

FINANCE ACT 2012

EXPLANATORY NOTES

INTRODUCTION

Section 45: Allowances for Energy-Saving Plant and Machinery

Summary

1. [Section 45](#) provides that where feed-in tariffs or renewable heat incentive tariffs are paid in respect of electricity or heat generated (or gas or fuel produced) 100 per cent first-year allowances (FYAs) are not available under section 45A of Capital Allowances Act 2001 (CAA) for expenditure incurred on the plant and machinery (P&M) that generates or produces it. This change generally applies for expenditure incurred on or after 1 April 2012 (for businesses within the charge to corporation tax) or 6 April 2012 (for businesses within the charge to income tax) but where the expenditure is on combined heat and power systems the change applies from 1 or 6 April 2014.
2. This section also provides that expenditure incurred on solar panels, on or after 1 April 2012 (for corporation tax purposes) or 6 April 2012 (for income tax purposes), is special rate expenditure for capital allowances purposes.

Details of the Section

3. Subsection (1) provides for changes to be made to Part 2 of CAA. The changes are specified in subsections 2 to 4.
4. Subsection (2) inserts a new subsection 45A(1A) into CAA. This provides that section 45A is subject to the new section 45AA.
5. Subsection (3) inserts new section 45AA into CAA.
6. New subsection (1) of section 45AA provides that expenditure incurred on P&M on or after the relevant dates (see paragraph 9) is treated as though it never qualified for FYAs under section 45A if a payment is made or another incentive is given for the purposes of:
 - a. Section 41 Energy Act 2008, in respect of electricity generated by that P&M; or
 - b. Section 100 Energy Act 2008 in respect of heat generated, or gas or fuel produced, by that P&M.
7. New subsection (2) provides for the making of assessments, or amendments to assessments, that may be necessary to give effect to new subsection (1), for example if an FYA is given and needs to be withdrawn because a feed-in tariff or renewable heat incentive tariff is paid subsequently.
8. New subsections (3) and (4) provide that a person who has made a tax return, and later becomes aware that it is incorrect because of subsection (1), must give notice of the amendments required as a result to HM Revenue and Customs within three months of the day on which the person became aware that the return had become incorrect.
9. New subsections (5) and (6) define the relevant dates for new subsection (1). These are, generally, 1 April 2012 for corporation tax purposes and 6 April 2012 for income

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tax purposes. Where the expenditure is incurred on combined heat and power systems, these are 1 April 2014 for corporation tax purposes and 6 April 2014 for income tax purposes.

10. Subsection (4) amends section 104A CAA. It adds a new subparagraph 104A(1)(g) which designates expenditure on solar panels as special rate expenditure for capital allowances purposes. New subsection 104A(3A) provides that the amendment to 104A(1) takes effect from 1 April 2012 for the purposes of corporation tax and 6 April 2012 for the purposes of income tax.

Background Note

11. Capital allowances allow the cost of capital assets to be written off in computing the taxable profits of a business. They take the place of depreciation charged in the commercial accounts, which is not allowed for tax.
12. Most businesses are entitled to an annual 100 per cent allowance, the Annual Investment Allowance (AIA), for their investment in most P&M up to an annual limit, which from April 2012 will be £25,000 per annum. For expenditure above that limit, writing-down allowances (WDA) are available, which from April 2012 will be given at the main rate of 18 per cent or the special rate of 8 per cent per annum. The legislation lists (in section 104A of CAA) the categories of expenditure that are special rate; special rate expenditure includes expenditure on integral features of a building and on long-life assets (generally equipment expected to have a useful economic life of 25 years). If expenditure is not designated as special rate then it will attract allowances at main rate.
13. First-year allowances (FYAs) may be available for expenditure on certain types of plant or machinery as an alternative to AIA and WDA. FYAs are special allowances, currently available at a rate of 100 per cent, which provide a cash flow advantage over normal WDAs (as all the qualifying expenditure may be deducted from profits in the year in which it is incurred), as a targeted incentive to invest in particular P&M. FYAs, commonly described as enhanced capital allowances (ECAs), may be claimed on designated energy-saving P&M that meets the criteria required by either the Energy Technology Product or Criteria Lists.
14. The Energy Act 2008 provided for incentives to encourage low carbon energy and heat generation. The Feed-in Tariffs (FITs) scheme was introduced on 1 April 2010 and is designed to incentivise small scale electricity generation. The renewable heat incentive (RHI) supports heat generation from renewable sources. Generally, technologies that qualify under the FITs scheme will not be eligible for FYAs. However, many, although not all, of the technologies that could qualify for tariffs under the RHI scheme could also qualify for FYAs.
15. FYAs are intended to complement, rather than duplicate, the effects of other Government policies supporting such investment. Therefore, the legislation is being amended so that FYAs will not be available for expenditure on P&M, where the P&M generates heat or electricity or produces gas or fuel that attracts a tariff under either the FITs or the RHI scheme.
16. Businesses will be able to choose whether to claim the benefit of FYAs or tariff payments but will not be able to receive both. Where an FYA is given and a tariff payment is made subsequently, then the FYA will be withdrawn by means of an assessment or an amended assessment.
17. This change will apply to expenditure incurred on or after 1 April 2012 for businesses within the charge to corporation tax, or 6 April 2012 for businesses within the charge to income tax. However, because the RHI tariff rate for 'renewable' combined heat and power (CHP) will not be finalised until after April 2012 FYAs will continue to be available for expenditure incurred on renewable CHP until 31 March 2014 for

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businesses within the charge to corporation tax and 5 April 2014 for businesses within the charge to income tax, even when RHI tariffs are paid.

18. Expenditure on solar panels incurred on or after 1 April 2012 (by businesses within the charge to corporation tax) or 6 April 2012 (by businesses within the charge to income tax) will be designated as special rate so that it attracts the lower rate of WDA. Capital allowances are intended to provide tax relief that broadly reflects average rates of economic depreciation, so special rate is considered to be the appropriate rate of WDA for these assets. Expenditure on solar panels is being specifically designated as special rate to ensure clarity of treatment for business. The rate of WDA appropriate for expenditure on other plant or machinery that generates electricity or heat that attracts FITs or RHI tariffs will be determined on the facts by applying the normal rules for plant and machinery allowances.