Consultation Document

Draft Finance Bill 2013

Response from:

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Response to HM Treasury

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Overview

The BVRLA welcomes the opportunity to comment on the details of the draft Finance Bill 2013. We wish to put forward a number of suggested amendments to the draft Bill which we believe will strengthen the following Government policy objectives: -

- **Environmental** - support the take up of Low Emission Cars (LECs) in the UK;
- **Growth** - help stimulate and support economic growth and;
- **Employment** – support and grow employment in the UK

Low Emission Cars – First Year Allowance (FYA)

We welcome the Government's announcement to extend the availability of First Year Allowances (FYAs) until 2015 for Low Emission Cars (LEC) and that we fully understand the reasons why the threshold for LECs has been reduced from 110 g/km to 95 g/km.

However, we remain concerned with the negative environmental impact the announcement to exclude rental and leasing firms from being eligible to claim the FYAs from 1 April 2013 will have. Our members purchase c.69% of all vehicles bought in the UK which emit less than 110 g/km CO2 by removing the FYAs the Government is putting this mix under serious threat with the likelihood that customers will choose higher emitting models at lower operating costs.

We understand that HM Treasury (HMT) has concerns with FYAs being claimed by a UK registered leasing firms and that these firms could potentially pass through the benefits of the FYAs to customers based outside the UK.

We also understand that HMT has little or no evidence to support its hypothetical concerns that this so called 'cross border leasing' activity is actually taking place today or has taken place in the past when the FYAs for LECs were available to UK leasing and rental companies.

In absence of any evidence to support or even substantiate the policy to exclude leased cars, HMT officials have informed the BVRLA that the announcement to remove FYAs from leased cars has largely been taken out of fear that this cross border leasing threat may occur in the future and that necessary arrangements will have to be in place to help protect the Exchequer. HMT has also advised that this approach brings FYAs for LECs in line with other FYAs for capital expenditure on green equipment.

While we understand the basis of this perceived threat, we feel that Ministers should balance the need to protect the Exchequer against the wider negative impact of removing FYAs for leased cars will have on the Government's environmental objective. The Government should also not ignore the direct economic impact excluding FYAs from leased cars will have on the Government's growth and jobs agenda.

To help ensure that the purchase and use of LECs in the UK is not adversely impacted as we envisage, we have put forward a number of possible solutions which we believe will help HMT deliver a fair and balanced tax policy.

We also hope that these practical and transparent measures will not only help to protect the Exchequer from the concerns over the benefits of FYA flowing outside the UK, but will help to support the Government's wider environmental objectives.

- ## Leasing – Supporting Business Case for LECs

Despite taking into consideration all the current incentives available for LECs, the Total Cost of Ownership (TCO) model shows that LECs are significantly more expensive to own and operate from both a UK business and private ownership perspective. However, UK leasing and rental firms have made these vehicles financially viable for UK customers and as such are a significant contributor to the current low take up of LECs, with around 69% of all LECs being purchased by our members.

If FYAs were to be removed from leased cars as currently being planned, then we believe this would swing the economic and financial benefits for LECs away from most UK customers.

Making LECs less attractive would appear to be contrary to the wider Government policy on supporting LECs, as expressed by the Department for Transport in their response to the House of Commons Transport Select Committee Inquiry into 'Plug-in vehicles, plugged in policy?' where the Government states:

"*it remains wholly committed to the policy of encouraging the early market for plug-in vehicles", as part of a long-term strategic benefit to the UK. Government will continue to promote the UK as a key market and provide support through grants until at least 2015"*.

- **Price Premium for LECs**

The primary barrier to the take up of LECs is currently the price premium which is placed on this type of greener technology by motor manufacturers. Some business and private customers are prepared to pay a small premium to operate LEC. This price premium is typically 10% and up to 15% maximum and if the FYA were to be removed then we believe these parameters will be further widened to the point LECs are no longer a financially viable option.

Put it simply, removing FYAs from leased cars will have the effect of pushing fleet customers away from the lower emitting options towards the less advanced, higher polluting and lower cost alternative models.

To illustrate this point we have chosen the Vauxhall Corsa which in 2012 was the second most popular new car purchased in the UK. The typical fleet specification (Exclusiv) model is available in three variants:-

a) 1.4 litre petrol emitting 129g/km;
b) 1.3 diesel emitting 110g/km; and
c) 1.3 litre diesel (95) emitting 94g/km.

