Khalid Aly
Energy & Transport Tax
1 Yellow 1 Horse Guards Road
HM Treasury
SW1A 2HQ

By email: businessenergyefficiencyreview@hmtreasury.gsi.gov.uk

9 November 2015

Dear Sirs,

Re: BVCA response to HM Treasury's consultation on reforming the business energy efficiency tax landscape

The British Private Equity and Venture Capital Association ("BVCA") is the industry body and public policy advocate for the private equity and venture capital industry in the UK. With a membership of over 500 firms, the BVCA represents the vast majority of all UK based private equity and venture capital firms, as well as their professional advisers.

Our members have invested more than £30 billion in over 3,900 UK-based companies over the last five years. Companies backed by private equity and venture capital in the UK employ around 490,000 people and almost 90% of UK investments in 2014 were directed at small and medium-sized businesses. As major investors in private companies, and some public companies, our members have an interest in reporting matters, the conduct and information presented by such companies, and the burdens placed on the management of such companies.

In principle, we welcome proposals to simplify the existing business energy efficiency tax landscape, especially in the way that they affect the British venture capital and private equity community. As some of the current schemes operate, they have complicated, arbitrary and unfair consequences on SMEs into which our members have invested. Schemes such as the CRC have also created a substantial and, in our view, disproportionate administrative burden for venture capital and private equity firms themselves, owing to the complexity of the qualification criteria and registration process when applied to private fund structures.

In our view, the most significant simplification any new single tax and reporting system could make would be to treat companies (or operating groups) held as part of a portfolio for investment purposes on a company-by-company basis and not require them to be aggregated with each other or the investing fund. This would substantially simplify the administrative burdens associated with participating in the scheme and would avoid prejudicing SMEs who are financed with equity funding when compared to those with other types of funding, such as bank debt. In this regard we acknowledge that, when considering the SME tests under one of the schemes, ESOS, the originating EU law, the Energy Efficiency Directive, recommends that 'linked' enterprises may need to be considered together (albeit the Commission's recommendation is a narrower concept than the one implemented in UK's ESOS regime). We have previously discussed with Government ways in which this could be achieved, without opening the door to abuse and giving corporate groups opportunities to avoid the rules, and we would welcome an opportunity to discuss those with you again. We are confident that the policy goals of the legislation can be achieved without putting unnecessary and unintended burdens on the small businesses into which private equity firms invest.

Given the interest of our members in this consultation, we would very much like to participate in the stakeholder working groups.

As the proposals are not yet fully explained in the consultation document, we would expect to have further comments once more details become available, but in the meantime we have answered the consultation questions below.

1. Do you agree with the principle of moving away from the current system of overlapping policies towards a system where a single business/organisation faces one tax and one reporting scheme? Please provide evidence on level and types of benefits of an approach like this.

We agree with the principle of a single tax and reporting scheme, but await further details before making specific comments. We believe that designing a system that not only retains the energy efficiency incentivisation and revenue raising elements of all the existing policies, but is also simple, is likely to be very challenging, but we believe that it is a worthwhile goal. If the Government proceeds with these proposals, it will also be important to minimise the complexity and administrative burden associated with transitioning from the existing schemes into the new scheme.

2. Do you agree that mandatory reporting should remain as an important element of the landscape in driving the uptake of low carbon and energy efficiency measures? If not, why not?

We believe that any mandatory reporting scheme should not go further than the existing schemes that require mandatory reporting (i.e. Companies Act (for listed companies), CRC and ESOS).

3. Should such reports require board level sign-off and should reported data be made publicly available? Please give your reasons.

We do not feel qualified to answer this question.

4. Do you agree that government should develop a single reporting scheme requiring all ESOS participants (and potentially the public sector (see paragraphs 4.21 - 4.23) to report regularly at board level? If so, what data should be included in such a report?

Any reporting scheme should not extend beyond ESOS participants in the private sector, and data should not extend beyond data required by ESOS.

