

2012 No. 868

INCOME TAX

CORPORATION TAX

**The Business Premises Renovation Allowances (Amendment)
Regulations 2012**

<i>Made</i> - - - -	<i>19th March 2012</i>
<i>Laid before the House of Commons</i>	<i>20th March 2012</i>
<i>Coming into force</i> - -	<i>11th April 2012</i>

The Treasury make the following Regulations in exercise of the powers conferred by sections 360B(2)(b) and (5) and 360D(4) of the Capital Allowances Act 2001(a).

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Business Premises Renovation Allowances (Amendment) Regulations 2012 and come into force on 11 April 2012.

(2) Regulations 4 and 5 have effect in relation to expenditure incurred on or after that date.

Amendment of the Business Premises Renovation Allowances Regulations 2007

2. The Business Premises Renovation Allowances Regulations 2007(b) are amended as follows.

Insertion of regulation 2A (expiry date for incurring qualifying expenditure)

3. After regulation 2 insert—

“Expiry Date for incurring qualifying expenditure

2A. For the purposes of Part 3A of the Act, “the expiry date” is prescribed as—

- (a) 1 April 2017, for corporation tax purposes; and
- (b) 6 April 2017, for income tax purposes.”.

Amendment of regulation 4 (meaning of “qualifying business premises”)

4.—(1) In paragraph (2) of regulation 4 (meaning of “qualifying business premises”) for the definition of “relevant trade” substitute—

(a) 2001 c. 2; sections 360B and 360D, together with the other provisions of Part 3A, were inserted by paragraph 1 of Schedule 6 to the Finance Act 2005 (c. 7).
(b) S.I. 2007/945.

““relevant trade” means a trade—

- (a) in any sector in relation to which Commission Regulation (EC) No 800/2008 declaring certain categories of aid compatible with the common market in the application of Articles 87 and 88 of the Treaty (General block exemption Regulation)(a) does not apply by virtue of paragraph 3 of Article 1 of that Regulation; or
- (b) carried on by any undertaking which—
 - (i) is subject to an outstanding recovery order made by virtue of Article 108(2) of the Treaty on the Functioning of the European Union(b); or
 - (ii) it is reasonable to assume 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(c).”.

(2) After paragraph (3) of regulation 4 insert—

“(4) In this regulation “undertaking” has the same meaning as it has for the purposes of section 45DB (exclusions from allowances under section 45DA)(d) of the Act.”.

Insertion of new regulation 5 (meaning of “qualifying expenditure”)

5. After regulation 4, insert—

“Meaning of “qualifying expenditure”

5.—(1) For the purposes of Part 3A of the Act, expenditure is not qualifying expenditure if the expenditure is incurred on or in connection with a qualifying building and the building is not in a disadvantaged area on the date the expenditure is incurred.

(2) For the purposes of Part 3A of the Act, expenditure is not qualifying expenditure if, and to the extent that,—

- (a) the amount of the expenditure (“current expenditure”); or
- (b) the current expenditure and the aggregate amount of the single project investment expenditure in respect of which allowances under Part 3A of the Act have previously been made,

exceeds 20 million euros.

(3) In this regulation “single project investment expenditure” means expenditure—

- (a) incurred by any person within a period of three years prior to the date on which the current expenditure is incurred; and,
- (b) which, together with the current expenditure, would be treated as incurred in an economically indivisible way for the purposes of Article 13(10) of Commission Regulation (EC) No 800/2008 declaring certain categories of aid compatible with the common market in application of Articles 87 and 88 of the Treaty (General block exemption Regulation).

(4) In this regulation “disadvantaged area” has the same meaning as that which applies for the purposes of section 360C of the Act.

(5) For the purposes of this regulation, 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.”

(a) OJ No L 214, 9.8.2008, p3.

(b) OJ No C 83, 30.3.2010, p47.

(c) OJ No C 244, 1.10.2004, p2.

(d) Section 45DB was inserted by section 18 of and paragraphs 1 and 3 to Schedule 7 to the Finance (No. 3) Act 2010 (c. 33).

19th March 2012

Angela Watkinson
Jeremy Wright
Two of the Lords Commissioners of Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Business Premises Renovation Allowances Regulations 2007 (S.I. 2007/945) (“the principal Regulations”).

Regulation 1 deals with citation and commencement; and regulation 2 introduces the amendments.

Regulation 3 inserts new regulation 2A into the principal Regulations. New regulation 2A prescribes an expiry date for allowances under Part 3A of the Capital Allowances Act 2001 (c. 2: “CAA”).

Regulation 4 amends the definition of “relevant trade” in regulation 4 of the principal Regulations by referring to trades in sectors referred to in Article 1(3) of Commission Regulation (EC) No 800/2008 (the “GBER”). The amended definition of “relevant trade” also includes those trades carried on by undertakings which either are the subject of an outstanding recovery order made by virtue of Article 108(2) of the Treaty on the Functioning of the European Union or which 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.

Regulation 5 inserts new regulation 5 into the principal Regulations. Paragraph (1) of new regulation 5 provides that expenditure is not qualifying expenditure if it is on a qualifying building which is not in a disadvantaged area on the date the expenditure is incurred. Paragraphs (2) to (3) of new regulation 5 make provision for a cap of 20 million euros on qualifying expenditure. This cap applies to the current expenditure and also to the total of the current expenditure and any expenditure treated as related to the current expenditure under the State aid regulations contained in the GBER.

A Tax Information and Impact Note covering this Instrument will be published on the HMRC website at <http://www.hmrc.gov.uk/thelibrary/tiins.htm>.

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