



CAPITAL ALLOWANCES: FEED-IN TARIFFS & THE RENEWABLE HEAT INCENTIVE

Comments submitted in August 2011 by the Tax Faculty of the Institute of Chartered Accountants in England & Wales (ICAEW) to HMRC in response to the Consultation on changes to capital allowances issued in May 2011

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INTRODUCTION

1. ICAEW welcomes the opportunity to comment on the consultation paper Capital allowances: feed-in tariffs & the renewable heat incentive published by HMRC on 31 May 2011 at http://customs.hmrc.gov.uk/channelsPortalWebApp/channelsPortalWebApp.portal?_nfpb=true&_pageLabel=pageVAT_ShowContent&propertyType=document&columns=1&id=HMCE_PRO_D1_031306
2. We should be happy to discuss any aspect of our comments and to take part in all further consultations on this area.
3. Information about the Tax Faculty and ICAEW is given below. We have also set out, in Appendix 1, the Tax Faculty's Ten Tenets for a Better Tax System by which we benchmark proposals to change the tax system.

WHO WE ARE

4. ICAEW is a world-leading professional accountancy body. We operate under a Royal Charter which obliges us to work in the public interest. ICAEW's regulation of its members, in particular its responsibilities in respect of auditors, is overseen by the UK Financial Reporting Council. We provide leadership and practical support to over 136,000 member chartered accountants in more than 160 countries, working with governments, regulators and industry in order to ensure that the highest standards are maintained.
5. ICAEW members operate across a wide range of areas in business, practice and the public sector. They provide financial expertise and guidance based on the highest professional, technical and ethical standards. They are trained to provide clarity and apply rigour, and so help create long-term sustainable economic value.
6. The Tax Faculty is the voice of tax within ICAEW and is a leading authority on taxation. Internationally recognised as a source of expertise, the faculty is responsible for submissions to tax authorities on behalf of ICAEW as a whole. It also provides a range of tax services, including TAXline, a monthly journal sent to more than 8,000 members, a weekly newswire and a referral scheme.

MAJOR POINTS

Support for the initiative

Enhanced Capital Allowances

7. Broadly speaking we consider the HMRC proposals on Enhanced Capital Allowances (ECAs) are sensible and that ECAs should not be available where plant or machinery could qualify for the Renewable Heat Incentive (RHI) or Feed-in Tariffs (FITs).
8. We agree that removing technologies from the list would send out a wrong message to those who may use the list for purposes other than taxation so barring such equipment from receiving ECAs is an appropriate way forward.

Writing down allowances

9. In the case of Writing down allowances (WDAs), as the principal aim is fairness it would seem sensible for the capital allowance treatment of relevant assets to as near as possible mirror the

income delivery period for the assets in question. We would therefore agree that the assets should be assigned to the special rate pool. This keeps the whole scheme simple and easy to understand.

10. However, we would go further. We also consider that these assets may be better excluded from the Annual Investment Allowance (AIA) regime in a similar way to cars so that all businesses no matter what their size are treated in the same way. This becomes particularly appropriate with AIA allowable expenditure being reduced to £25,000pa as eligibility for the AIA on such assets will become more dependent upon other and often necessary expenditure of the business.
11. It is our view that unlike many other assets, plant and machinery eligible for FIT and RHI are likely to have significant resale value when business properties are sold and hence would suffer more balancing charges if AIAs are available for them.

Further comments

Impact of the proposals in rural areas

12. The impact of the proposals in rural areas could well be more significant than HMRC anticipates although we do not have statistical evidence to support this. Farm buildings and holiday accommodation offer significant opportunity for the installation of 'commercial' photo voltaic equipment as well as the more obvious wind and water power generation technologies which are less suited to a crowded urban environment.
13. Similarly some RHI technologies are easier to implement where there is more space available.
14. As many rural areas of the country do not have gas supplies readily available and have to rely on rather less environmentally friendly and currently more expensive oil fired heating, biologically fired heating makes a practical alternative.

RESPONSES TO SPECIFIC QUESTIONS

Q1 What comments do you have on the proposal that ECAs should not be available where the plant or machinery could qualify for RHI or FITs? Please give reasons for your comments.

