

1 Climate change levy: Northern Ireland gas supplies

- (1) In Schedule 6 to FA 2000 (climate change levy), omit paragraph 11A (exemption for Northern Ireland gas supplies).
- (2) Subsection (3) applies in relation to a supply of gas if—
 - (a) the supply is made by a gas utility (within the meaning of that Schedule (see paragraph 147)),
 - (b) the person to whom the supply is made intends to cause the gas to be burned in Northern Ireland, and
 - (c) the supply is treated as taking place on or after 1 April 2011 but before 1 November 2013.
- (3) Paragraph 42 of that Schedule (amount payable by way of levy) has effect as if—
 - (a) for sub-paragraphs (1) and (1A) there were substituted—
 - “(1) The amount payable by way of levy on a taxable supply is £0.00059 per kilowatt hour.”, and
 - (b) in sub-paragraph (3) the reference to a reduced-rate supply were a reference to a supply to which this subsection applies.
- (4) In FA 2001, omit section 105(2) (which inserted paragraph 11A of that Schedule).
- (5) The amendments made by this section have effect in relation to supplies treated as taking place on or after 1 April 2011.

DRAFT EXPLANATORY NOTE**CLIMATE CHANGE LEVY: NORTHERN IRELAND GAS SUPPLIES****SUMMARY**

1. This clause removes the climate change levy (CCL) exemption for gas supplied in Northern Ireland with effect from 1 April 2011 and makes provision for a lower rate of CCL of £0.00059 per kilowatt hour to apply to supplies of gas in Northern Ireland during the period 1 April 2011 to 31 October 2013. The impact of the change is that gas supplied in Northern Ireland to business and public sector users after 31 March 2011 will no longer qualify for exemption but will be subject to a rate of levy that is 65 per cent lower than the full rate for gas, until 31 October 2013. From 1 November 2013, the full CCL rate for supplies of gas will apply.
2. Domestic consumers do not pay CCL and are not affected by the change.

DETAILS OF THE CLAUSE

3. Subsection (1) removes paragraph 11A (Exemption: Northern Ireland Gas Supplies) of Schedule 6 to the Finance Act (FA) 2000.
4. Subsection (2) sets out the conditions when subsection (3) applies, namely where:
 - (a) the supply is made by a gas utility,
 - (b) the person to whom the supply is made intends to cause the gas to be burned in Northern Ireland, and
 - (c) the supply is treated as taking place on or after 1 April 2011 but before 1 November 2013.
5. Subsection (3) modifies paragraph 42 of Schedule 6 to the FA 2000 (amount payable by way of levy) to:
 - (a) provide that the lower rate will apply; and
 - (b) fulfil the requirement of the EU State aid Regulation (which permits the granting of this lower rate) that the legislation providing for the aid must contain an express reference to that Regulation.
6. Subsection (4) removes section 105(2) of FA 2001.
7. Subsection (5) provides that the amendments made by this section have effect in relation to supplies treated as taking place on or after 1 April 2011.

BACKGROUND NOTE

8. Natural gas did not arrive in Northern Ireland until 1996 and, at the introduction of CCL in 2001, energy consumption there was dominated by oil, coal and electricity.
9. The purpose of the CCL exemption, which was introduced at the same time as the levy in 2001 and is subject to State aid approval, was to support the fledgling gas industry by encouraging business energy consumers to switch to natural gas from coal and oil, contributing to reductions in the carbon emissions of Northern Ireland.
10. The UK secured State aid approval for the exemption, initially for five years and then for a further five years from 2006. The current approval expires on 31 March 2011.
11. The exemption is permitted by derogation from Directive 2003/96 - Restructuring the Community framework for the taxation of energy products and electricity. This is the Directive that sets a framework for the way in which all EU Member States tax energy products. The derogation from the Directive expires on 31 October 2013.
12. The derogation makes it clear that total or partial exemptions or reductions for natural gas were intended to be temporary. 31 months is the maximum period for which the UK is able to secure further State aid clearance for a relief from levy in Northern Ireland after the current State aid approval expires on 31 March 2011. Following consultation with the Commission, the Government has concluded that it is unlikely that a full exemption would be re-approved under the current Community guidelines on State Aid for Environmental Protection issued in 2008, which differ significantly from the guidelines under which this exemption was originally approved and then re-approved.
13. The Government has therefore decided not to seek a further period of State aid approval for the exemption. However, it recognises the environmental, economic and social benefits a gas supply infrastructure brings to Northern Ireland. This clause of the Bill therefore provides for the level of CCL payable on supplies of gas in Northern Ireland to be set at £0.00059 per kilowatt hour from 1 April 2011- 65 per cent lower than the full rate of CCL on gas. This lower level will apply from 1 April 2011 until 31 October 2013 after which the full CCL rate for supplies of gas will apply in Northern Ireland.
14. Applying a lower rate of tax is still a State aid. However, provided the lower rate is set at least at the minimum rate for gas prescribed by Directive 2003/96 the UK is permitted to use Commission Regulation (EC) No 800/2008 which simplifies the clearance process for State

aid schemes. Article 3(1) of that Regulation requires the aid scheme to make express reference to the Regulation in the legislation.

Climate Change Levy: Northern Ireland Gas Supplies

Who is likely to be affected?

