EXPLANATORY MEMORANDUM TO

THE CAPITAL ALLOWANCES (ENVIRONMENTALLY BENEFICIAL PLANT AND MACHINERY) (AMENDMENT) (NO. 2) ORDER 2016

2016 No. 952

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.

1.2 This memorandum contains information for the Select Committee on Statutory Instruments.

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"). With effect on and from 6 October 2016, the revised lists of qualifying technologies and products dated June 2016 and issued by the Secretary of State for Environment, Food and Rural Affairs ("the Secretary of State") on 6 July 2016 have 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").

2.2 This instrument also revokes the Capital Allowances (Environmentally Beneficial Plant and Machinery) (Amendment) Order 2016 (S.I. 2016/926; "the Previous Order") in its entirety due to an error in article 3(a) of that Order.

3. Matters of special interest to Parliament

Matters of special interest to the Select Committee on Statutory Instruments

3.1 The Previous Order cited an incorrect date at article 3(a). HMRC acted to make this Order as soon as the error was discovered. This Order corrects that date and revokes the Previous Order before the date on which it was to come into force. As a result it was not possible to lay this Order before the House of Commons at least 21 days before it comes into force. HMRC apologises for this and for the error in the Previous Order.

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 Sections 45H to 45J of the Capital Allowances Act 2001 contain the provisions relating to the ECA scheme.

4.2 Section 45H(1) provides that first year 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.

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

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 UK 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 scheme is dynamic with the detailed environmentally beneficial criteria and qualifying technologies being reviewed annually.

7.3 The current qualifying technologies and products for the ECA scheme are published in lists issued by the Secretary of State on 7 July 2015. These lists are given effect, for the purposes of the ECA scheme, by SI. 2015/1509, which amended the principal Order.

7.4 This instrument gives statutory effect, for the purposes of the ECA scheme, to a revised list of technologies and products that qualify for the scheme dated June 2016 and issued by the Secretary of State on 6 July 2016.

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.

Consolidation

7.6 This Order amends S.I. 2003/2076 and there is no current plan to consolidate the Treasury Orders which have amended it.

8. Consultation outcome

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

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 A Tax Information and Impact Note covering this instrument will be published on https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins.

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 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.