

Date 6/4/18

(1) THE LORDS COMMISSIONERS OF HER MAJESTY'S TREASURY

-and-

(2) THE COUNCIL OF THE CITY OF SUNDERLAND

MEMORANDUM OF UNDERSTANDING

relating to the availability of first-year allowances pursuant to section 39 and sections 45K to 45N of the Capital Allowances Act 2001 (expenditure on plant and machinery for use in designated assisted areas).

THIS MEMORANDUM OF UNDERSTANDING is entered into on...6/4/18....

BETWEEN:

- (1) The Lords Commissioners of Her Majesty's Treasury ("HM Treasury");
and

- (2) The Council of the City of Sunderland of Civic Centre, Burdon Road, Sunderland SR2 7DN, being a responsible authority, as defined by section 45K(14) CAA 2001, for the Relevant Designated Assisted Area (the "Authority")

Each a "Party" and together the "Parties".

RECITALS

Whereas:

- (1) On 23 March 2011 the Government announced its intention to establish Enterprise Zones in order to promote economic growth.
- (2) To help promote economic growth, it was proposed that a range of incentives would be made available for businesses locating within the Enterprise Zones. Full details of the incentives available are published by HM Treasury on its website.
- (3) One such proposed incentive was to make available a new type of first-year allowance under section 39 CAA 2001 for companies locating in specific areas within certain Enterprise Zones. It was envisaged that the proposed areas would be ones where a small number of large capital intensive companies would be able to make a significant, new capital investment in the Enterprise Zone.
- (4) The Government has approved the bid of the North East Local Enterprise Partnership for the Port of Sunderland site with the appropriate ECA tax incentives
- (5) Section 44 of and Schedule 11 to the Finance Act 2012 introduced section 45K to 45N and section 212U CAA 2001, under which first-year allowances are available for expenditure on plant and machinery for use primarily in an area which at the time the expenditure is incurred is a designated assisted area.
- (6) Section 45K(2) states that a designated assisted area means an area which (a) is designated by an order made by HM Treasury and (b) falls wholly within an assisted area.

"Local Enterprise Partnership" means an organisation involving local authorities and businesses which works towards the economic growth of a particular local area and which is known as a "local enterprise partnership" as described in more detail on the website of the Department for Communities and Local Government:

<http://www.communities.gov.uk/localgovernment/local/localenterprisepartnerships/>.

"non-domestic rates discounts" means a discount, under the Non-Domestic Rating (Contributions) (England) Regulations 1992, on non-domestic rates of up to 100 per cent over a five year period (up to State aid de minimis levels) for businesses that move into an Enterprise Zone before April 2018.

"Relevant Non-Domestic Rates Discount Area" means the area of the Relevant Enterprise Zone which benefits from non-domestic rates discounts;

"Relevant Designated Assisted Area" means the areas listed in the Schedule 1 to this Memorandum of Understanding and delineated in red in the map contained in the Schedule 2 to this Memorandum of Understanding;

"Relevant Enterprise Zone" means the Port of Sunderland site as shown on the map published on HM Treasury's website.

"Relevant Local Enterprise Partnership" means the North East Local Enterprise Partnership responsible for applying to HM Treasury for the Relevant Designated Assisted Area to be designated a designated assisted area.

- 1.4 References to an Act of Parliament, statutory provision or statutory instrument include a reference to that Act of Parliament, statutory provision or statutory instrument as amended, extended or re-enacted from time to time and to any regulations made under it.

2. CRITERIA TO DESIGNATE A DESIGNATED ASSISTED AREA

The Relevant Local Enterprise Partnership applied to HM Treasury for the Relevant Designated Assisted Area to be designated as a designated assisted area on the basis of various criteria previously set out by HM Treasury, including the following:

- (a) The Relevant Designated Assisted Area must be in an assisted area, being an area granted assisted area status by virtue of Article 107(3) of the Treaty on the Functioning of the European Union.
- (b) The Relevant Designated Assisted Area must be in an Enterprise Zone.
- (c) The Relevant Enterprise Zone must have a clear aim of attracting a small number of large, capital intensive companies.

