

NOTICES OF AMENDMENTS

Wednesday 25 June 2014

CONSIDERATION OF BILL

Mr Chancellor of the Exchequer

NC3

To move the following Clause—

“General Block Exemption Regulation

Schedule (*General Block Exemption Regulation*) makes provision in relation to Commission Regulation (EU) No 000/2014 (General block exemption Regulation).”

Mr Chancellor of the Exchequer

NS2

To move the following Schedule—

“GENERAL BLOCK EXEMPTION REGULATION

- 1 CAA 2001 is amended as follows.
- 2(1) Section 45DB (exclusions from allowances under section 45DA) is amended as follows.
- (2) In subsection (3)(a), for “a firm in difficulty for the purposes of the Community Guidelines on State Aid for Rescuing and Restructuring Firms in Difficulty (2004/C 244/02)” substitute “an undertaking in difficulty for the purposes of the General Block Exemption Regulation”.
- (3) In subsection (4)(a), for “Council Regulation (EC) No 104/2000” substitute “Regulation (EU) No 1379/2013 of the European Parliament and of the Council”.
- (4) In subsection (11), in the definition of “General Block Exemption Regulation”, for “(EC) No 800/2008” substitute “(EU) No 000/2014”.
- (5) In subsection (12), for paragraph (c) substitute—
- “(c) Regulation (EU) No 1379/2013 of the European Parliament and of the Council.”.
- 3 In section 45K (expenditure on plant and machinery for use in designated assisted areas), after subsection (8) insert—
- “(8A) Condition C is met by virtue of subsection (8)(c) only if the amount of the expenditure exceeds the amount by which the relevant plant or machinery is depreciated in the period of 3 years ending immediately before the beginning of the chargeable period in which the expenditure is incurred.
- (8B) “Relevant plant or machinery” means the plant or machinery being used at the end of the period of 3 years mentioned in subsection (8A) for the purposes of the product, process or service mentioned in subsection (8)(c).”
- 4(1) Section 45M (exemptions from allowances under section 45K) is amended as follows.
- (2) In subsection (1), for “(6) or (7)” substitute “(7) or (7A)”.

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- (3) In subsection (3)(a), for “a firm in difficulty for the purposes of the Community Guidelines on State Aid for Rescuing and Restructuring Firms in Difficulty (2004/C 244/02)” substitute “an undertaking in difficulty for the purposes of the General Block Exemption Regulation”.
- (4) In subsection (4)—
- (a) in paragraph (a), for “Council Regulation (EC) No 104/2000” substitute “Regulation (EU) No 1379/2013 of the European Parliament and of the Council”, and
- (b) after paragraph (b) insert—
- “(ba) in the transport sector or related infrastructure,
- (bb) relating to energy generation, distribution or infrastructure,
- (bc) relating to the development of broadband networks.”
- (5) After that subsection insert—
- “(4A) Expressions used in subsection (4)(b), (ba), (bb) or (bc) and in the General Block Exemption Regulation have the same meaning as in that Regulation.”
- (6) Omit subsection (6).
- (7) After subsection (7) insert—
- “(7A) Expenditure is within this subsection if—
- (a) the area by reference to which the condition in section 45K(1)(a) is met is not an area which falls within Article 107(3)(a) of the Treaty on the Functioning of the European Union,
- (b) the condition in section 45K(8)(a) is not met in relation to the expenditure, and
- (c) at the time the expenditure is incurred the company is not an SME for the purposes of the General Block Exemption Regulation.”
- (8) In subsection (12)—
- (a) in the first definition, for the words from ““coal” to “have” substitute “has”, and
- (b) in the definition of “General Block Exemption Regulation”, for “(EC) No 800/2008” substitute “(EU) No 000/2014”.
- (9) In subsection (15), for paragraph (c) substitute—
- “(c) Regulation (EU) No 1379/2013 of the European Parliament and of the Council.”
- 5(1) Section 45N (effect of plant or machinery subsequently being primarily for use outside designated assisted areas) is amended as follows.
- (2) In subsection (1)—
- (a) for “designated assisted area within the meaning of section 45K” substitute “relevant area”, and
- (b) for “such a designated assisted” substitute “a relevant”.
- (3) After subsection (3) insert—
- “(3A) “Relevant area” means—
- (a) in relation to expenditure which would be within subsection (7A) of section 45M if paragraph (a) of that subsection were omitted, a designated assisted area within the meaning of section 45K which falls within Article 107(3)(a) of the Treaty on the Functioning of the European Union, and