Suppliers of natural gas in Northern Ireland that are currently registered, or will become required to register, with HM Revenue & Customs (HMRC) for the climate change levy (CCL), and business and public sector consumers of gas in Northern Ireland.

General description of the measure

Legislation will be introduced in Finance Bill 2011 to remove the exemption from CCL for supplies of natural gas in Northern Ireland and replace it with a lower rate for a transitional period, after which the main CCL rate for gas will apply in Northern Ireland. During the transitional period such supplies will become subject to the levy at a rate of £0.00059 per kilowatt hour for business and public sector consumers (domestic consumers do not pay CCL). This is 65 per cent lower than the main rate of CCL on gas.

Policy objective

The policy objective is to ensure compliance with European tax law and State aid rules. The current exemption for supplies of gas in Northern Ireland cannot remain in place beyond 31 March 2011 without approval from the European Commission that it continues to be regarded as approvable State aid. Continuing the aid without Commission approval would put the UK at risk of infringement proceedings and beneficiaries of the illegal aid could be obliged to repay it, with interest.

The Government considers it is unlikely that it will be able to secure re-approval for the exemption. To give gas suppliers and business gas consumers certainty over their tax affairs, the Government intends to remove the exemption and replace it with a lower rate for a transitional period. State aid clearance for the lower rate can then be secured using a simplified process.

Background to this measure

- The CCL exemption for supplies of gas in Northern Ireland was introduced to encourage a switch to gas from more polluting energy sources, such as coal and oil, and to support the expansion of the fledgling gas distribution network in Northern Ireland.
- The exemption is a State aid (approved under the Community guidelines on State aid for environmental protection) with an approval that is due to expire on 31 March 2011.
- A derogation from the Energy Products Directive (EPD) permits the UK to allow favourable tax treatment for supplies of gas in Northern Ireland until 31 October 2013.

Detailed proposal

Operative date

The replacement of the exemption with a lower rate will have effect for relevant supplies made on and after 1 April 2011 and before 1 November 2013. In order to comply with the terms of the EPD, supplies made on and after 1 November 2013 will be subject to the main gas rate of CCL.

Current law

The exemption from CCL for supplies of natural gas in Northern Ireland is contained in paragraph 11A of Schedule 6 to the Finance Act 2000. The rates of levy are set out in paragraph 42 of that schedule.

Proposed revisions

Paragraph 11A will be repealed and paragraph 42 will be modified by provisions in Finance Bill 2011.

Summary of impacts

Exchequer impact	This measure is expected to have a small or negligible impact on receipts and will be confirmed at the Budget.
Economic impact	This measure is not expected to have significant economic impacts.
Impact on individuals and households	CCL is not chargeable on supplies to individuals and households, so they will experience no direct impact as a result of the removal of the exemption.
Equalities impacts	The proposed changes will affect businesses and other organisations in Northern Ireland that will have to pay CCL. There will be no direct impact on individuals. As such, we expect that there will be no different impact on different equality groups.
Impact on business including third sector	A small number of Northern Ireland gas utilities may be required to register for CCL and amend their accounting systems to account for CCL on their gas supplies. Around 11,000 businesses, including some charities, will incur CCL on their gas consumption. Some gas consumers may be eligible to claim other CCL reliefs. Over the period up to and including implementation of the full rate of CCL on gas in Northern Ireland on 1 November 2013, the total compliance and administration costs will be negligible.
Impact on public sector	HMRC will need to process new CCL registrations and supplier certificates, deal with taxpayer queries and amend

	<p>published guidance. These costs are estimated to be negligible and would be part of the existing operational cost of administering the levy.</p> <p>HMRC will incur continuing compliance costs, ensuring the correct amount of CCL is paid on taxable supplies of natural gas in Northern Ireland and ensuring that relief recipients apply the appropriate relief rate correctly and inform their energy suppliers of any changes to their relief entitlement, as appropriate.</p>
<p>Other impacts</p>	<p><u>Carbon Assessment</u></p> <p>Small benefits may come from reduced carbon emissions through energy efficiencies and environmental benefits of CCL. However, the ending of all CCL relief targeted on supplies of gas from 1 November 2013 may discourage expansion of the gas network in Northern Ireland and lead to switching to other fuels.</p> <p><u>Competition Assessment</u></p> <p>The option for change should not have any adverse impacts upon competition as it is not expected to:</p> <ul style="list-style-type: none"> • directly limit the number or range of suppliers; • indirectly limit the number or range of suppliers; • limit the ability of suppliers to compete; or • limit suppliers' incentives to compete vigorously. <p><u>Small Firms' Impact Test</u></p> <p>Some small businesses may be affected by the proposals in so far as the transitional compliance costs might represent a slightly higher burden relative to larger businesses as a percentage of their fixed operating costs. However, arrangements for the smaller businesses should be less complex than those of larger businesses. This should mean that less time is spent on the transitional compliance burdens and therefore they would not be expected to incur any material disadvantage implementing this change relative to larger businesses.</p>

Monitoring and evaluation

The policy will be kept under review through regular communication with taxpayer groups affected by the measure.

Further advice

If you have any questions about this change, please contact the Excise and Customs Helpline on 0845 010 9000.