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30 August 2011

Hasmukh Haria  
 HMRC  
 CTIAA CT and Business Income Tax  
 Room 3C/15  
 100 Parliament Street  
 London  
 SW1A 2BQ

Dear Hasmukh,

**HMRC Consultation document Capital Allowances: FITs and the RHI**

The Ulster Farmers' Union (UFU) is the largest farming organisation in Northern Ireland representing over 12,500 farming families. The farming community is the main stakeholder in land-based renewable energy (and soon-to-be renewable heat) sector and therefore the UFU welcomes the opportunity to respond to the HMRC Consultation document Capital Allowances: FITs and the RHI.

- **Summary of HMRC Consultation Proposals**

1. 100% first-year Enhanced Capital Allowances will not be available in respect of expenditure on plant or machinery that generates electricity or heat that attracts FITs or RHI.
2. Designate expenditure on technologies of a type that could attract FITs or RHI payments as special rate expenditure.

- **Incentives in Northern Ireland**

Feed-In Tariffs are not currently available in Northern Ireland, instead we have NIROCs (Northern Ireland Renewable Obligation Certificates). The Department of Enterprise, Trade and Investment (DETI) are considering a review of incentives for Renewables and there is a possibility that FITs could be introduced.

RHI – this is currently an open DETI consultation in Northern Ireland and we will be responding to this before the deadline of 3 October 2011.

Either way, we will be respond to the Consultation from a Northern Ireland perspective.

- **Background to Renewables Sector in Northern Ireland**

The renewables sector in Northern Ireland is still very much in its infancy. However, with policy targets for both renewable energy and heat being implemented, the demand for technology and related crops has seen a significant rise in Northern Ireland. Farmers are well placed to meet the generation of renewable energy and heat, they have the land available on which production can be based, as well as crops and resources which can be used in the production cycle.

- **Government Renewables Policy in Northern Ireland**

As far as Government Policy is concerned, there is a real need to strike a balance between support and encouragement for the renewables industry. On a devolved level, the NI executive as well as central Government in London need to ensure that they capitalize upon the resources mentioned above to make renewable energy and heat production a more sustainable proposition.

- **Farming in Northern Ireland**

Northern Ireland farmers are predominately private enterprises, which few tenanted farms. They therefore need to ensure a return on their investment which is financially viable and compatible with their existing on-farm businesses. Another concern is the challenges brought about by new renewable practices which may conflict with more traditional farming systems. There will be a conflicting demand for farmers' on-farm capital. Traditional farming consists of livestock, horticulture, commercial crops. This potential conflict will need to be mitigated against and tax relief is one such cushion.

Such is the infancy of the industry in Northern Ireland any moves to discourage investment such as the removal of Enhanced Capital Allowances will have a lasting impact on the sustainability of the sector and the wider rural economy.

- **Barriers to establishing renewables in NI**

In Northern Ireland, the majority of interest in the land-based sector has centred around wind turbines, anaerobic digesters and biomass boilers. Since their initial introduction, we have faced significant and persisting barriers to reaching the actual production stage; sizeable upfront capital costs, delays in planning applications, cost and timescales of grid connections (electricity and gas). As far as funding is concerned, the financiers of these projects view any tax relief as a positive when assessing business plans. The UFU continue to lobby all relevant contacts to deal with these barriers and to date we have had varying levels of success, but work continues.

We will now consider each of the questions we deem to be relevant to ourselves;

### **Enhanced Capital Allowances**

**Question One - What comments do you have on the proposal that ECAs should not be available where the plant and machinery (P&M) could qualify for RHI or FITs.**

An adequate balance already exists between incentivising investment in P&M. FITs/ROCs and RHIs (here in NI) are designed to provide a return on investment, and not any "upfront incentive" despite the significant capital costs associated with starting and establishing a renewables project. The first 12 months of such projects are crucial. This is in part due to the significant upfront capital costs and also due to the delayed return-on-capital-invested. In many projects it may be 6-7 years until the projects breakeven and 100% first-year Enhanced Capital Allowances set up a project to meet the challenges set.