15. Broadly speaking we consider the HMRC proposals on Enhanced Capital Allowances (ECAs) are sensible and that ECAs should not be available where plant or machinery could qualify for the Renewable Heat Incentive (RHI) or Feed-in Tariffs (FITs).

Q2 Are there other ways to ensure that the capital allowances entitlement in respect of plant or machinery that could attract FITs or RHI payments is fair and value for money, in line with the Government's policy objective? Please give reasons for your answer.

16. No further suggestions

Q3 Do you agree that plant or machinery that attracts FITs or RHI should be precluded from ECAs by a specific capital allowances rule to this effect, rather than by removing qualifying technologies from the Energy Technology List? Please give reasons for your answer.

17. We agree that removing technologies from the list would send out a wrong message to those who may use the list for purposes other than taxation so barring such equipment from receiving ECAs is an appropriate way forward.

Q4 What comments do you have on the Government's proposal that expenditure on plant or machinery that could qualify for FITs or the RHI should be defined as 'special rate' expenditure? Please give reasons for your comments.

18. In the case of Writing down allowances (WDAs), as the principal aim is fairness it would seem sensible for the capital allowance treatment of relevant assets to as near as possible mirror the income delivery period for the assets in question. We would therefore agree that the assets should be assigned to the special rate pool. This keeps the whole scheme simple and easy to understand.

Q5 Are there any alternative approaches that could deliver the policy aim of a certain, fair, consistent and value for money capital allowances treatment for FITs and RHI technologies? Please give reasons for your answer.

19. We also consider that these assets may be better excluded from the Annual Investment Allowance (AIA) regime in a similar way to cars so that all businesses no matter what their size are treated in the same way. This becomes particularly appropriate with AIA allowable expenditure being reduced to £25,000pa as eligibility for the AIA on such assets will become more dependent upon other and often necessary expenditure of the business.

20. It is our view that unlike many other assets, plant and machinery eligible for FIT and RHI are likely to have significant resale value when business properties are sold and hence would suffer more balancing charges if AIAs are available for them.

Q6 Do you agree that the definition of special rate expenditure should be extended to include expenditure on plant or machinery of a type that could qualify for either FITs or RHI payments is the best way to implement the proposal? Please give reasons for your answer.

21. See above

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APPENDIX 1

THE TAX FACULTY'S TEN TENETS FOR A BETTER TAX SYSTEM

The tax system should be:

1. Statutory: tax legislation should be enacted by statute and subject to proper democratic scrutiny by Parliament.
2. Certain: in virtually all circumstances the application of the tax rules should be certain. It should not normally be necessary for anyone to resort to the courts in order to resolve how the rules operate in relation to his or her tax affairs.
3. Simple: the tax rules should aim to be simple, understandable and clear in their objectives.
4. Easy to collect and to calculate: a person's tax liability should be easy to calculate and straightforward and cheap to collect.
5. Properly targeted: when anti-avoidance legislation is passed, due regard should be had to maintaining the simplicity and certainty of the tax system by targeting it to close specific loopholes.
6. Constant: Changes to the underlying rules should be kept to a minimum. There should be a justifiable economic and/or social basis for any change to the tax rules and this justification should be made public and the underlying policy made clear.
7. Subject to proper consultation: other than in exceptional circumstances, the Government should allow adequate time for both the drafting of tax legislation and full consultation on it.
8. Regularly reviewed: the tax rules should be subject to a regular public review to determine their continuing relevance and whether their original justification has been realised. If a tax rule is no longer relevant, then it should be repealed.
9. Fair and reasonable: the revenue authorities have a duty to exercise their powers reasonably. There should be a right of appeal to an independent tribunal against all their decisions.
10. Competitive: tax rules and rates should be framed so as to encourage investment, capital and trade in and with the UK.

These are explained in more detail in our discussion document published in October 1999 as TAXGUIDE 4/99 (see http://www.icaew.com/~media/Files/Technical/Tax/Tax%20news/TaxGuides/taxguide_towards-a-better-tax-system.ashx)