



The Corporation Tax Act 2009, Section 582 (Contract for Differences) (Amendment) Order 2013 (SI 2013/3218)

Who is likely to be affected?

Companies engaged in low carbon electricity generation projects.

General description of the measure

The definition of “contract for differences” in the corporation tax derivative contracts rules is being amended to include “contracts for difference” (CFDs) and “investment contracts” under the Energy Act 2013.

Policy objective

The change supports the government’s policy of Electricity Market Reform contained in the Energy Act, by ensuring that the definition of CFDs and investment contracts in the Act are consistent with those used for tax purposes.

Background to the measure

Under the Electricity Market Reform (EMR) provisions of the Energy Act, low carbon generators will enter into contracts known as CFDs and may enter into investment contracts, a form of early CFD. These contracts guarantee a “strike price” for the electricity they produce to provide an incentive to invest in such projects. EMR and the CFDs regime have been the subject of extensive public consultation.

As CFDs did not fall within the existing definition of “contract for differences” in the corporation tax derivative contracts rules, it was announced at Autumn Statement on 4 December 2013 that the definition would be amended to include such contracts.

Detailed proposal

Operative date

The amendment applies to all CFDs and investment contracts entered into under the Energy Act 2013 from Royal Assent on 18 December 2013.

Current law

The corporation tax rules for derivative contracts are contained in Part 7 of the Corporation Tax Act 2009 (CTA 2009). Section 582 defines a “contract for differences,” broadly, by reference to fluctuations in the value or price of property or an index.

Proposed revisions

The definition of “contract for differences” in section 582 CTA 2009 is amended by this statutory instrument under a power in section 701 CTA 2009 that enables certain provisions in Part 7 of the Act to be amended by secondary legislation. The amendment brings CFDs and investment contracts under the Energy Act within the definition.

Under current accounting rules the results from a CFD or investment contract will be spread over the life of the contract, and this result will be followed for tax purposes. The

amendment ensures that the current tax treatment will continue in the event of any change to accounting rules.

Summary of impacts

Exchequer impact (£m)	2013-14	2014-15	2015-16	2016-17	2017-18
	nil	nil	nil	nil	nil
	The measure is not expected to have any Exchequer impact.				
Economic impact	The measure is not expected to have any economic impact.				
Impact on individuals and households	The legislation will not impact individuals and households as it affects only companies involved in low carbon electricity generation projects.				
Equalities impacts	The legislation is not expected to have any impact on any protected equality group.				
Impact on business including civil society organisations	The measure will not have any impact on businesses; for the small number of companies to which it applies, it ensures continuity of tax treatment in the event of a change in accounting rules. The measure is not expected to have any impact on civil society organisations.				
Operational impact (£m) (HMRC or other)	No operational impact is expected.				
Other impacts	Other impacts have been considered and none has been identified.				

Monitoring and evaluation

As the purpose of the measure is to ensure continuity of tax treatment in the event of a change in accounting rules, evaluation and monitoring are not required.

Further advice

If you have any questions about this change, please contact Geoff Heaton on 03000 585806 (email: geoff.heaton@hmrc.gsi.gov.uk).

Declaration

David Gauke MP, Exchequer Secretary to the Treasury, has read this Tax Information and Impact Note and is satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impacts of the measure.