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*Changes to legislation: There are currently no known outstanding effects for the Finance (No. 3) Act 2010, SCHEDULE 7. (See end of Document for details)*

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## SCHEDULES

### SCHEDULE 7

Section 18

#### FIRST-YEAR ALLOWANCES FOR ZERO-EMISSION GOODS VEHICLES

- 1 CAA 2001 is amended as follows.
- 2 In section 39 (first-year allowances available for certain types of qualifying expenditure only), at the appropriate place in the list insert—

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“section 45DA expenditure on zero-emission goods vehicles,”

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- 3 After section 45D insert—

#### “45DA Expenditure on zero-emission goods vehicles

- (1) Expenditure is first-year qualifying expenditure if—
- (a) it is incurred in the period of 5 years beginning with the relevant date,
  - (b) it is incurred on the provision of a zero-emission goods vehicle,
  - (c) the vehicle is unused and not second-hand,
  - (d) the vehicle is registered, and
  - (e) the expenditure is not excluded by section 46 (general exclusions).
- (2) For the purposes of subsection (1)(d) it does not matter whether the vehicle is first registered before or after the expenditure is incurred.
- (3) In this section—
- “goods vehicle” means a mechanically propelled road vehicle which is of a design primarily suited for the conveyance of goods or burden of any description;
  - “the relevant date” means—
    - (a) in the case of expenditure incurred by a person within the charge to corporation tax, 1 April 2010, and
    - (b) in the case of expenditure incurred by a person within the charge to income tax, 6 April 2010;
  - “zero-emission goods vehicle” means a goods vehicle which cannot in any circumstances emit CO<sub>2</sub> by being driven.
- (4) The Treasury may by order amend this Chapter so as to provide for specified descriptions of vehicles to be treated, or not to be treated, as goods vehicles for the purposes of this section.
- (5) This section is subject to section 45DB.

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#### **45DB Exclusions from allowances under section 45DA**

- (1) Expenditure incurred by a person is not first-year qualifying expenditure under section 45DA if it is within subsection (2), (4) or (6).
- (2) Expenditure is within this subsection if, at the time a claim is made under section 3 for a section 45DA allowance in respect of the expenditure, the person who incurred the expenditure is, or forms part of, an undertaking within subsection (3).
- (3) An undertaking is within this subsection if one or both of the following conditions are met—
  - (a) it is reasonable to assume that the undertaking would be regarded as 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);
  - (b) the undertaking is subject to an outstanding recovery order made by virtue of Article 108(2) of the Treaty on the Functioning of the European Union (Commission Decision declaring aid illegal and incompatible with the common market).
- (4) Expenditure is within this subsection if it is incurred for the purposes of a qualifying activity—
  - (a) in the fishery or aquaculture sector, as covered by Council Regulation (EC) No 104/2000, or
  - (b) relating to the management of waste of undertakings.
- (5) In subsection (4)(b) the reference to waste of undertakings does not include waste of the person who incurred the expenditure or of any other person forming part of the same undertaking as that person.
- (6) Expenditure is within this subsection to the extent that it is taken into account for the purposes of a relevant grant, or relevant payment, made towards that expenditure.
- (7) A grant or payment is relevant if it is—
  - (a) a notified State aid, other than an allowance under this Part, or
  - (b) a grant or subsidy, other than a notified State aid, which the Treasury by order declares to be relevant for the purposes of the withholding of a section 45DA allowance.
- (8) If a relevant grant or relevant payment towards the expenditure is made after the making of a section 45DA allowance, the allowance is to be withdrawn to that extent.
- (9) All such assessments and adjustments of assessments are to be made as are necessary to give effect to subsection (8).
- (10) Any such assessment or adjustment is not out of time if it is made within 3 years of the end of the chargeable period in which the grant or payment was made.
- (11) In this section—

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“General Block Exemption Regulation” means Commission Regulation (EC) No. 800/2008 (General block exemption Regulation);

“management” and “waste” have the meaning given by Article 1 of Directive 2006/12/EC of the European Parliament and of the Council;

“notified State aid” means a State aid notified to and approved by the European Commission;

“section 45DA allowance” means a first year allowance in respect of expenditure that is first-year qualifying expenditure under section 45DA;

“undertaking” means—

- (a) an autonomous enterprise, or
- (b) an enterprise (not within paragraph (a)) and its partner enterprises (if any) and its linked enterprises (if any),

and for this purpose “enterprise”, “autonomous enterprise”, “partner enterprises” and “linked enterprises” have the meaning given by Annex 1 to the General Block Exemption Regulation.

