



Climate change levy: exemption for energy used in metallurgical and mineralogical processes

Who is likely to be affected?

Businesses carrying out metallurgical and mineralogical processes. Suppliers of taxable commodities liable to account for the climate change levy (CCL) on the energy used in those processes.

General description of the measure

The measure will introduce a new exemption from the CCL for supplies of taxable commodities used in metallurgical and mineralogical processes. As a result, certain existing reliefs from CCL, including the current lower rate of 20 per cent that applies to supplies of taxable commodities used in metal recycling, will no longer be needed and will be repealed.

The Environment Agency will in due course be withdrawing Climate Change Agreements (CCAs) for those eligible processes that will be covered by the new exemption. In order to prevent the unintended consequence that some businesses may find themselves liable to enrol in the Carbon Reduction Commitment (CRC) Energy Efficiency Scheme when the CCAs are withdrawn, an exemption to the CRC scheme will be introduced with the same scope as the new CCL exemption. The Department of Energy & Climate Change (DECC) is consulting on proposed amendments to the CRC Scheme.

Policy objective

The measure will ensure the UK tax treatment of these highly energy intensive processes is in line with tax treatments elsewhere in the EU, thereby reducing any distortion of competition.

Background to the measure

The CCL was introduced on 1 April 2001. It taxes electricity, natural gas, solid fuels and liquid petroleum gas when used as fuels. Its purpose is to encourage energy efficiency.

The Government announced at Budget 2013 that it would introduce an exemption from the CCL for energy used in metallurgical processes (which include metal recycling) and mineralogical processes, from 1 April 2014. It also announced that it would seek views from industry.

The CCA scheme was introduced at the same time as the CCL. Under the scheme, in return for meeting energy efficiency or carbon reduction targets energy intensive industries conducting eligible processes could claim reduced rates of CCL. The reduced rates are currently 10 per cent of the full rate for electricity and 35 per cent of the full rates for other taxable commodities. Businesses participate in the scheme on the basis of an agreement with the Environment Agency.

Detailed proposal

Operative date

The new exemption will have effect for relevant supplies of taxable commodities made on or after 1 April 2014. The repeal of redundant CCL reliefs (excluding the changes to CCAs) will have effect from the same date, as will the exemption to the CRC scheme for metallurgical and mineralogical processes. Withdrawal of the CCAs covering these processes will take place after 1 April 2014 at a date or dates to be determined.

Current law

Schedule 6 to the Finance Act 2000 sets out the main primary legislation provisions for CCL. Paragraph 18 provides that the Treasury may make regulations providing for an exemption for non fuel and mixed uses of taxable commodities. Paragraphs 43A and 43B set out the conditions for a lower rate of CCL for supplies of taxable commodities used in metal recycling processes. Paragraph 51 sets out the participation criteria for the CCA scheme, and the Schedule to the Climate Change Agreements (Eligible Facilities) Regulations 2012 (SI 2012/2999) (the eligible facilities regulations) lists the relevant processes and activities.

The Climate Change Levy (Fuel Use and Recycling Processes) Regulations 2005 (SI 2005/1715) (the fuel use regulations) are the regulations made under paragraph 18 of Schedule 6. Schedule 1 Part A of these regulations specifies the non-fuel exemptions and Schedule 1 Part B specifies the mixed use exemptions.

Part 3 of, and Schedule 1 to the CCL (General) Regulations 2001 (SI 2001/838) ('the general regulations') provide for the supplier certification regime to apply to various reliefs from CCL (including the lower rate for metal recycling processes and the exemptions for non-fuel and mixed use). This is the means by which certain CCL reliefs are claimed by businesses and administered by energy suppliers.

The CRC Energy Efficiency Scheme Order 2013 (SI 2013/1119) (the CRC Order) sets out the conditions of operation for the current version of the CRC scheme.

Proposed revisions

Legislation in Finance Bill 2014 will introduce a new exemption for the energy used in metallurgical and mineralogical processes.

The exemption will be defined by reference to the NACE statistical classification of economic activities. For metallurgical processes the exemption will apply to energy used in processes falling within the explanatory notes to Division 24 of NACE revision 2 and includes manufacture from scrap and waste. It will also apply to energy used in certain processes falling within Group 25.5 and Group 25.6 of Division 25. As a result, metallurgical processes will include all basic metal forming processes from the smelting of ores or the melting of scrap metal through to the rolling and casting of hot metal to produce ingots, bars and similar products, as well as other energy intensive processes such as forging and galvanising.

For mineralogical processes, the exemption applies to energy used in processes falling within Group DI26 of NACE revision 1. Mineralogical processes will therefore include the manufacture of glass and ceramic products, as well as building materials such as cement and plaster.