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- (b) in relation to any other expenditure, a designated assisted area within the meaning of section 45K.”
- 6 In section 212T(6) (cap on first-year allowances: zero-emission goods vehicles), in the definition of “undertaking”, for “(EC) No 800/2008” substitute “(EU) No 000/2014”.
- 7 In section 212U(5) (cap on first-year allowances: expenditure on plant and machinery for use in designated assisted areas), in the definition of “single investment project”, for “(EC) No 800/2008” substitute “(EU) No 000/2014”.
- 8 The amendments made by this Schedule have effect in relation to expenditure incurred on or after the day on which this Act is passed.”

Mr Chancellor of the Exchequer

42

Clause **61**, page **52**, line **12**, leave out “(EC) No 800/2008” and insert “(EU) No 000/2014”

Mr Chancellor of the Exchequer

43

Clause **61**, page **52**, line **41**, at end insert—

“() In the application of section 360L of CAA 2001 in relation to expenditure incurred before the day on which this Act is passed, the definition of “General Block Exemption Regulation” in subsection (6) of that section is to be treated as referring to Commission Regulation (EC) No 800/2008.”

EXPLANATORY NOTE

NEW CLAUSE 3 AND NEW SCHEDULE 2: GENERAL BLOCK EXEMPTION REGULATION

SUMMARY

1. New Clause 3 and New Schedule 2 amend two enhanced capital allowances to take account of changes made to State aid rules following the introduction of a replacement Regulation to Commission Regulation no. 800/2008 “declaring certain categories of aid compatible with the internal market in the application of Articles 107 and 108 of the treaty” (the “General Block Exemption Regulation” or “GBER”). The amendments ensure these reliefs continue to satisfy State aid requirements in relation to regional aid.

DETAILS OF THE SCHEDULE

2. New Schedule 2 amends the following sections of the Capital Allowances Act 2001 (CAA):
- Section 45DB – exclusions from allowances under section 45DA
 - Section 45K - expenditure on plant and machinery for use in designated assisted areas (enterprise zone allowances)
 - Section 45M – exclusions from allowances under section 45K
 - Section 45N – effect of plant or machinery subsequently being primarily for use outside designated assisted areas
 - Section 212T – cap on first-year allowances: zero-emission goods vehicles
 - Section 212U – cap on first-year allowances: expenditure on plant and machinery for use in designated assisted areas
3. Paragraph 1 provides for changes to be made to the Capital Allowances Act 2001.
4. Paragraph 2 amends various reference in subsections 45DB(3)(a), 4(a), (11) and (12). It amends the definition of firm in difficulty to refer to undertaking, the language used in the new GBER. It also updates various references so that they refer to the new General Block Exemption Regulation.
5. Paragraph 3 amends section 45K. Section 45K provides that five conditions, A to E, must be met if expenditure is to qualify for enhanced capital allowances. Condition C at section 45K(8) requires that qualifying expenditure must be incurred on plant and machinery used: (a) for a business of a kind not previously carried on by the company; (b) expanding a business carried on by the company; or (c) starting up an activity which relates to a fundamental change in a product or production process of, or service provided by, a business carried on by the company.
6. Paragraph 3 inserts new subsections (8A) and (8B). These provide that subsection (8)(c) can only be satisfied if the expenditure incurred on the plant and machinery required to change the product, production process or service in question exceeds the depreciation of the

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plant and machinery being replaced or modernised over the three previous years. This complies with Article 14(7) of the new GBER.