As far as the RHI is concerned, where this to be applied in Northern Ireland, such projects will be at a further disadvantage to GB. Here in NI, heating costs are already considerably more expensive, in part due to our reliance upon heating oil and also due to our geographical location within the UK. The RHI is

being introduced to reduce our reliance on traditional fossil fuels for heating and by withdrawing any advanced tax relief for renewable heat projects this could stall this incentive.

**Question Two – Are there other ways to ensure that the capital allowances entitlement in respect of plant and machinery that could attract FITs or RHI payments is fair and value for money, in line with the Governments policy objective?**

Again from a perspective of ROCs and RHI. By restricting ECAs, this sends out the wrong signals. The overriding merit of ECAs when applied to P&M is timing. When businesses undertake this significant initial capital outlay they avail of a cash advantage brought about by the advanced tax relief. The main risk by withdrawing ECAs is that equipment may need replacing before capital allowances have been credited. This will be mentioned again later in the response.

**Question Three – Do you agree that P&M that attracts FITs and 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?**

Assuming the Consultation goes ahead in its current form (again we are stressing that we are not in favour of the proposal that P&M which attracts RHI/ROCs/FITs being excluded from ECAs) the UFU would be against removing qualifying technologies from the Energy Technologies list. The ETPL is an industry reference list and withdrawal would send all the wrong signals to the wider industry. Instead, as our counterparts in the NFU stated, the UFU would also be in favour of the introduction of a specific capital allowances rule instead.

#### **Writing-Down Allowances**

**Question Four – What comments do you have on the Government proposal that expenditure on P&M that could qualify for FITs/RHI should be defined as “special rate” expenditure?**

By doing this, the UFU believes that the process is being over complicated. Like the NFU, the UFU have three concerns about the use of this “special rate”;

1. is it the most appropriate rate?
2. Will the creation of a separate special rate knock the economic lifespan of the equipment out of line? The UFU would be concerned about the pooling together of assets in a “Special Rate Pool” as this would create the danger that assets will be replaced (or become redundant) long before they are fully paid for. It has been brought to the UFU’s attention that within a special rate pool (rate of 8%) it would take 50 years to fully write off these assets. This is a concern because much of the technology affected by these changes has an economic lifespan of 15-20 years.
3. With “Special Rate Expenditure” due to be introduced from April 2012, the UFU would be concerned that those setting up at this time could be at a disadvantage to those who entered the sector earlier. Delays to entry could occur because of the barriers I highlighted earlier.

**Question Five – Are there any alternative approaches that could deliver the policy aim of a certain, fair, consistent and value for money capital allowances for FITs and RHI Technologies?**

From a NI perspective, without amending the actual detail and structures of the actual incentives there is no feasible way to make money capital allowances for FIT/ROC/RHI technologies more “certain, fair, consistent and value for money”. The UFU believes that the current system goes some way towards these goals, but in reality there is no real chance of utopia.

**Question Six - Do you agree that the definition of special rate expenditure should be extended to include expenditure on P&M of a type that could qualify for either FITs or RHI payment is the best way to implement the proposal?**

The UFU believes that there should not be a definition of special rate expenditure to include expenditure on P&M of a type that could qualify for ROCs/FITs/RHI. Should expenditure no longer qualify for ECA , we agree with the NFU sentiments this method may be the best way for enacting the proposals.

- **Summary of Ulster Farmers’ Union Position**

The UFU are not in favour of the proposals to withdraw 100% first-year Enhanced Capital Allowances, in respect of expenditure on plant or machinery that generates electricity or heat that attracts FITs/NIROCs and RHI. In addition, we would also resist proposals to designate expenditure on technologies of a type that could attract FITs, NIROCs or RHI payments as special rate expenditure.

If you have any queries do not hesitate to get in touch.

