NOTICES OF AMENDMENTS

given on

Thursday 30 May 2013

PUBLIC BILL COMMITTEE

FINANCE BILL

(Except Clauses 1, 3, 16, 183, 184 and 200 to 212; Schedules 3 and 41; any new Clauses, and any new Schedules, first appearing on the Order Paper not later than Tuesday 16 April 2013 and relating to tax measures concerning housing; and any new Clauses, and any new Schedules, relating to value added tax or the bank levy or air passenger duty or the subject matter of Clauses 1 and 16 and Schedule 3 or the subject matter of Clause 3 or the subject matter of Clauses 203 to 212 and Schedule 41)

Contribution allowances: plant and machinery

Mr David Gauke

NC4

To move the following Clause:—

‘(1) Section 538 of CAA 2001 (contribution allowances: plant and machinery) is amended as follows.

(2) In subsection (1), omit the “and” at the end of paragraph (a) and after that paragraph insert—

“(aa) C’s contribution is to expenditure on the provision of plant or machinery, and”.

(3) In subsection (2)—

(a) in paragraph (a), for “asset provided by means of C’s contribution” substitute “plant or machinery”,

(b) in paragraph (b), for “asset” substitute “plant or machinery”, and

(c) in paragraph (c)—

(i) for “asset” substitute “plant or machinery”, and

(ii) after “times” insert “plant or machinery”.

(4) The amendments made by this section have effect in relation to expenditure pooled, and to claims made, on or after 29 May 2013 (“the commencement date”).

(5) In relation to such expenditure and claims, when determining for the purposes of section 536(3)(a) of CAA 2001 whether an allowance can be made under Chapter 2 of Part 11 of that Act, the amendments made by this section are to be treated as always having had effect.

(6) Nothing in this section applies to a claim by a person for a contribution allowance under Part 2 of CAA 2001 in respect of a contribution made before the commencement date.

(7) Subsection (8) applies if—

(a) expenditure which a person has been regarded as having incurred (despite section 532(1) of CAA 2001) by virtue of section 536(1) has been pooled by virtue of section 53—

(i) on or after 1 January 2013 but before the commencement date, or

(ii) before 1 January 2013 in circumstances where no claim was made in respect of the expenditure before that date, and

(b) had the amendments made by this section had effect at the time the expenditure was incurred, that person would not have been regarded as having incurred that expenditure ("the relevant expenditure").

(8) Part 2 of CAA 2001 has effect as if an event had occurred as a result of which the person is required to bring into account as a disposal receipt under that Part, for the chargeable period in which the commencement date falls, a disposal value of an amount equal to E-A.

(9) For the purposes of subsection (8)—

E is the amount of the relevant expenditure, and

A is the total amount of writing-down allowances made in respect of the relevant expenditure.

(10) For the purpose of calculating A, the total amount of writing-down allowances made in respect of expenditure on an item of plant or machinery is to be determined as if that item were the only item of plant or machinery in relation to which Chapter 5 of Part 2 of CAA 2001 had effect.

(11) The event mentioned in subsection (8) is not to be regarded as a disposal event for the purposes of section 60(3) of CAA 2001.'.

EXPLANATORY NOTE

NEW CLAUSE: CONTRIBUTION ALLOWANCES: PLANT AND MACHINERY

SUMMARY

1. This clause makes amendments to capital allowances rules for future pooling of expenditure and claims for allowances. The amendments confirm that contribution allowances under Part 2 are available in relation to a contribution of a capital sum to capital expenditure on the provision of plant or machinery in the recipient's hands. In this case the contributor's capital contribution is treated as capital expenditure on the provision of plant or machinery for use in the contributor's business, and it is the contributor who can claim capital allowances, not the recipient.

DETAILS OF THE CLAUSE

2. Subsections (1)-(3) make amendments to section 538 of Capital Allowances Act 2001 to confirm that contribution allowances under Part 2 are available in relation to a contribution of a capital sum to capital expenditure on the provision of plant or machinery in the recipient's hands, and that in this case the contributor's capital contribution is treated as capital expenditure on the provision of plant or machinery for use in the contributor's business.

3. Subsection (4) provides for the amendments to have effect on or after 29 May 2013 in relation to pooling of expenditure (in a computation submitted with a new or amended tax return), and in relation to new capital allowances claims.

4. Subsection (5) provides that for the purposes of determining whether a recipient of a contribution can pool expenditure in tax computations after the commencement date, or can make new capital allowances claims, then the confirmatory amendments are treated as having always had effect for those purposes.