Finance Bill 2014 will also make a number of amendments to remove provisions that will become redundant as a result of the new exemption. It will revoke paragraphs 43A and 43B of Schedule 6 to Finance Act 2000 and remove references to the lower rate for metal recycling elsewhere in the schedule.

Finance Bill 2014 will also amend secondary legislation. The fuel use regulations will be amended to remove the references to certain metals. References to the revoked exemptions will be removed from the general regulations. Part 3 of, and paragraph 2 of Schedule 1 to these regulations will also be amended to enable energy suppliers to apply the exemption to supplies of taxable commodities made to those involved in undertaking metallurgical and mineralogical processes.

After 1 April 2014, at a date to be determined, Treasury regulations will be laid to amend Paragraph 51 of Schedule 6 to Finance Act 2000 and a subsequent amendment will be made to the eligible facilities regulations, to enable the Environment Agency to withdraw CCAs from eligible processes that will become covered by the new exemption.

The CRC Order will be amended during 2014 to exempt metallurgical and mineralogical processes on the same basis that they will be exempt from the CCL. DECC is consulting on this and other proposed changes to the operation of the scheme. They published a consultation document on 20 November 2013, *Finalising CRC simplification: treatment of renewable energy & the metallurgical and mineralogical sectors*.

Summary of impacts

Exchequer impact (£m)	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19
	This measure is expected to decrease receipts by approximately £20 million per annum from 2014-15. The final costing will be subject to scrutiny by the Office for Budget Responsibility, and will be set out at Budget 2014.					
Economic impact	The measure is expected to improve the international competitiveness of firms in the metallurgical and mineralogical sectors. This measure is not expected to have wider significant economic impacts.					
Impact on individuals and households	There is no impact on individuals and households because the beneficiaries of this measure are industrial concerns.					
Equalities impacts	It is not expected that this measure will have any impact on any of the protected groups.					
Impact on business including civil society organisations	This measure is expected to have a negligible impact on businesses and civil society organisations. It is expected that several hundred firms will be affected by the measure, many of which already hold a CCA. Firms not covered by a CCA will be required to report additional information to their energy suppliers once every 5 years to claim the new CCL exemptions. Costs to these firms are expected to be negligible. Moreover, offsetting these costs, firms that will become exempt from CCL and which already hold a CCA will be required to report less information once the measure is introduced.					
Operational impact (£m) (HMRC or other)	The additional costs and savings for HMRC in implementing this measure are expected to be negligible.					
Other impacts	<p><u>Small and micro business assessment:</u> it is expected this measure will have a negligible impact on small and micro businesses.</p> <p>Other impacts have been considered and none have been identified.</p>					

Monitoring and evaluation

This measure will be kept under review through communication with affected taxpayer groups.

Further advice

If you have any questions about this measure, please contact Andy Jameson on 03000 586082 (email: andy.jameson@hmrc.gsi.gov.uk).

1 Climate change levy: exemptions for mineralogical and metallurgical processes etc

Schedule 1 makes provision in relation to climate change levy.

SCHEDULES

SCHEDULE 1

Section 1

CLIMATE CHANGE LEVY: EXEMPTIONS FOR MINERALOGICAL AND METALLURGICAL PROCESSES ETC

1 Schedule 6 to FA 2000 (climate change levy) is amended as follows.

2 After paragraph 12 insert –

“Exemption: mineralogical and metallurgical processes

12A (1) A supply of a taxable commodity to a person is exempt from the levy if the commodity is to be used by the person in a mineralogical or metallurgical process.

(2) “Mineralogical process” has the same meaning as in Article 2(4)(b) of Council Directive 2003/96/EC of 27 October 2003 (which relates to the taxation of energy products and electricity).

(3) “Metallurgical process” means a process of any of the following descriptions.

(4) The descriptions are –

(a) a process falling within Division 24 of NACE Rev 2 and, for this purpose, Group 24.1 is to be taken to include the production of ingots and other primary forms from scrap (but not the breaking-up of scrap);

(b) a process falling within Group 25.5 of NACE Rev 2, except a process involving sheet metal;

(c) a process falling within Group 25.6 of NACE Rev 2 which is –

(i) plating, anodising etc of metals;

(ii) heat treatment of metals;

(iii) deburring, sandblasting, tumbling and cleaning of metals.

In this sub-paragraph “NACE Rev 2” is as set out in Annex I to Regulation (EC) No 1893/2006 of the European Parliament and of the Council of 20 December 2006 (relating to the statistical classification of economic activities) and is to be read in accordance with any Explanatory Notes published by the Statistical Office of the European Communities from time to time.

(5) The Treasury may by regulations amend sub-paragraph (4) so as to add, remove or modify a description.”