7. For example, a machine used in the existing production process was purchased for £500,000 and had a useful life of 10 years and was depreciated in the accounts on that basis, i.e. £50,000 per year. The new machine must cost at least £150,000 to satisfy new subsection (8A).

8. Paragraph 4(1) provides for various changes to be made to section 45M. Section 45M sets out certain situations when expenditure does not qualify for enhanced capital allowances. The changes exclude certain types of expenditure and provide that expenditure by large businesses in certain enterprise zones must be on new activities only.

9. Paragraphs 4(2) to (4) and (6) make various amendments to subsections 45M(1), (3), (4) and (6) to comply with the new GBER by including a number of additional sectors in which expenditure does not qualify for enhanced capital allowances. These include expenditure incurred on energy generation, distribution or infrastructure and the development of broadband networks. The scope of the existing exclusion on certain activities in the transport sector is also widened.

10. Paragraph 4(5) inserts a new subsection 45M(4A). This provides that the various expressions in subsection (4) have the same meaning as in the GBER.

11. Paragraph 4(7) inserts a new subsection 45M(7A). This complies with Article 14(3) of the new GBER. It provides that qualifying expenditure incurred by large enterprises in enterprise zones that fall within assisted areas that are classified by the European Commission as being Article 107(3)(c) areas only qualifies for enhanced capital allowances if it relates to “a business of a kind not previously carried on by the company”, i.e new activities.

12. Assisted areas fall within either Article 107(3)(a) or Article 107(3)(c) of the Treaty on the Functioning of the European Union (with Article 107(3)(a) areas having a lower per capita gross domestic product than Article 107(3)(c) areas).

13. Paragraphs 4(8) and (9) update and clarify the definitions given in subsections 45M(12) and (15).

14. Paragraph 5 amends section 45N(1), and inserts a new subsection (3A). This ensures that where a large enterprise has claimed enhanced capital allowances for expenditure incurred on plant and machinery in an Article 107(3)(a) area for a purpose under either section 45K(8)(b) or (c), that plant or machinery must be used by the person claiming the allowance (or a connected person) for at least 5 years within such an area.

15. If, within that period, the person begins to use the plant or machinery primarily outside such an area, the allowance will be withdrawn and the expenditure will be treated as never having qualified for enhanced capital allowances. This section is designed to prevent exploitation and satisfy the requirements of the GBER.

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16. Paragraphs 6 and 7 update the references in sections 212T and 212U to the new GBER.

17. Paragraph 8 provides that these amendments take effect from Royal Assent.

BACKGROUND NOTE

18. Capital allowances allow the cost of capital assets to be written off against taxable profits. They take the place of depreciation charged in the commercial accounts, which is not allowed for tax.

19. Most businesses are entitled to a 100 per cent allowance, the Annual Investment Allowance (AIA), for their investment in most plant or machinery up to an annual limit, which for the period April 2014 to 31 December 2015 has been temporarily increased to £500,000. For expenditure above that limit, writing-down allowances (WDA) are available. These are given at the main rate of eighteen per cent or the special rate of eight per cent per annum.

20. First-year allowances, which are generally called enhanced capital allowances or ECAs, are available for expenditure on certain types of plant or machinery as an alternative to AIA and WDA. ECAs accelerate the rate at which tax relief is available for capital spending and allow 100 per cent of the cost of an investment to qualify for tax relief against a business's taxable profits of the year in which the investment is made. They provide business with a valuable cash-flow benefit.

21. Certain ECAs are classified as State aids and have been designed to comply with the GBER. The GBER exempts certain State aid measures from prior notification to the European Commission if various conditions are met. As part of a State Aid Modernisation process the European Commission has revised the existing GBER 800/2008 and a new version takes effect from 1 July 2014. The revisions are designed to stimulate economic growth, job creation and other objectives of common interest, without distorting competition. It also reduces the administrative burden for Member States and gives the beneficiaries of aid greater certainty.

22. Whilst similar to its predecessor, the new GBER contains a number of differences which need to be reflected in domestic legislation for zero-emission goods vehicles and enterprise zones to ensure continued State aid compliance.