Yours sincerely,



**Chris Osborne**  
**UFU Policy Officer**



# Capital allowances: feed-in tariffs & the renewable heat incentive

## **Consultation document**

Publication date: 31 May 2011

Closing date for comments: 31 August 2011

<b>Subject of this consultation:</b>	The Government proposes legislation to clarify the appropriate capital allowances treatment of expenditure on plant or machinery that could qualify for payments under either the Feed-in Tariff (FITs) regime or the Renewable Heat Incentive (RHI).
<b>Scope of this consultation:</b>	The aim of the proposals is to fix a rate of capital allowances for such expenditure that is both fair and certain, and ensure more consistent treatment between businesses. The Government welcomes comments on the detail of the proposals and on the assumptions made in their development. Evidence from business on the impact of the proposed changes is also welcomed.
<b>Who should read this:</b>	The proposals in this consultation will be of interest to (i) businesses considering investment in plant or machinery that could qualify for tariff payments under the FITs or RHI regimes, and (ii) those who advise on "green energy" investment.
<b>Duration:</b>	This consultation will run from 31 May to 31 August 2011.
<b>Enquiries:</b>	Enquiries about the content or scope of the consultation, requests for hard copies etc., should be addressed to Hasmukh Haria at the postal address or email below.
<b>How to respond:</b>	Any comments should be sent to: Hasmukh Haria, HM Revenue and Customs, CTIAA CT and Business Income Tax, Room 3C/15, 100 Parliament Street, London SW1A 2BQ. Email: <a href="mailto:hasmukh.haria@hmrc.gsi.gov.uk">hasmukh.haria@hmrc.gsi.gov.uk</a> the closing date of the consultation, 31 August 2011.
<b>Additional ways to be involved:</b>	As this is a specific issue with specialist interests the intention is that this will be a purely written consultation.
<b>After the consultation:</b>	A summary of responses will be published after the close of the consultation.
<b>Getting to this stage:</b>	The proposals in this document are made following discussion with the Department for Energy and Climate Change on their policy rationale and methodology for setting the tariff rates in these schemes.
<b>Previous engagement:</b>	This is the first consultation on the appropriate capital allowances treatment of plant & machinery that qualifies for tariff payments under either of the renewable electricity or heat schemes.

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# 1. Introduction

## Context for the proposed changes

### Feed-in tariffs and the renewable heat incentive

- 1.1 The Feed-in Tariffs (FITs) scheme was established in April 2010. It is intended to encourage the deployment of additional, small-scale, low carbon energy generation, particularly by individuals, householders, organisations, businesses and communities who have not traditionally participated in the electricity market.
- 1.2 Operating alongside FITs, the Renewable Heat Incentive (RHI) is being introduced to incentivise generation of heat from renewable sources by communities, the public sector, not-for-profit organisations, business and industry. In October 2010 the Government announced new support for renewable heat measures over the spending review period. In the first phase, which will be introduced in 2011, long term tariff support will be targeted at the non-domestic sector.
- 1.3 Tariff levels in the FITs regime are set to provide an expected rate of return that will be attractive to the investors at whom the scheme is targeted. The tariffs take into account the risks associated with installing different technologies but were set initially, and will be reviewed periodically, to ensure that investors are not overly rewarded with public subsidy<sup>1</sup>. The RHI has been similarly designed so that the tariffs provide a return on capital which will provide sufficient support to people installing renewable heating in place of fossil fuels but that at the same time deliver value for money for the Exchequer.
- 1.4 Businesses that are taxable on the tariffs they receive may be able to claim capital allowances on the expenditure they incur on the generation equipment, if they carry on a qualifying business activity.

### Capital allowances

- 1.5 Capital allowances are, broadly, the means by which businesses are given a deduction from their profits for expenditure incurred on certain capital assets. They are a proxy for the depreciation charged in commercial accounts which is not allowed as a deduction for tax purposes. Capital allowances may be given on plant and machinery, and electricity generating and renewable heating equipment may potentially qualify as plant or machinery. Businesses need certainty about the capital allowances treatment of the expenditure they incur.
- 1.6 Capital allowances are given at a prescribed rate intended broadly to reflect, although not necessarily to replicate, average rates of economic depreciation for plant or machinery. However, businesses are entitled to an annual 100% allowance for their investment in most plant and machinery – the Annual

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<sup>1</sup> DECC published a consultation on fast-track review of Feed-in Tariffs for small scale low carbon electricity on 25 March 2011



Investment Allowance, or AIA - which permits a deduction for expenditure in the year in which it is incurred up to a set limit, which from April 2012 will be £25,000 per annum.