5. Subsection (6) provides that there is no change to the rules applicable to a claim for contributions allowances under Part 2 by a contributor in relation to any contributions made before 29 May 2013.

6. Subsections (7) – (11) require a recipient of a contribution to bring into account in their capital allowances computations (as a disposal receipt) the unrelieved portion of any expenditure already pooled in a computation submitted with a new or amended tax return, if the expenditure could not be pooled under the capital allowances rules with the confirmatory amendments as provided for by subsections (1)-(3), and either the expenditure was pooled after 1 January 2013 or it was pooled prior to 1 January 2013 but no claim for allowances was made in relation to the expenditure.

BACKGROUND

7. The Government announced on 29 May 2013 its intention to introduce legislation to have effect from that date, to protect the Exchequer from a tax risk arising from new capital allowances claims for historic expenditure by some companies.

HM Revenue & Customs

Capital allowances: contributions towards capital expenditure on plant or machinery.

Who is likely to be affected?

Businesses which have received contributions towards capital expenditure on plant or machinery, or may in the future make or receive such contributions.

General description of the measure

The measure confirms that where a business makes a contribution to capital expenditure by another business on plant or machinery, capital allowances for the amount covered by the contribution are available to the contributor and not the recipient.

Policy objective

The measure protects the Exchequer and ensures certainty about the tax treatment where one business contributes to another's capital expenditure on plant or machinery.

Background to the measure

Following new capital allowance claims made by some companies for historic expenditure met by customer contributions, the Government announced on 29 May 2013 its intention to protect the Exchequer by legislating to confirm the capital allowance rules operate as intended.

Detailed proposal

Operative date

The legislation applies to capital allowances claims by recipients made on or after 29 May 2013, and to certain expenditure pooled previously by a recipient. For a business making a contribution the legislation only applies in relation to future contributions.

Current law

Part 11 of Capital Allowances Act 2001 (CAA) provides for businesses to claim capital allowances on contributions to capital expenditure by other businesses, and prevents the recipient of the contribution from claiming allowances where the contributor can.

Proposed revisions

The legislation makes amendments to section 538 CAA to confirm that contribution allowances under Part 2 are available in relation to a contribution of a capital sum to capital expenditure on the provision of plant or machinery in the recipient’s hands. In this case the contributor’s capital contribution is treated as capital expenditure on the provision of plant or machinery for use in the contributor’s business, and it is the contributor who can claim capital allowances, not the recipient.

In certain circumstances, if the recipient of a contribution has previously pooled expenditure which would be ineligible to be pooled under the legislation (as amended), the amount of the unrelieved portion of that expenditure is brought into account as a disposal value.

Summary of impacts

<table>
<tr><td rowspan="3">Exchequer impact (£m)</td><td>2013-14</td><td>2014-15</td><td>2015-16</td><td>2016-17</td><td>2017-18</td></tr>
<tr><td>Nil</td><td>Nil</td><td>Nil</td><td>Nil</td><td>Nil</td></tr>
<tr><td colspan="5">The legislation protects the Exchequer by confirming that the capital allowances rules operate as intended.</td></tr>
<tr><td>Economic impact</td><td colspan="5">The legislation would act to prevent potential economic distortions arising due to the significant sums that would otherwise accrue across the gas and electricity distribution sector unintentionally.</td></tr>
<tr><td>Impact on individuals and households</td><td colspan="5">The measure is not expected to have an impact on individuals and households.</td></tr>
<tr><td>Equalities impacts</td><td colspan="5">The measure is not expected to have an impact on individuals with protected characteristics.</td></tr>
<tr><td>Impact on business including civil society organisations</td><td colspan="5">This measure is expected to have a negligible impact on businesses and civil society organisations generally. The measure will however have some impact, in particular on a small number of large businesses in the gas and electricity distribution industries, and confirms that the capital allowances rules relating to contributions from businesses operate in the way that those businesses had previously been applying them.</td></tr>
<tr><td>Operational impact (£m) (HMRC or other)</td><td colspan="5">The measure will limit the operational impact on HM Revenue & Customs (HMRC) of compliance work needed to deal with new capital allowance claims being made by some gas and electricity distribution companies on a different basis than historically.</td></tr>
<tr><td>Other impacts</td><td colspan="5">Other impacts have been considered and none have been identified.</td></tr>
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Monitoring and evaluation

The measure will be monitored in the course of monitoring the operation of the capital allowances regime as a whole.

Further advice

If you have any questions about this change, please contact HMRC's Capital Allowances policy team on 020 7147 2610 (email: caguidance.ct&vat@hmrc.gsi.gov.uk).

Declaration

David Gauke MP, Exchequer Secretary 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.