(12) The Treasury may by order make such provision amending this section as appears to them appropriate for the purpose of giving effect to any future amendments of or instrument replacing—

- (a) the General Block Exemption Regulation,
- (b) the Community Guidelines on State Aid for Rescuing and Restructuring Firms in Difficulty (2004/C 244/02),
- (c) Council Regulation (EC) No 104/2000,
- (d) Directive 2006/12/EC of the European Parliament and of the Council, or
- (e) the Treaty on the Functioning of the European Union.”

4 In section 46 (general exclusions applying to first-year qualifying expenditure), in subsection (1), at the appropriate place in the list insert—

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“section 45DA (expenditure on zero-emission goods vehicles),”.

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5 (1) Section 52 (first-year allowances) is amended as follows.

(2) In subsection (3), at the appropriate place in the Table insert—

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“Expenditure qualifying under section 45DA (expenditure on zero- 100%”  
emission goods vehicles)

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(3) In subsection (5)—

- (a) omit the “and” at the end of the entry for section 210, and
- (b) after that entry insert—

“section 212T (cap on first-year allowances: zero-emission goods vehicles), and”.

6 After section 212S insert—

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## “CHAPTER 16B

### CAP ON FIRST-YEAR ALLOWANCES: ZERO-EMISSION GOODS VEHICLES

#### **212T Cap on first-year allowances: zero-emission goods vehicles**

- (1) A section 45DA allowance is not available in respect of expenditure (“the current expenditure”) incurred by a person (“the investor”)—
  - (a) if section 45DA allowances have previously been made in respect of undertaking expenditure of 85 million euros, or
  - (b) (where paragraph (a) does not apply) if, and to the extent that, the aggregate of—
    - (i) the undertaking expenditure in respect of which section 45DA allowances have previously been made, and
    - (ii) the current expenditure,
 exceeds 85 million euros.
- (2) “Undertaking expenditure” means—
  - (a) expenditure incurred by the investor,
  - (b) if the investor is a partnership, expenditure incurred (at any time) by a person who is a partner enterprise forming part of the investor at the time the current expenditure is incurred, and
  - (c) if the investor and one or more other persons together form, or have at any time formed, an undertaking, expenditure which is—
    - (i) incurred by that undertaking, or
    - (ii) incurred by any of those other persons at a relevant time.
- (3) Expenditure is incurred by a person at a “relevant time” if it is incurred—
  - (a) at a time when the investor and the person are part of the same undertaking, or
  - (b) at a time before the investor and the person became part of the same undertaking (or, if they became part of the same undertaking on more than one occasion, before the last time).
- (4) For the purposes of subsection (1), expenditure incurred in a currency other than the euro is to be converted into its equivalent in euros using the spot rate of exchange for the day on which the expenditure is incurred.
- (5) The Treasury may by regulations increase the amount specified in subsection (1)(a) and (b).
- (6) In this section—
 

“section 45DA allowance” means a first-year allowance in respect of expenditure that is first-year qualifying expenditure under section 45DA;

“undertaking” means—

  - (a) an autonomous enterprise, or
  - (b) an enterprise (not within paragraph (a)) and its partner enterprises (if any) and its linked enterprises (if any),

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and “enterprise”, “autonomous enterprise”, “partner enterprise” and “linked enterprise” have the meaning given by Annex 1 to the Commission Regulation (EC) No. 800/2008 (General block exemption Regulation).”

- 7 The amendments made by this Schedule have effect—
- (a) for the purposes of corporation tax, for chargeable periods ending on or after 1 April 2010, and
  - (b) for the purposes of income tax, for chargeable periods ending on or after 6 April 2010.

**Changes to legislation:**

There are currently no known outstanding effects for the Finance (No. 3) Act 2010, SCHEDULE 7.