.1 The ECA scheme is one of a range of measures to encourage the reduction in the UK's carbon emissions. The scheme enables a business to claim accelerated tax relief on its spending on qualifying energy-saving technologies. The cash-flow benefit of accelerated tax relief can encourage businesses to invest in energy-saving equipment that can reduce their energy use, their energy bills and their payments under the Climate Change Levy. The ECA scheme is dynamic with the detailed energy saving criteria and qualifying technologies being reviewed annually.

7.2 The current qualifying technologies and products are published in lists issued by the Secretary of State on 3 July 2014. These lists are given statutory effect for the purpose of the ECA scheme for energy-saving technologies by S.I. 2014/1868 which amended the principal Order.

7.3 This instrument gives statutory effect, for the purposes of the ECA scheme, to the revised lists of qualifying technologies and products dated 2 July 2015 and issued by the Secretary of State on 2 July 2015.

7.4 The new lists:

- add a new sub-technology "Waste Heat to Electricity" sub-technology
- removal of the "Packaged Chillers" sub-technology.

7.5 The revised lists for the ECA scheme for energy-saving technologies are available at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/442320/ETL_Product_List_June_2015_-_signed.pdf and will be incorporated into https://etl.decc.gov.uk/etl/site.html when the list takes effect.

8. Consultation outcome

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 are still relevant, and the wording of the qualifying criteria is discussed with suppliers to ensure that it is practicable.

9. Guidance

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 considered negligible.

10.2 No impact on the public sector is foreseen, based on historic transactions.

10.3 A Tax Information and Note covering this instrument was published on 15 July 2015 and is available on the HMRC website at https://www.gov.uk/government/collections/budget-2015-hm-revenue-and-customs#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 small business.

11.2 The ECA scheme is primarily designed to improve the cash flow of those businesses that purchase qualifying products, because it allows the full cost of an investment in designated energy-saving plant and machinery to be written off against the taxable profits of the period in which the investment is made. In practice the scheme only affects those businesses with qualifying plant and machinery expenditure above the Annual Investment Allowance, which for the period 1 April 2013 to 31 December 2015 has been temporarily increased from £250,000 to £500,000. After AIA reverts to £25,000 from 1 January 2016, over 95 per cent of businesses will still be able to write off the majority of their qualifying expenditure under AIA.

11.3 Following the Secretary of State's annual consultation about the focus of the ECA scheme and the issue of the revised lists of technologies and products, HM Treasury are required to update the scheme to ensure that those lists have legal effect for tax purposes.

12. Monitoring and review

The lists of technologies and products that qualify for the scheme are reviewed every year by the Secretary of State and the wording of the qualifying criteria discussed with suppliers to ensure that it is practicable.

13. Contact

Tunde Ojetola at HM Revenue & Customs (tel: 03000 585916; e-mail: tunde.ojetola@hmrc.gsi.gov.uk) can answer any queries about the instrument.