

EXECUTIVE NOTE

THE COUNCIL TAX (DWELLINGS) (SCOTLAND) REGULATIONS 2010 (SSI 2010/35)

The above instrument is made in exercise of the powers conferred by section 72(4) and 116(1) of the Local Government Finance Act 1992 and of all other powers. The instrument is subject to the negative resolution procedure.

Purpose

The purpose of the regulations is to harmonise the treatment of CHP Plants for non-domestic valuation rating purposes with the treatment of similar plants in England. The aim is to exempt certain CHPs, certain parts of CHPs, and parts of the heating distribution pipes from non-domestic (business) rates where they are, for example, part of a district heating or combined heat and power (CHP) scheme.

The Regulations set out when parts of a combined heat and power station will be included or excluded in the definition of dwelling for the purposes of council tax in Scotland. Those parts not included in the definition of dwelling will remain liable to non-domestic rates. The parts included in the definition of dwelling would be taken into account in its valuation for council tax purposes, but are in practice unlikely to have an impact on the council tax banding.

Background

The plant and machinery of Combined Heat and Power (CHP) Plants in Scotland associated with domestic dwellings is currently subject to valuation for non-domestic rating purposes, unlike in England where such plants are exempt from such valuation. The Scottish Government has a policy of harmonisation of rating practice with England wherever practicable. The proposed measure aims to align the treatment of CHP plants in Scotland with the position south of the border and provide an incentive to businesses considering operating/providing a CHP Plant for domestic purposes.

Policy Objective

The Scottish Government is committed to reducing carbon emissions, and the promotion of Combined Heat and Power plants for domestic dwellings is one of a number of measures aimed at tackling this issue.

The Scottish Government currently provides a dedicated advice service to small businesses on how to improve their energy efficiency, through Energy Saving Scotland. In addition to advice, the service also offers interest-free loans for the capital investment in energy efficiency measures, and from autumn 2009 for micro-generation technologies. For larger businesses, the Carbon Trust in Scotland offers advice on how companies can reduce their harmful carbon emission through low carbon solutions. This includes support on generating their own energy through possible micro-generation options including CHP Plants.

By excluding parts of CHP plants and equipment from valuation for rating purposes, the non-domestic rates payable on these technologies would decrease, increasing the

attractiveness of providing Combined Heat and Power plants for domestic dwellings as an investment for businesses. This should, in turn, promote greater energy efficiency and a reduction in carbon emissions.

Consultation

Although there is no statutory obligation to consult on these amendment regulations, a consultation took place from 25 September to 13 November 2009. Of the 118 consultees invited to comment, 12 substantive responses were received, all of which were broadly supportive of the proposed change.

Financial Effect

The inclusion of parts of a CHP plant and equipment in the definition of dwelling is unlikely to have an effect on the amount of council tax paid by those liable for the domestic rates of the dwellings affected. On the other hand, the exclusion of those parts of a CHP plant and equipment from the non-domestic rates will lead to a decrease in the amount of non-domestic rates payable by businesses on CHP plant and machinery in line with the policy objective as outlined above.

Local Government Division
February 2010