Vehicle Model	CO_2 emissions	List Price	Residual Value	Monthly Rental including FYAs	Monthly Rental removal of FYAs
Corsa 1.3cdti 95 Exclusiv	94 g/km	£15,355	£4,368	£343	£358 Increase 4.4%
Corsa 1.3cdti 110 Exclusiv	110 g/km	£14,075	£3.933	£319	£333 Increase 4.4%
Corsa 1.4 petrol Exclusiv	129 g/km	£13,015	£3,491	£305	£305

Vehicle Model	3 Year Lease Cost Including FYAs	% Difference to Petrol version	3 Year Lease Cost Removal of FYAs	% Difference to Petrol Model
Corsa 1.3cdti 95 Exclusiv	£12,348	12.5%	£12,888	17.4%
Corsa 1.3cdti 110 Exclusiv	£11,484	4.6%	£11,988	9.1%
Corsa 1.4 petrol Exclusiv	£10,980		£10,980	

The above tables help to demonstrate how the current availability of FYAs has helped to ensure that the lowest emitting model is just within the tolerance of the price premium that some fleets and private customers are prepared to pay, namely this being 12.5% more expensive to lease than the cheapest in the model range. With the "mid emitting" model being well within range and is currently the most popular vehicle model choice.

If the FYAs were no longer available to leased cars, then the lowest emitting model would fall outside the maximum price tolerance of premium with the mid emitting model moving into the boundaries of a price premium that will only be acceptable to a small number of customers.

Following detailed consultation with a number of fleet policy experts within the corporate fleet sector, they are now firmly of the opinion that if FYAs were no longer available to leased cars then it will directly result in the lowest emitting model being excluded from most corporate vehicle fleet policies. The lowest emitting models would be substitute for mid-emitting vehicle models in most cases.

After adjusting for fuel saving benefits based on 7,000 business miles per annum, the LECs price premium reduces as outlined in the table below:

	Adjusted Cost Premium Over Petrol Model – incl FYAs	**Adjusted Cost Premium Over Lowest Emitting Model – incl FYAs**	**Adjusted Cost Premium Over Petrol Model – excl FYAs**	**Adjusted Premium Over Lowest emitting model – excl FYAs**
1.3cdti 95	8.6%	N/A	13.7%	N/A
1.3cdti 110	1.0%	7.3%	5.6%	8.5%

It is therefore clear that even after adjusting for fuel saving benefits, the lowest emitting model is outside the price premium range that the majority of corporate fleets would be prepared to accept. As a consequence their fleet vehicle policy choices are likely to default to the petrol variants as the lowest cost with some fleets accepting the additional cost of operating the 110g/km model instead of the lower emitting 95g/km model.

However, if FYAs were left in place for leased cars then the price premium for the lowest emitting model reduces to below the 10% threshold and will allow the vehicle to be included in many more corporate fleet lists.

We hope this helps to demonstrate the negative impact of removing leased cars from FYA and we therefore would request that HMT reviews its policy goals, by reversing its decision to exclude leased cars from FYAs.

- **Anti-Avoidance Rules**

We have attempted to gain an understanding of the reasons behind this move from HMT officials and acknowledge HMT's concerns in relation to the potential for cross border leakage of FYAs on LECs.

However, we firmly believe that this (currently) hypothetical threat could be overcome by the introduction of some well thought out anti-avoidance measures and the BVRLA would be willing to work with departmental officials to ensure that any measures proposed would be robust, practical to apply and simple to audit.

For example, under VAT laws, there are "*use and enjoyment"* provisions which help to establish the country in which VAT is payable. We wondered whether HMT could extend this concept so that it was applicable to FYAs to ensure that the allowances could only benefit the taxpayer if they could demonstrate and establish that the "use and enjoyment" of the LEC was solely in the UK.

In addition, to the use and enjoyment provision, we would also suggest that the policy concern could be addressed by reviewing the expenditure rules of section 5 of the Capital Allowances Act 2001, so that expenditure incurred can only be applicable to LECs that are registered in the UK, for example, a copy of the Vehicle Registration Document (V5) as issued by the DVLA, could help ensure that the FYAs were not passed through to vehicles that were registered for permanent use outside the UK. There are currently EU rules in place which do not permit permanent use of vehicles outside the country of registration.

Should these rules prove to be in any way contravening rules relating to EU discrimination, then we would also suggest that section 5 of the CAA 2001 is adapted so that the expenditure incurred is only available for Right Hand Drive models as this will address concerns that the FYA will be used by customers outside the UK, majority of whom, will only want cars that are Left-Hand Drive, both from a safety and operational perspective.

