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# Chapter 1

## Introduction

*“The Government is committed to providing the most competitive corporate tax system in the G20, in order to support strong and sustainable growth.”<sup>1</sup>*

HMRC and HM Treasury

*“In developing a new vision and direction for EU policy, we need to recognise that conserving energy, natural resources and raw materials, using them more efficiently and increasing productivity will be the key drivers of the future competitiveness of our industry and our economies.”<sup>2</sup>*

European Commission

### 1.1. Overview

Article 3(3) of the Treaty on European Union (TEU) mandates the promotion of competitiveness and sustainable development.<sup>3</sup> The European Commission and European Council heavily endorse this mandate; in particular through the latest 10-year growth strategy for Europe – Europe 2020 – and the more established EU Sustainable Development Strategy. Acknowledging the difficulties surrounding the meaning, and therefore application, of competitiveness and sustainable development in a policy context, and given that the concepts share substantial common ground, this book argues that increased resource productivity is a necessary condition for improvements in both competitiveness and sustainable development. Moreover, it argues that the UK corporation tax is an appropriate legal instrument with which to promote increased resource productivity and, by extension, competitiveness and sustainable development.

Resource productivity is defined as the money value of outputs relative to the money value of material resource and non-renewable energy inputs. Resource productivity, understood in these terms, concerns minimizing the cost of resource-based inputs, as well as maximizing the value of all outputs. Focusing on the value of outputs relative to a subset of inputs provides an

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1. HMRC and HM Treasury, *Consultation on the Patent Box* (June 2011, PU1151) at para. 1.1.

2. European Commission Working Document, *Consultation on the Future “EU 2020” Strategy* (Brussels, 24.11.2009, COM(2009)647 final) at p. 3.

3. Article 3 of the TEU is reproduced in its entirety in appendix B.

opportunity to co-opt the corporation into promoting competitiveness and sustainable development. Such an approach has the benefit of not only complying with the European legal mandate but also has the practical benefit of helping to promote sustainable economic growth (or “greener growth”) across the European Union and, a priori, for the United Kingdom.

This book argues that the UK government should consider introducing into the UK corporation tax something along the lines of the proposed Resource Productivity Tax Credit (RPTC). The objective of the RPTC is to reward individual companies, with trading activities in selected sectors, for any significant improvements in profitability derived from increased resource productivity. The proposed operational mechanics of the RPTC are explored in chapter 5 and are summarized in sections 1.6. and 5.10.

### 1.2. Structure

There is a glossary in appendix A that defines many of the terms used throughout this work. The terms are defined in accordance with how they are used in the book. This is an important qualification because it is not unusual to find a range of different definitions, sometimes seemingly at odds with each other, in the literature.

Articles 2 and 3 of the TEU are reproduced, in their entirety, in appendix B. These two articles arguably constitute the mission statement of the European Union, a proposition that is supported both by the teleological approach to interpretation adopted by the European Court of Justice (ECJ) and the idea that the principles established in the early articles of the Treaties take precedence over later provisions – the so-called hierarchy of Treaty norms.<sup>4</sup>

The remaining chapters of this book are as follows. Chapter 2 argues that competitiveness and sustainable development are regulatory objectives mandated by primary EU legislation. It examines what is meant by sustainable development and competitiveness in the context of the European Union and argues that promoting increased resource productivity at the level of the individual company can further both objectives. It shows that the Europe 2020 Strategy also seeks to combine competitiveness and sustainable development, and that it contemplates using tax policy and tax incentives to promote its objectives.

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4. See section 2.2.

Chapter 3 argues that three important EU tax policies do not appear to support increased resource productivity, despite high-level rhetoric concerning their role in promoting sustainable development and competitiveness. It also argues that the corporation tax is an appropriate legal instrument for promoting regulatory objectives generally and increased resource productivity specifically.

Chapter 4 argues that the current configuration of the corporation tax does too little to promote increased resource productivity. Five important elements of the corporation tax are selected for analysis: the trading income rules, research and development (R&D) tax relief, capital allowances for plant and machinery, debt interest deductibility and trade loss relief.

Chapter 5 argues for the introduction of the RPTC, on the basis of the arguments in the preceding chapters. It examines the objectives of this new idea for a statutory tax incentive and explores how it might work in practice.

Chapter 6 concludes the book and focuses on the potential strengths and weaknesses of the RPTC.

The remainder of this chapter gives a more complete summary of the arguments that appear in chapters 2 to 6. Each chapter is summarized individually and is headed with the corresponding chapter number and title.

### **1.3. Chapter two outline: Sustainable development and competitiveness**

Article 3(3) of the TEU provides that the European Union shall work for the sustainable development of Europe based on, inter alia, a highly competitive market economy. Thus, article 3(3) contains a legal mandate to promote sustainable development and competitiveness. This mandate is at the heart of both the EU Sustainable Development Strategy (SDS) and the Europe 2020 Strategy for smart, sustainable and inclusive growth. The perceived need for two strategies and a legal mandate to promote competitiveness and sustainable development is probably evidence enough that neither objective is considered to be an inevitable outcome of a free-market (or *laissez-faire*) economy. Competitiveness and sustainable development are both viewed as desirable objectives to be brought about through regulation.<sup>5</sup>

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5. The term “regulation” is used in this work to refer to any action of or rule imposed by a government body that constrains behaviour. *See further* n. 278 *infra*.

Of the two objectives, sustainable development is arguably the overarching objective with regard to the establishment and development of the European Union. In the context of the European Union, sustainable development is defined as meeting the needs of present generations without jeopardizing the ability of future generations to meet their own needs. Accordingly, sustainable development is a very broad concept. It has a number of diverse policy strands covering the social, economic and environmental aspects of human progress.