EXPLANATORY NOTE

AMENDMENTS 42-43 TO CLAUSE 61: BUSINESS PREMISES RENOVATION ALLOWANCES

SUMMARY

1. These amendments update a reference in clause 61 to reflect the replacement of General Block Exemption Regulation (GBER) no 800/2008 by a new GBER.

DETAILS OF THE AMENDMENT

2. Clause 61 provides for various amendments to be made to business premises renovation allowances (BPRA) in order to clarify the expenditure that qualifies for relief. Amendment 42 updates a reference in clause 61 to reflect the replacement of General Block Exemption Regulation (GBER) no 800/2008 by a new GBER.

3. Amendment 43 introduces a new section 360L(1) providing that no allowances are to be made if a relevant grant or relevant payment is made towards qualifying expenditure, or any other expenditure incurred by any person in respect of the same building and on the same “single investment project”. New sections 360L(6) and (8) define various terms. For example “single investment project” takes its meaning from the GBER 800/2008.

4. Given that a new GBER replaces GBER 800/2008 from 1 July 2014, Amendment 43 makes provision for the reference to “single investment project” to take its meaning from the new GBER in respect of expenditure incurred on or after Royal Assent. In respect of expenditure incurred before Royal Assent, the reference to “single investment project” takes its meaning from GBER 800/2008.

BACKGROUND NOTE

5. This legislation is designed to clarify the expenditure that can qualify for BPRA. This amendment ensures that a “single investment project” takes its meaning from the relevant GBER.



Capital allowances: The General Block Exemption Regulation

Who is likely to be affected?

Businesses in the energy generation and transport sectors. Businesses investing in more efficient machinery or broadband network development. Large businesses making investments in certain assisted areas.

General description of the measure

The UK has several capital allowance schemes designed to benefit certain areas of the UK or the environment. They are classified as State aids and have been designed to comply with the terms of the European Commission's General Block Exemption Regulation no. 800/2008 (GBER). The GBER is intended to ensure fair competition within the European single market. It sets out the conditions under which State aids can be given by member states without distorting that market.

GBER no. 800/2008 ends on 30 June 2014. From the 1 July 2014 a new GBER applies. As the new GBER differs slightly from its predecessor, three capital allowances that are State aids need to be amended to comply with it. These are:

- Enhanced capital allowances (ECA) for zero-emission goods vehicles.
- ECAs for enterprise zones.
- Business Premises Renovation Allowances.

Policy objective

This measure ensures that the UK continues to meet its State aid obligations.

Background to the measure

These reliefs comply with the European Commission's General Block Exemption Regulation no. 800/2008 (GBER). This regulation applies to certain State aid measures introduced for the period 6 August 2008 to 30 June 2014. The Commission will replace the 2008 regulation with a new GBER with effect from 1 July 2014. All member states need to ensure that any State aids they offer comply with it.

Detailed proposal

Operative date

The changes to the schemes will have effect from Royal Assent.

Current law

Capital expenditure incurred by businesses on plant and machinery normally qualifies for tax relief by way of capital allowances. The following capital allowance schemes provide a 100 per cent allowance for qualifying expenditure:

- Zero-emission goods vehicles at sections 45DA, 45DB and 212T Capital Allowances Act 2001 (CAA 2001).
- Enterprise zone allowances (EZA), at 45K-45N and 212U CAA2001.

- Business Premises Renovation Allowances at Part 3A CAA 2001.

These allowances are State aids designed to comply with the GBER. Broadly this means that certain trade sectors or expenditure are excluded from the relief, the amount of tax relief that can be claimed is capped and, in the case of EZAs and BPRA, expenditure must be incurred in certain areas.

Proposed revisions

Legislation will be introduced amending those reliefs to ensure that they comply with the new GBER. The following changes will be made:

Zero-emission good vehicles

- References will be updated to refer to the new GBER.

