These notes refer to the Finance Act 2009 (c.10) which received Royal Assent on 21 July 2009

FINANCE ACT 2009

EXPLANATORY NOTES

INTRODUCTION

Section 117: Climate Change Levy: Taxable Commodities Ineligible for Reduced-Rate Supply

Summary

1. Section 117 enables entitlement to claim the climate change levy (CCL) reduced rate to be restricted, by specifying in certificates given under the climate change agreement (CCA) scheme that certain taxable commodities will be ineligible for reduced rate supply.

Details of the Section

2. Subsection (1) provides for Schedule 6 to the Finance Act (FA) 2000 to be amended.

3. Subsection (2) inserts new sub-paragraphs in paragraph 44 of Schedule 6 to FA 2000:

   - New sub-paragraph (2A) provides for the Secretary of State (in practice, for the Department of Energy and Climate Change) to:
     - give a new certificate or vary an existing certificate to make one or more taxable commodities ineligible for the reduced rate of climate change levy under the climate change agreement scheme; and
     - vary an existing certificate to allow such taxable commodities to be eligible for the reduced rate.
   - New sub-paragraph (2B) provides that a facility is not entitled to the reduced-rate on a taxable commodity if the commodity is described within a certificate as being ineligible for reduced-rate supply; and
   - New sub-paragraph (2C) provides that the Secretary of State can only include such provision in a certificate with the consent of HM Treasury and if the provision is in line with the stated EC State aid rules.

4. Subsection (3) makes consequential amendments to Schedule 6 to FA 2000.

Background Note

5. CCL was introduced in 2001 and is a UK wide tax on the use of electricity, gas, solid fuel and liquefied gases used for fuel purposes by business and the public sector.

6. The purpose of the CCL is to encourage the efficient use of energy and the use of renewable energy, in order to help meet the UK's international and domestic targets for cutting emissions of greenhouse gases.

7. CCAs were introduced alongside the levy in recognition of the levy's impact on the competitiveness of energy-intensive sectors of industry. They are voluntary agreements made between the Department of Energy and Climate Change and sector associations

and their members. The agreements entitle participating facilities to pay a reduced rate of levy in return for meeting challenging targets for improving energy efficiency or reducing emissions.

8. The CCA scheme is a State Aid. Under new Community Guidelines on State Aid for Environmental Protection issued in 2008, where beneficiaries of aids in the form of tax reductions pay less than the relevant Community minimum tax levels, they must satisfy the European Commission that the aid is necessary and proportionate. The CCL reduced rates for gas and solid fuel are below the minimum rates given out in the Energy Products Directive (Dir 2003/96 EC). Denying sectors that do not satisfy the necessity and proportionality tests entitlement to claim the reduced rate on those particular taxable commodities will ensure compliance with the State aid rules and enable the sectors to join the CCA scheme, though such sectors will be able to benefit from the reduced rate only on supplies of electricity and liquefied petroleum gases.