- 3 In paragraph 13 (exemption: supplies to producers of commodities other than electricity) in sub-paragraph (b) –
- (a) after paragraph (iid) insert “or”, and
 - (b) omit paragraph (iv) and the “or” before it.
- 4 (1) Paragraph 42 (amount payable by way of levy) is amended as follows.
- (2) In sub-paragraph (1) –
- (a) in paragraph (a) omit “or a supply for use in scrap metal recycling”,
 - (b) omit paragraph (d), and
 - (c) in the Table, in the heading for column 2, omit “*or a supply for use in scrap metal recycling*”.
- (3) Omit sub-paragraph (1ZA).
- 5 Omit paragraph 43A (supplies for use in scrap metal recycling) and the cross-heading before it.
- 6 In paragraph 43B (supplies for use in scrap metal recycling etc: deemed supply) in sub-paragraph (1)(b) omit sub-paragraph (i).
- 7 In paragraph 62 (tax credits) in sub-paragraph (1) omit paragraphs (ca) and (cb).
- 8 In paragraph 101 (civil penalties: incorrect certificates) in sub-paragraph (2)(a) –
- (a) in sub-paragraph (ii) after “12,” insert “12A,”,
 - (b) after sub-paragraph (ii) insert “or”, and
 - (c) omit sub-paragraph (iiia) and the “or” after it.
- 9 (1) Paragraph 146 (regulations and orders) is amended as follows.
- (2) In sub-paragraphs (2)(b) and (3) omit “Parliament”.
- (3) After sub-paragraph (3) insert –
- “(3A) A statutory instrument that contains (whether alone or with other provision) regulations under paragraph 12A(5) that –
 - (a) remove a description, or
 - (b) modify a description so as to narrow its scope, - shall not be made unless a draft of the statutory instrument containing the regulations has been laid before and approved by a resolution of the House of Commons.”
- 10 (1) The Climate Change Levy (General) Regulations 2001 (S.I. 2001/838) are amended as follows.
- (2) In regulation 2 (general interpretation) in paragraph (1) omit “, recycling lower-rate part”, “a recycling lower-rate supply or” and the definition of “recycling lower-rate supply”.
- (3) In regulation 8 (records which a registrable person is obliged to keep) in paragraph (c)(ii) omit “recycling lower-rate supply or a”.
- (4) In regulation 11 (other tax credits: entitlement) in paragraph (1) –
- (a) in sub-paragraph (c) omit “a recycling lower-rate supply or” (in both places), and
 - (b) omit sub-paragraph (ca).

-
- (5) In regulation 12 (tax credits: general) in paragraph (1) omit “, recycling lower-rate supplies”.
- (6) In regulation 33 (special rules for certain supplies) –
- (a) in the heading omit “, **recycling lower-rate supplies**”, and
 - (b) in the text omit “, recycling lower-rate supplies”.
- (7) In the title of Part 3 omit “, RECYCLING LOWER-RATE”.
- (8) In regulation 34 (supplier certificates) in paragraph (1)(a) after “12 (transport),” insert “12A (mineralogical and metallurgical processes),”.
- (9) In regulation 35 (supplier certificates) –
- (a) in paragraph (1) omit “a recycling lower-rate or”,
 - (b) in paragraph (2)(a) omit paragraph (ii) and the “or” before it, and
 - (c) in paragraph (3) omit “or is for use in scrap metal recycling”.
- (10) Schedule 1 (certification etc) is amended as follows.
- (11) In the title omit “, RECYCLING LOWER-RATE”.
- (12) In paragraph 2 –
- (a) in the formula omit “+0.8L”,
 - (b) in the definition of “M”, after paragraph (b) insert –
 - “(ba) paragraph 12A – mineralogical and metallurgical processes;”, and
 - (c) omit the definition of “0.8L”.
- (13) In paragraph 3(1) omit “recycling lower-rate and”.
- (14) In paragraph 5(7) omit “Supplies for use in scrap metal recycling and”.
- (15) In paragraph 6(1) –
- (a) in paragraph (c) omit “a recycling lower-rate supply or” (in both places), and
 - (b) omit paragraph (ca).
- (16) The amendments made by sub-paragraphs (8) and (12)(b) are to be treated as having been made by the Commissioners for Her Majesty’s Revenue and Customs in exercise of the power conferred by paragraph 22 of Schedule 6 to FA 2000 (regulations giving effect to exemptions).
- 11 (1) Schedule 1 to the Climate Change Levy (Fuel Use and Recycling Processes) Regulations 2005 (S.I. 2005/1715) is amended as follows.
- (2) In paragraph 1 omit “Aluminium” and “Copper”.
 - (3) In paragraph 2 for the words from “Gold” to “platinum group metal alloys and” substitute “The electrolytic dissolution of”.
 - (4) Omit paragraphs 5, 17, 18 to 24, 26 to 28, 32, 34, 36 and 37.
 - (5) The amendments made by this paragraph are to be treated as having been made by the Treasury in exercise of the power conferred by paragraph 18(2) of Schedule 6 to FA 2000 (exemption for supply not used as fuel).
- 12 (1) The amendments made by this Schedule (apart from paragraph 9(2)) have effect as follows.