- 1.7 For expenditure above the AIA limit writing-down allowances (WDA) can be given each year currently at a rate of 20%<sup>2</sup> or 10%<sup>3</sup> of the net qualifying expenditure which has not yet been relieved. Expenditure that attracts WDA at 10% (8% from April 2012) is known as 'special rate expenditure'. The legislation lists the categories of expenditure that are special rate; special rate expenditure includes expenditure on integral features of a building and on long-life assets.
- 1.8 However, first-year allowances (FYAs) may also be available in respect of certain expenditure. FYAs are special allowances, currently at a rate of 100%, which provide a cash flow advantage over normal WDA (as all the qualifying expenditure may be deducted from profits in the year in which it is incurred), as an extra incentive to invest in particular plant or machinery. FYAs, commonly described as enhanced capital allowances (ECAs), may be claimed on designated<sup>4</sup> energy-saving plant or machinery.
- 1.9 Currently, only one of the technologies that qualify for FITs would qualify for ECAs, although more (but not all) of the technologies that are likely to qualify for RHI payments may qualify for ECAs.
- 1.10 In relation to standard WDAs, there may be doubt over whether the equipment should, or should not, be treated as an integral feature or whether it should be correctly treated as a long-life asset. Indeed, precise application of the current capital allowances rules to plant and machinery which could qualify for FITs of RHIs may give a different result in different circumstances.

### Policy objectives

- 1.11 This document sets out proposals to ensure that the capital allowances entitlement in respect of plant or machinery that attracts FITs or RHI is:
- Certain
  - Fair
  - Consistent
  - Value for money.

### The Government's main proposals

- 1.12 As the tariff levels in both regimes are carefully set to provide a sufficient investment incentive, extra capital allowances incentives to invest in these technologies is not appropriate. The Government, therefore, proposes that ECAs

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<sup>2</sup> 18% from 1 or 6 April 2012

<sup>3</sup> 8% from 1 or 6 April 2012

<sup>4</sup> To qualify for an ECA the equipment must appear on the Energy Technology Product List or meet the criteria on the Energy Technology Criteria List.

will not be available where the equipment could qualify for FITs or RHI tariff payments. This is discussed further in Chapter 2.

- 1.13 The Government also proposes that expenditure incurred from April 2012 on plant or machinery that could qualify for FITs or RHI tariff payments is specifically designated as special rate expenditure for the purposes of calculating capital allowances (i.e. that writing-down allowances should be available at the lower special rate).
- 1.14 The Government is seeking feedback on both elements of these proposals and welcomes the views of business on whether there are other ways to better deliver the policy aim of a fair capital allowances treatment for such plant or machinery that represents value for money.
- 1.15 This consultation will end on 31 August 2011. A summary of responses will be published later this year. It is intended that the legislation required to effect the changes to the capital allowances rules will be produced in draft for scrutiny towards the end of this year.

## 2. Enhanced capital allowances (ECAs)

### Background

- 2.1 The ECA scheme is part of the Government's programme to manage climate change, providing an incentive to business to invest in energy or water efficient technologies. ECAs – 100% first-year allowances - are available in respect of expenditure on certain plant and machinery including designated energy-saving and environmentally beneficial plant and machinery. In order to qualify for these ECAs the plant or machinery must feature on one of the Energy Technology Product or Criteria Lists or on one of the Water Technology Lists. ECAs allow businesses to write off the entire cost of the qualifying technologies in the year of purchase and, therefore, provide an extra investment incentive over standard WDAs.