Enterprise zone allowances

- Expenditure on certain activities is excluded from the scheme, for example, steel and shipbuilding. This will be widened to include: (i) energy generation, distribution and infrastructure, (ii) broadband network development and (iii) the maritime transport, railway and inland waterway sectors.
- Expenditure incurred by large companies on plant and machinery for use in enterprise zones that are classified by the European Commission as being “107(3)(c) areas” will be limited to a business of a kind not previously carried on by the Company, i.e. new economic activities.
- A condition will also be introduced requiring companies who make a fundamental change in a production process, e.g. making it more efficient, to ensure that the qualifying expenditure exceeds the depreciation of the machines being replaced, or modernised, over the previous three years. For example, a machine used in the existing production process was purchased for £500,000 and had a useful life of 10 years and was depreciated in the accounts on that basis, i.e. £50,000 per year. The new machine must cost at least £150,000.
- References will be up-dated to refer to the new GBER.

Business Premises Renovation Allowance

- The BPRA Regulations 2007 SI2007/945 exclude expenditure on certain activities from the scheme. This exclusion will be widened to include (i) energy generation, distribution and infrastructure (ii) broadband network development and (iii) the transport sector.
- References in those regulations will be revised to refer to the new GBER.
- A reference to the Assisted Areas Order 2007 will be amended to refer to the new Assisted Areas Order 2014. This will ensure that the new assisted areas included in that Order benefit from BPRA.

Summary of impacts

Exchequer impact (£m)	2014-15	2015-16	2016-17	2017-18	2018-19
	negligible	negligible	negligible	negligible	negligible
	This measure is expected to have a negligible impact on the Exchequer.				
Economic impact	This measure is not expected to have any economic impacts.				
Impact on individuals and households	This measure will not impact on households. Although it is possible for individual employees to claim capital allowances, it is unlikely that any would claim ECAs.				
Equalities impacts	The ECA schemes are aimed at businesses. HM Revenue & Customs (HMRC) has not identified any impact on any specified groups.				
Impact on business including civil society organisations	<p><u>Zero-emission goods vehicles</u>: as the changes simply update definitions the impacts are expected to be negligible.</p> <p><u>Enterprise Zone Allowances (EZA)</u>: Businesses in newly excluded sectors (see 'proposed revisions', above) will no longer be eligible for ECAs in Enterprise Zones. The impact on businesses is expected to be low.</p> <p>Expenditure by large businesses on activities located in 107(3)(c) areas will only be eligible for relief if the expenditure is on a business of a kind not previously carried on by the Company, i.e. the creation of new economic activities. The impact is expected to be limited as most EZs are undeveloped sites, meaning that the majority of investment will be new.</p> <p>The requirement that companies that claim relief for fundamental changes in the production process, i.e. installing more efficient machines, ensure that the eligible costs exceed the depreciation of the assets being modernised in the course of the preceding three years, will result in an administration burden, because this will have to be calculated by reference to the accounts. However, the impact is expected to be negligible because most sites are undeveloped, with the majority of investments being for new activities.</p> <p>The impact of updating the existing definitions is expected to be negligible.</p> <p><u>Business Premises Renovation Allowances</u>: the same sectoral exclusions apply as for ECAs in Enterprise Zones. The impact of updating definitions is again likely to be negligible.</p> <p>A number of regions will benefit from the changes as the Assisted Areas Order 2014 includes a number of areas that did not previously qualify for BPRA. It is not possible to quantify the benefit as this will depend on individual decisions made by BPRA investors.</p>				
Operational impact (£m) (HMRC or other)	This change will not increase HMRC's processing or compliance resource needs.				

Other impacts	<p><u>Small and micro business assessment</u>: this measure applies to all sizes of business, but in practice it will only affect those with qualifying plant and machinery expenditure above the level of the AIA. As a result there is expected to be a negligible impact on small firms, the large majority of which incur less than the AIA limit annually on capital expenditure.</p> <p><u>Carbon assessment</u>: this measure will have no impact on carbon emissions.</p> <p>Other impacts have been considered and none have been identified.</p>
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Monitoring and evaluation

The measure will be kept under review and evaluated before the reliefs, which are time limited, end.

Further advice

If you have any questions about this change, please contact Nick Williams on 03000 585660 (email: nicholas.williams@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.