- **Benefits of Leasing to SMEs and UK Economy**

To help support our call and recognition of the role leasing and rental play in supporting the UK economy and SMEs, the BVRLA commissioned research by Oxford Economics to help provide HMT with an independent and objective research.

Part of the research consisted of a survey of BVRLA members; one of the key findings of this survey was that two-thirds of our member's customers were SME businesses.

Work carried out by Oxford Economics on leasing in Europe in 2010[1] found that SMEs used leasing to finance a greater portion of their investment than larger business. The research found that though SMEs lease an extremely broad range of assets, vehicles are the most frequently leased asset type.

[1] Oxford Economics, November 2011

Importantly, European SMEs which use leasing were found to invest 57% more on average than non-users and this general trend held true across almost all industry sectors. The report suggested that small lessees may invest more than non-users because they are taking advantage of the few external financing options available to firms of that size.

The analysis also showed that leasing is one of the funding sources that new firms are able to turn to most quickly. The take-up of leasing increases from 26% for SMEs less than 2 years old to 50% for SMEs aged between 2 and 5 years, whereas the use of bank loans (of a term over 3 years) increases more gradually, from 29% to 38% for these age groups.

Therefore by not allowing leasing companies the benefit of the 100% first year allowances the government is also denying SME businesses access to the allowances.

Capital Allowances – Transitional Arrangements

While we understand the need to lower the CO_2 Capital Allowances bands from 160 g/km to 130 g/km, namely to encourage the take up and use of greener cars, we feel that careful consideration should be given to the date the new CO_2 rates are applicable to Lease Rental Restriction (LRR) when it comes into force.

While we fully appreciate that these planned changes were signalled in the Budget 2012, as we have indicated, the final details of the CO2 bandings were not made available until the draft Finance Bill 2013 was published in December 2012. As drafted, the Bill will impact customers ordering leased cars before 1 April 2013. This arises are a result of the long lead in times for certain greener cars, and therefore a car ordered may not be delivered to the customer until sometime after 1 April 2013.

The above tax policy would therefore penalise customers who ordered 'green cars' as defined under current tax rules, but due to a long delivery time, may find that the car will as a direct result of planned LRR changes, will be treated as a 'high polluting' car if it is delivered after 1 April 2013. This regrettably would not send a clear and well understood signal to the market, and is plainly unfair to the tax payers

For example, a business customer who orders a leased car emitting 135 g/km in February 2013, but due to long lead in times the car was not delivered until after 1 April 2013 – they would be subject to 15% Lease Rental Restriction disallowance on the finance element of the rental payments for the duration of the full lease term. Data from our members has shown that the average lead time for a vehicle is currently around 100 days, although this could fluctuate.

To help avoid this inequity from arising, we would suggest that similar transitional arrangements that were implemented in 2009, when the CO_2 based capital allowances for cars was first introduced, are reapplied. The transitional rules were in Section 27, Schedule 11 of the Finance Act 2009.[2] Bringing such transitional arrangements would help to remove the penal and unfair nature on business customers ordering leased cars emitting less than 160 g/km before 1 April 2013 and delivered before 31 July 2013.

We would therefore urge HMT to consider our calls for the draft Bill to be amended to cater for the transitional rules suggested as it will remove any unintended impact and market distortion.

[2] Finance Act 2009

Lease Rental Restriction (LRR)

Notwithstanding the importance for clear transitional rules for LRR, we wish to question the justification and reasons as to why HMT insists on applying the LRR which is now proven to be nothing other than a double emission tax, applying only to one method of financing.

We note that this historical policy measure was introduced to protect the Exchequer against UK customers leasing high polluting cars from overseas. Not only does such activity not exist in the UK, but HMT officials have not been able to establish evidence of this perceived risk from arising in the UK. We therefore wish to challenge the unfair and unjustified application of this tax disallowance on UK businesses and its discriminatory nature to leasing as a source of finance to UK firms.

The continuation of any tax discrimination towards a single source of funding method not only perpetuates the historical discrimination, produces a double emission tax, thus making this tax wholly inequitable.

As part of the Office of Tax Simplification agenda, we believe there is now a wider principle of the administrative tax burden the LRR imposing on back office corporation tax computations.

Rather than delivering an overarching principle of simplification, the LRR imposes an additional tax and compliance burden, and could create a behavioural change whereby leasing will not be attractive for the high polluting cars. As such customers may easily switch to Hire Purchase or Outright Purchase thereby escaping the additional unfairness of this emission based tax.