### Proposals

- 2.2 Several technologies that qualify for RHI tariffs also appear on the Energy Technology Product List and, therefore, currently qualify for an enhanced allowance. The availability of ECAs therefore amounts to an overlapping incentive for businesses to invest in these particular products. As RHI tariffs are calculated to provide sufficient financial incentive to install renewable heating, without further support, the Government proposes that ECAs will not be allowed for expenditure on equipment that could attract RHI payments.
- 2.3 There is also some limited overlap between the Energy Technology Product or Criteria List and FITs so that it is currently possible for some combined heat and power installations to qualify for both incentives. Consistent with the proposals for technologies within the RHI scheme, the Government proposes that ECAs are not available for expenditure on equipment that could attract FITs.
- 2.4 As well as ensuring best value for money the Government considers that their proposals will ensure that all technologies within the RHI and FITs regimes receive the same capital allowances treatment, which is fair and straightforward. The Government welcomes feedback from business on the effect of this change. The present intention is that the change would apply in respect of expenditure incurred on or after 1 April 2012 (for businesses within the charge to corporation tax) and on or after 6 April 2012 (for income tax).

## Detail

- 2.5 The changes could be achieved in one of two ways. The first option would be to update the Energy Technology List to remove RHI and FITs qualifying equipment. However, the Energy Technology List is recognised, by business, as including some of the most energy efficient products in their class. It therefore serves as a form of guide or point of reference for people who wish to invest in 'green technologies' (even for those, such as public or charitable bodies, that are non-taxpaying and so cannot claim an ECA). Removing technologies from the list would therefore dilute its usefulness. This approach could also involve constant updates of the Energy Technology List as the FITs and RHI schemes evolve.
- 2.6 The Government considers that a preferable way to achieve the proposed aim would be to stipulate that expenditure could not qualify for an ECA where it is incurred on plant or machinery that could qualify for a tariff payment under either of the FITs or RHI schemes. If the expenditure is on a new installation that could attract a FIT or RHI payment then ECAs will not be available, whether or not the business has applied for a FIT or RHI. An ECA would still be available if, say, additional capacity is added to an existing installation bringing it above the RHI threshold, such that it did not qualify for tariffs. In this case the expenditure incurred on any of the 'additional capacity' that could not qualify for RHI could qualify for an ECA, providing, of course that it is on a technology that features on the Energy Technology Lists.
- 2.7 The Government welcomes views from business on the relative merits of these alternative approaches.

## Questions

1.	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.
2.	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.
3.	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.
4.	What would be the impact of the Government's proposals? Please provide evidence for your answer.

## 3. Writing-down allowances (WDAs)

### Background

- 3.1 Capital investment in plant or machinery exceeding the AIA limit of £25,000<sup>5</sup> for the year may qualify for WDAs. Qualifying expenditure on plant or machinery in excess of the AIA limit will generally attract WDAs which are available at two rates: the main rate (18% from April 2012), or a lower 'special' rate (8% from April 2012).
- 3.2 Special rate expenditure is specifically defined<sup>6</sup> and includes expenditure on plant and machinery that has a longer expected economic life than the generality of plant and machinery, such as long-life assets or integral features of a building or structure. It is likely that expenditure on most FITs or RHI qualifying technologies will be special rate expenditure in most circumstances, but enquiries from business indicate that the treatment is not always clear.
- 3.3 The statute<sup>7</sup> defines integral features of a building or structure using a list approach and both an electrical system and a space or water heating system are included in the list of assets within the definition. It is likely that the majority of the installations that qualify for FITs or RHI tariffs will fall squarely within the definition of integral features as either a space or water heating system or part of an electrical system, although in certain cases this is not so clear cut.
- 3.4 In addition there may be some uncertainty over whether the long-life asset rules (that apply to plant or machinery with an expected useful economic life of at least 25 years) will apply to renewable electricity or heat generating equipment. In particular, there are certain exclusions from the long-life asset regime – fixtures provided for use in dwelling houses, hotels, offices, shops and showrooms are not long life assets for instance – and this could lead to inconsistency of treatment between businesses.