- (7) Section 45K(3) states that an area may be designated by an order under section 45K(2)(a) only if, at the time the order is made, (a) the area falls wholly within an Enterprise Zone and (b) a memorandum of understanding, in respect of the area, relating to the availability of first-year allowances available under section 45K, has been entered into by HM Treasury and the responsible authority for the area.
- (8) Section 45K(14) defines a "responsible authority" for an area as (a) if the area is in England, a local authority for all or part of the area or two or more such local authorities; (b) if the area is in Scotland, the Scottish Ministers; (c) if the area is in Wales, the Welsh Ministers; and (d) if the area is in Northern Ireland, the Department of Enterprise, Trade and Investment in Northern Ireland.
- (9) Accordingly, this Memorandum of Understanding, between HM Treasury and the Authority, being the responsible authority for the Relevant Designated Assisted Area, is a memorandum of understanding for the purposes of section 45K(3) CAA 2001.

IT IS AGREED as follows:

1 STATUS, DEFINITIONS AND INTERPRETATION

- 1.1 This is a Memorandum of Understanding for the purposes of section 45K(3) CAA 2001.
- 1.2 This Memorandum of Understanding sets out the understanding between the Parties in relation the Relevant Designated Assisted Area.
- 1.3 In this Memorandum of Understanding:
- "CAA 2001" means the Capital Allowances Act 2001.
- "designated assisted area" means an area designated by an order made by HM Treasury under section 45K(2)(a) of the CAA 2001.
- "Enterprise Zone" means an area recognised by HM Treasury as an area in respect of which there is a special focus on economic development and identified on a map published by HM Treasury on its website.
- "first-year allowances" means new first-year allowances under section 39 and sections 45K to 45N of CAA 2001 for expenditure on plant or machinery for use in designated assisted areas.
- "Local Development Order" means an order made by a local planning authority under section 61A of the Town and Country Planning Act 1990.

- (d) The ability to demonstrate why first-year allowances will be of greater benefit to the companies locating within the Relevant Enterprise Zone than non-domestic rates discounts.
- (e) The Relevant Non-Domestic Rates Discount Area will be significantly smaller in the Relevant Enterprise Zone than it would otherwise have been but for the proposed designated assisted area.
- (f) There is an economic link between the Relevant Designated Assisted Area and the Relevant Non-Domestic Rates Discount Area. For example, the Relevant Non-Domestic Rates Discount Area may be the location for businesses which form the supply chain for businesses in the Relevant Designated Assisted Areas.
- (g) There is reasonable level of detail provided to explain the expected levels of investment in the Relevant Designated Assisted Area.

3. THE RELEVANT DESIGNATED ASSISTED AREA

- 3.1 Having considered the Relevant Local Enterprise Partnership's application, and bearing in mind the purpose of Enterprise Zones and the incentives proposed to be made available for businesses locating in Enterprise Zones, HM Treasury has concluded that offering first-year capital allowances in the Relevant Designated Assisted Area would be material to the success of the Relevant Enterprise Zone and will be of greater benefit to the businesses locating within it than non-domestic rates discounts.

- 3.2 Accordingly, HM Treasury intend to designate that the Relevant Designated Assisted Area is a designated assisted area.

- 3.3 The Authority will endeavour to ensure that the Relevant Designated Assisted Area is developed in a way which is consistent with the application made by the Relevant Local Enterprise Partnership and the criteria outlined in paragraph 2 of this Memorandum of Understanding, in particular with regard to the nature of development and levels of expected investment, including by the Authority using planning simplification measures such as Local Development Orders.

- 3.4 In fulfilling the endeavour described in paragraph 3.3 above, HM Treasury expects the Authority to place particular importance on the following:

- (a) the targeting of large capital intensive companies which anticipate making a significant investment of qualifying expenditure up to the period ending on the 31st March 2020, starting on 1st April 2017, such that first-year allowances will be of greater benefit to the companies locating within the Relevant Enterprise Zone than non-domestic rates discounts; and

- (b) the targeting of new businesses involving new primary production (rather than those servicing existing activities) including manufacturing, as these may be considered more likely to stimulate regional economic growth. Where existing businesses are expanding but are eligible for first-year allowances the Authority will ensure that expansion will lead to additional growth and job creation.

IN WITNESS of which this Memorandum of Understanding has been duly entered into by the Parties.

SIGNED for and on behalf of **HM Treasury**

Signature..... *[Signature]*

Signature.....

Name..... *[Signature]* Gordon

Name.....

Position..... *[Signature]* Director

Position.....

SIGNED for and on behalf of **The Council of the City of Sunderland**

Signature..... *[Signature]* J. Lucas

Name..... *[Signature]* Lucas

Position..... *[Signature]* CHIEF EXECUTIVE

No Marking

SCHEDULE 1

List of Relevant Designated Assisted Area

Port of Sunderland, Sunderland

No Marking

SCHEDULE 2

Map of Relevant Designated Assisted Area