CO_2 Five Year Rolling Bands - Stability, Certainty and Clarity

The Company Car Tax (CCT) CO_2 banding has helped to establish the benefits of a stable, well signalled, and clear CO_2 tax bands for the next five tax years. This forward looking tax structure has helped to create certainty and stability to both taxpayers and the Exchequer.

As HMT will be fully aware, the average CO_2 of new cars is expected to fall year on year. The cliff edges will arise as a consequence of the CO_2 Capital Allowance tax bands having to change in the future, especially as HMT attempts to play catch up by announcing CO_2 reductions in the Capital Allowances rates. To help avoid this tax cliff edge from arising we would urge HMT to consider introducing a five year rolling tax structure to help deliver similar policy benefits being enjoyed under the CCT framework.

We have, for illustrative purpose only, provided a concept of such a table which HMT officials may wish to review and adopt the principles behind our proposals:-

Tax Year	2013/14	2014/15	2015/16	2016/17	2017/18
General Plant & Machinery Capital Allowances	130 g/km CO_2 or below	125 g/km CO_2 or below	120 g/km CO_2 or below	115 g/km CO_2 or below	110 g/km CO_2 or below
Special Capital Allowances	131 g/km CO_2 or above	126 g/km CO_2 or above	121 g/km CO_2 or above	116 g/km CO_2 or above	111 g/km CO_2 or above

Annual Investment Allowances

We note that the Annual Investment Allowance (AIA), which enables companies to offset investment in plant and machinery against their tax bill, will now be available on a total of £250,000 in any financial year, for two years, for all qualifying investments made on or after 1 January 2013.

We understand that the reasons for increasing the total allowance available is largely targeted at helping to stimulate growth by encouraging UK firms to purchase and invest in new capital equipment. For our sector, the scope of the AIA will typically be applicable to commercial vehicles as motor cars are excluded from AIA.

In a credit constrained environment whereby UK businesses remain uncertain about future economic prosperity, we do not believe the proposal to increase AIA will be sufficiently effective to stimulate the growth agenda in the commercial motor vehicle sector. It is also important to note that the new commercial vehicle registration have been down by 5.9% in 2012 according to SMMT’s published data, so any proposal to stimulate this market must be considered as part of the wider growth and jobs agenda.

SMEs and all larger businesses using or considering using leasing as a source of funding their enterprise will not directly benefit from their full AIA available. We would therefore suggest that the eligible businesses are permitted to make an election so that their nominated leasing provider is able to use the AIA when purchasing the commercial vehicle that is to be leased to that customer.

In doing so will help the leasing provider to pass the benefits of the AIA through lower rental payments. This approach would also help less profitable businesses who would not otherwise be able to usefully use all their AIA allocation.

We also believe that this approach will not only help stimulate growth, but will allow cash-strapped businesses to use working capital to help invest in the day-to-day operation of the businesses and not to tie up valuable cash in general business assets.

Closing Comments

We welcome the opportunity to continue our constructive dialogue on the implementation of the business car taxation changes. We hope that our amendments can be included in the draft Finance Bill to help level the playing field for the different forms of funding vehicles.

Leasing Members

In general, vehicle leasing is an arrangement where the user simply hires the use of the vehicle and assumes operational responsibility for a predetermined period and mileage at fixed monthly rental from the owner (the leasing company). Legal ownership is, in the majority of cases, retained by the leasing company.

Short Term Rental Members

Rental members offer hourly, daily, weekly and monthly rental of vehicles to corporate customers and consumers. As explained above, rental members are the owners of the vehicle.

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Bona-fides **BVRLA, the industry and its members**

- The BVRLA is the trade body for companies engaged in the leasing and rental of cars and commercial vehicles. Its members provide rental, leasing and fleet management services to corporate users and consumers. They operate a combined fleet of 2.75 million cars, vans and trucks, buying nearly half of all new vehicles sold in the UK.

- In 2011, the vehicle leasing and rental sector made a direct value-added contribution of £8.3 billion to the UK economy, and employed almost 38,000 people.

- In total, the full-service vehicle leasing and rental sector contributed over £11 billion to UK GDP in 2011, equivalent to almost 1% of the economy. The sector supported 116,000 jobs – similar to the number of people employed in Portsmouth – with every job in the sector supporting a further two jobs elsewhere in the economy. The sector's activities contributed over £1.7 billion in tax receipts for the Exchequer.

- Through its members and their customers, the BVRLA represents the interests of more than two million business car drivers and the millions of people who use a rental vehicle each year. As well as lobbying the Government on key issues affecting the sector, the BVRLA regulates the industry through a mandatory code of conduct. www.bvrla.co.uk