### Proposals

- 3.5 In view of the apparent lack of certainty and potential for inconsistency, the Government proposes that the matter be put beyond doubt by fixing the applicable rate of WDAs for plant or machinery that attracts payments under FITs or the RHI.
- 3.6 The Department of Energy and Climate Change set the duration of the tariffs under both schemes to be in line with the operational lifetime of the technologies in question. The average expected lifetimes of the FITs and RHI technologies is longer than the generality of plant and machinery and with this in mind, the Government proposes that the definition of special rate expenditure be extended to include a new category of expenditure – for plant or machinery of a type that

<sup>5</sup> This is the annual AIA limit that applies from 1 April 2012

<sup>6</sup> Section 104A Capital Allowances Act 2001

<sup>7</sup> Section 33A Capital Allowances Act 2001

could qualify for either FITs or RHI payments. To be clear, the proposal is that technologies of a type that could qualify for FITs or RHI payments will attract WDAs at the special rate. This would be the case even where the installations are not in fact eligible for tariffs for example, because the installation has not, or has not yet, received accreditation from Ofgem.

- 3.7 The Government considers that this straightforward approach will make the appropriate rate of WDAs absolutely clear, and ensure that all qualifying renewables technologies attract the same rate of WDA and that their treatment would be consistent with that of other comparable installations such as non-renewables heating or electrical systems.
- 3.8 The Government considers that defining qualifying expenditure on FITs and RHI plant or machinery as special rate would match the current entitlement in most cases – because of the existing integral features and long-life asset rules. However, any doubt about the correct treatment would be removed for the future.
- 3.9 The Government welcomes the views of business on these proposals. The present intention is that they would be brought into effect for qualifying expenditure incurred on or after 1 or 6 April 2012.

## Questions

1.	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.
2.	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.
3.	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.
4.	What would be the impact of the Governments proposals? Please provide evidence for your answer.

## 4. Taxes Impact Assessment

In line with the Government's Tax Consultation Framework, this chapter sets out HMRC's current assessment of the impacts of the proposed changes under consideration.

The Government welcomes the views of business on its understanding of the impacts of the proposed change and the assumptions made in the assessment.

### Summary of Impacts

<b>Exchequer impact</b>	This measure is expected to increase receipts by approximately £185 million by 2016/17. The final costing will be subject to scrutiny by the Office for Budget Responsibility, and will be set out at Budget 2012.
<b>Economic impact</b>	There would be no significant economic impact on the overall UK economy as a result of either proposal changes.
<b>Impact on individuals and households</b>	Negligible. Any changes as a result of this measure would only apply to businesses claiming capital allowances.
<b>Equalities impacts</b>	The proposal is not likely to impact on the equality of protected groups. Any legislative changes would affect only businesses and businesses of all sizes and across all sectors.
<b>Impact on businesses and third sector</b>	<p>The proposed changes would only apply to expenditure incurred by business on or after 1 April 2012 (for businesses within the charge to corporation tax) or 6 April 2012 (for businesses within the charge to income tax). The treatment of expenditure incurred before those dates would not be affected.</p> <p>We think the most significant impact of this measure, assuming changes are made to the legislation, would be on businesses claiming capital allowances in respect of future expenditure on fixtures provided for use in a dwelling-house, hotel, office, retail shop or showroom, which is not currently treated as special rate expenditure – they will be entitled to the same amount of capital allowances, but at a slower rate.</p> <p>Similarly, businesses investing after April 2012 in certain RHI technologies currently eligible for ECAs, will receive writing down allowances over a period of years, rather than a first year allowance.</p> <p>The one-off compliance cost to business of the recommended change option would be expected to be negligible. In relation to ongoing compliance, we think that the simple, clear approach proposed for all technologies that could qualify for tariffs should be slightly less administratively burdensome for business.</p>

<b>Impact on HMRC or other public sector delivery organisations</b>	None
<b>Other impacts</b>	<p>Small firms would not be excluded from the change and their expenditure on FITs or RHI qualifying plant or machinery could potentially be allocated to the special rate pool to the extent that it is above the AIA limit.</p> <ul style="list-style-type: none"> <li>- For some businesses, the cost of qualifying expenditure would be written off over a longer period after the change, which reduces the post-tax rate of return on investment slightly. We consider that the rate of FITs/RHI is sufficiently generous to act as a strong investment incentive and therefore we would not expect the change to substantially affect the take up of the environmental regime.</li> <li>- It is not anticipated that the policy would have significant impact in rural areas although evidence of the potential impact of the changes will be sought during consultation.</li> </ul>



## 5. Summary of Consultation Questions

- 5.1 This consultation document sets out proposals for two changes to the capital allowances rules that apply to plant and machinery that qualifies for tariffs under the FITs or RHI schemes. Specific requests for comment are made for both elements of the proposals. The Government also welcomes the views of business on its understanding of the impacts of the proposed changes and the assumptions made in the assessment of the impacts.