5. The government recognises the importance of ensuring market actors have access to transparent, reliable and comparable information to support financing and investment in energy efficiency and low carbon measures. How best can a streamlined report achieve this? To what extent does your response apply to other large companies (as defined in the Companies Act) that are not listed companies?

Any streamlined report should not require data beyond that required by ESOS.

6. Do you agree that moving to a single tax would simplify the tax system for business? Should we abolish the CRC and move towards a new tax based on the CCL? Please give reasons.

Yes, in principle, but any new tax needs to be simple. CRC is too complex.

7. How should a single tax be designed to improve its effectiveness in incentivising energy efficiency and carbon reduction?

We do not feel qualified to answer this question.

8. Should all participants pay the same rates (before any incentives/reliefs are applied) or should the rates vary across different businesses? For example, do you think that smaller consumers and at risk Energy Intensive Industries (EIIs) should pay lower rates?

This is where any new single tax risks getting over-complicated. One option would be to structure a new tax in a similar way to income tax, with a tax-free allowance for small consumers and increasing rates for larger consumers. However, the Climate Change Agreements scheme for energy intensive industries should be maintained, so that parties to those agreements who meet their targets can pay discounted rates (see Q10-Q12 below).

9. Do we currently have the right balance between gas and electricity tax rates? What are the implications of rebalancing the tax rate ratio between electricity and gas? What is the right ratio between gas and electricity rates?

We do not feel qualified to answer this question.

10. Do you believe that the CCA scheme (or any new scheme giving a discount on the CCL or on any new tax based on the model of the CCL) eligibility should only focus on industries needing protection from competitive disadvantage? If so, how should government determine which sectors are in need of protection?

If the Government wants to incentivise businesses to become more energy efficient and reduce their carbon emissions, then CCAs and/or some form of incentive should be available to all sectors. By only some sectors benefitting from incentives or exclusions, it may result in increased and disproportionate burden on others.

11. Do you believe that the CCA scheme (or new scheme) eligibility should focus only on providing protection to those EIIs exposed to international competition and at risk of carbon leakage? If so, how should the government assess which CCA sectors are at risk of carbon leakage?

See response to Q10.

12. Do you believe that the targets set by the current CCA scheme are effective at incentivising energy efficiency? Do you believe that the current CCA scheme is at least as effective, or more effective, at incentivising energy efficiency than if participants paid the full current rates of CCL? How could CCAs be improved? Are there alternative mechanisms that may be more effective?

We do not feel qualified to answer this question.

13. Do you believe that incentives could help drive additional investment in energy efficiency and carbon reduction? Please explain your reasons.

Yes – we understand that schemes such as the Renewables Obligation (RO), Feed-in Tariffs (FITs) and Renewable Heat Incentive (RHI) boosted investment before they were cut or abolished. CRC/ESOS has, to date, not positively accounted for renewable energy supplies – with the current renewable incentive packages being cut back, some form of acknowledgement (tax relief for example) should be considered.

14. What is the best mechanism to deliver incentives for investment in energy efficiency and carbon reduction (e.g. tax reliefs, supplier obligations, grants, funding based on competitive bidding)? Are different approaches needed for different types of business? If so, which approaches work for which business types? What approaches should be avoided?

Given that Government support for schemes such as the RO, FITs and RHI is unlikely, tax reliefs seem the most attractive incentives.

15. What impact would moving to a single tax have on the public sector and charities?

This relates to the public sector only, and we do not feel qualified to comment.

16. How should the merged tax be designed to improve its effectiveness in driving energy and carbon savings from the public sector and charities?

This relates to the public sector only, and we do not feel qualified to comment.

17. Should a new reporting framework also require reporting by the public sector?

This relates to the public sector only, and we do not feel qualified to comment.

Please feel free to contact Gurpreet Manku at the BVCA if you have any queries on this response.

Yours faithfully

Simon Witney
Chairman, BVCA Legal & Technical Committee