- (2) In relation to supplies of gas or electricity, they have effect in relation to gas or electricity actually supplied on or after 1 April 2014.
- (3) In relation to any other supplies, they have effect in relation to supplies treated as taking place on or after 1 April 2014.

EXPLANATORY NOTE

CLIMATE CHANGE LEVY: EXEMPTION FOR METALLURGICAL AND MINERALOGICAL PROCESSES

SUMMARY

1. Clause [X] amends Schedule 6 (Schedule 6) to the Finance Act 2000 to introduce a new exemption from climate change levy (CCL) for the energy used in mineralogical and metallurgical processes and remove certain existing reliefs from CCL which will be superseded by the new exemption, all from 1 April 2014.

DETAILS OF THE SCHEDULE

2. Paragraph 2 inserts a new paragraph 12A into Schedule 6. Sub-paragraph 12A(1) exempts CCL taxable commodities used in mineralogical and metallurgical processes. Sub-paragraph 12A(2) defines a mineralogical process by reference to Article 2(4)(b) of Council Directive 2003/96/EC of 27 October 2003, which deals with the taxation of energy products. Sub-paragraphs 12A(3) and (4) define a metallurgical process as a process falling within Division 24 and Groups 25.5 and 25.6 of the NACE Codes Revision 2. Sub-paragraph 12A(5) provides that the Treasury may amend sub-paragraph 4 by regulation.

3. Paragraphs 3, 4, 5, 6, and 7 omit paragraphs 42(1ZA), 43A, 43B(1)(b)(i), 62(1)(ca) and (cb) and 101(2)(a)(iiia) of Schedule 6 to remove references to the exemption from CCL for taxable commodities used in scrap metal recycling, which is superseded by the new exemption for mineralogical and metallurgical processes. The paragraphs also make a number of consequential amendments.

4. Paragraph 8 inserts new sub-paragraph (3A) into paragraph 146 of Schedule 6 to require that any regulations made under new paragraph 12A(5) that removes an exemption in paragraph 12A or narrows its scope are made under the draft affirmative procedure. It also makes amendments to paragraph 146(2) and (3) so that draft instruments that are to be approved only by the House of Commons have to be laid before that House only, and not Parliament.

5. Paragraph 9 makes consequential amendments to the Climate Change Levy (General) Regulations 2001 (SI 2001/838) ('the general regulations') to remove various references to the lower rate for scrap metal recycling. Sub-paragraph (8) adds a reference to new paragraph 12A of Schedule 6 into regulation 34 of the general regulations requiring that those carrying out mineralogical and metallurgical processes submit certificates to the energy supplier. Sub-paragraph (12) amends the CCL relief formula in Schedule 1 to the general regulations to take account of the removal of the lower rate for scrap metal recycling and the addition of the new exemptions for mineralogical and metallurgical processes. Sub-paragraph (16) provides that that the changes to sub-paragraphs (8) and (12) are to be treated as having

been made under the power given to the Commissioners for Her Majesty's Revenue and Customs under paragraph 22 of Schedule 6.

6. Paragraph 10 makes amendments to Schedule 1 to the Climate Change Levy (Fuel Use and Recycling Processes) Regulations 2005 (SI 2005/1715) to remove various metals and associated provisions from the fuel use exemption as taxable commodities used to produce these metals will become exempt under the metallurgical exemption. It also provides that the amendments are to be treated as having been made by the Treasury under the power given to it by paragraph 18(2) of Schedule 6.

7. Paragraph 11 sets out the commencement provisions.

BACKGROUND NOTE

8. The Government announced at Budget 2013 that it would exempt from the CCL the energy used in mineralogical and metallurgical processes, from 1 April 2014 and that it would seek views from industry after the Budget to inform the draft legislation.

9. The CCL was introduced on 1 April 2001. It taxes electricity, natural gas, solid fuels and liquid petroleum gas when used as fuels. Its purpose is to encourage energy efficiency.

10. The new exemption will ensure the UK's tax treatment of these highly energy intensive processes is in line with tax treatments elsewhere in the European Union (EU), thereby reducing any distortion of competition.

11. The NACE codes are the EU system of classifying economic activity; they are widely used in data gathering and statistical reporting.

12. Certain existing reliefs from CCL will become redundant as they will be covered by the new exemption. This includes the lower rate for taxable commodities used in scrap metal recycling and taxable commodities used in certain fuel uses. As a result, these superseded reliefs will be removed at the same time the new exemption for mineralogical and metallurgical processes comes into force.

13. If you have any questions about this change, or comments on the legislation, please contact Andy Jameson on 03000 586082 (email: andy.jameson@hmrc.gsi.gov.uk).