### Enhanced capital allowances (ECAs)

- 5.2 Comments are requested in answer to the following:

**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.

**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

**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.

### Writing-down allowances

- 5.3 Comments are requested in answer to the following:

**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.

**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.

**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.

- 5.4 In addition, the Government welcomes evidence from business on the impact of all the changes proposed.

## 6. The Consultation Process

This consultation is being conducted in line with the Tax Consultation Framework. There are 5 stages to tax policy development:

- Stage 1 Setting out objectives and identifying options.
- Stage 2 Determining the best option and developing a framework for implementation including detailed policy design.
- Stage 3 Drafting legislation to effect the proposed change.
- Stage 4 Implementing and monitoring the change.
- Stage 5 Reviewing and evaluating the change.

This consultation is taking place during stage 2 of the process. The purpose of the consultation is to seek views on the policy design and any suitable possible alternatives, before consulting later on a specific proposal for reform. This consultation is being led by Sue Pennicott in HMRC.

### How to respond

A summary of the questions in this consultation is included at chapter 5.

Responses should be sent by 31 August 2011 by e-mail to [hasmukh.haria@hmrc.gsi.gov.uk](mailto:hasmukh.haria@hmrc.gsi.gov.uk) or by post to: Hasmukh Haria, HM Revenue and Customs, CTIAA CT and Business Income Tax, Room 3C/15, 100 Parliament Street, London SW1A 2BQ.

Telephone enquiries 020 7147 2610

Paper copies of this document or copies in Welsh and alternative formats (large print, audio and Braille) may be obtained free of charge from the above address. This document can also be accessed from the HMRC Internet site at <http://www.hmrc.gov.uk/consultations/index.htm>. All responses will be acknowledged, but it will not be possible to give substantive replies to individual representations.

When responding please say if you are a business, individual or representative body. In the case of representative bodies please provide information on the number and nature of people you represent.

### Confidentiality

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes. These are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004.

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals with, amongst other things, obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on HM Revenue and Customs (HMRC).

HMRC will process your personal data in accordance with the DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

### **The Consultation Code of Practice**

This consultation is being conducted in accordance with the Code of Practice on Consultation. A copy of the Code of Practice criteria and a contact for any comments on the consultation process can be found in Annex A.

# Annexe A: The Code of Practice on Consultation

## About the consultation process

This consultation is being conducted in accordance with the Code of Practice on Consultation.

## The consultation criteria

1. When to consult - Formal consultation should take place at a stage when there is scope to influence the policy outcome.
2. Duration of consultation exercises - Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible.
3. Clarity of scope and impact - Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.
4. Accessibility of consultation exercise - Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.
5. The burden of consultation - Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.
6. Responsiveness of consultation exercises - Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.
7. Capacity to consult - Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

If you feel that this consultation does not satisfy these criteria, or if you have any complaints or comments about the process, please contact:

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020 7147 0062 or e-mail [hmrc-consultation.co-ordinator@hmrc.gsi.gov.uk](mailto:hmrc-consultation.co-ordinator@hmrc.gsi.gov.uk)

## Annexe B: Relevant (current) Government Legislation

### Enhanced capital allowances

- 100% first-year allowances (ECAs) are provided by Section 39 CAA 2001
- Expenditure on energy-saving plant or machinery qualifies for ECAs by virtue of Section 45A CAA 2001

### Writing down allowances

- Special rate expenditure is defined in Section 104A CAA 2001
- The treatment of expenditure on provision or replacement of integral features is explained in Section 33A CAA 2001
- The long-life asset rules are in Chapter 10 CAA 2001