In December 2009, the European Council identified the loss of natural resources as one of four unsustainable trends requiring urgent action. Arguably, the only way to help halt this trend in a way that is in keeping with maintaining economic growth is through promoting increased resource productivity. Although there are a number of ways of conceptualizing increased resource productivity, for the purposes of this work, it is defined as a positive change in the money value of outputs relative to the money value of material resource and non-renewable energy inputs.<sup>6</sup> The focus of improving resource productivity understood in these terms is on minimizing material resource-based input costs and maximizing output values. At least two strands of EU sustainable development policy, namely Boosting Resource Efficiency and the Raw Materials Initiative, stress the need to improve resource efficiency, which is defined by this work as using fewer materials resources, embedded or otherwise, to produce the same or better output. It is submitted that resource productivity and resource efficiency are broadly equivalent concepts.

Competitiveness, although not an overarching objective, is nonetheless a key objective of the European Union. In an EU context, competitiveness is broadly defined as the institutional and policy arrangements that create the conditions under which productivity can grow sustainably. Hence, at the heart of this understanding of competitiveness lies sustainable productivity. It is argued that the only means by which productivity can grow sustainably involves the better or more efficient use of material resources. This idea is certainly in keeping with the assertion of modern growth theory that the long-term growth of advanced economies will be primarily determined by knowledge, innovation and ideas.<sup>7</sup> Given the rawness of material resources, it is knowledge that directs their combination to produce goods and services of value. It is the extent to which the knowledge directed at combining material resources improves, that will ultimately dictate the level of future

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6. Non-renewable energy is derived from material resources. As such, any reference to “material resources” or “resources” should be read as including non-renewable energy.

7. Hereinafter “knowledge” should be taken to encompass innovation and ideas.

prosperity. The productivity improvements derived from the application of this enhanced knowledge, at the level of the individual company, go to the heart of what is meant by increased resource productivity in this work.

Increased resource productivity is held out as a necessary condition for both sustainable development and competitiveness. The literature accepts that increased resource productivity correlates positively with competitiveness and is a necessary condition for sustainable development. The idea of combining sustainable development and competitiveness is embodied by the Europe 2020 Strategy for smart, sustainable and inclusive growth, which seeks to combine these objectives under a single policy framework. Europe 2020 contemplates tax policy and tax incentives to help reach its strategic goals, identified under its seven “flagship initiatives”. Three of these flagship initiatives are of direct relevance to resource productivity: Resource Efficient Europe, under which economic growth is decoupled from resource use, and energy efficiency promoted; Innovation Union, under which innovative ideas are turned into products and services that create growth; and the Industrial Policy for the Globalisation Era, under which the business environment is improved, and a strong, sustainable and globally competitive industrial base developed. Each of these initiatives is open to all sectors of the economy and, as such, allows for the promotion of resource productivity in whichever sector the implementing Member State may choose.

With regard to Europe 2020 generally, the European Commission has made it clear that it is about reducing the pressure on resources and delivering high levels of productivity. Moreover, the European Commissioner, José Manuel Barroso, has made it quite clear that Europe 2020 is about European competitiveness.

#### **1.4. Chapter three outline: Corporate tax objectives**

This chapter makes three main arguments. The first argument is that despite high-level rhetoric about incorporating sustainable development and competitiveness into three EU tax policies – coordination, the elimination of cross-border tax obstacles and the fight against harmful tax competition – these policies do not appear to promote increased resource productivity. The second argument is that the UK corporation tax is generally well suited to promoting additional regulatory objectives. The third argument is that the corporation tax is specifically well suited to promoting increased resource productivity.

*The first argument.* The European Commission, through the Directorate-General for Taxation and the Customs Union (DG Tax), makes it clear that one of its aims is to encourage changes to the tax systems of Member States so that they support competitiveness and sustainable development. The three broad tax policy initiatives that appear from the rhetoric to be the target for these changes are coordination, the elimination of tax obstacles to all forms of cross-border economic activity and fighting against harmful tax competition. However, an analysis of these three policy initiatives reveals little evidence that any of them, as they are currently formulated, seek to promote increased resource productivity.

*The second argument.* At a general level, the corporation tax is a flexible, cost effective and administratively efficient regulatory instrument. It has no clear underlying principles, overarching policy objective or economic justification. This means that the corporation tax is agnostic when it comes to fulfilling a regulatory function. Moreover, the lack of an overarching policy objective means that the corporation tax is amenable to as many policy objectives as are compatible with each other. Nor is it at all clear that the corporation tax is the right kind of policy instrument for a redistributive objective. On these grounds, it is argued that the corporation tax is suited to regulatory objectives.

*The third argument.* As previously mentioned, resource productivity is thought to be a necessary condition for both sustainable development and competitiveness. The corporation tax is an appropriate legal instrument and suitable policy instrument for promoting increased resource productivity because it is a price-based market instrument. As such, it is well placed to affect the prices of resource-based inputs while leaving knowledge-based inputs and labour unaffected.

### **1.5. Chapter four outline: Five elements of the corporation tax**

Having established that EU initiatives fail to adequately promote competitiveness and sustainable development and that the corporation tax is an appropriate legal instrument to incentivize improvements in resource productivity, chapter 4 considers the extent to which the corporation tax, as currently configured, promotes increased resource productivity. Rather than attempting an analysis of the whole gamut of corporation tax, this chapter analyses how five important elements fail to promote resource productivity. The five elements selected are the trading income rules, R&D tax relief,

capital allowances for plant and machinery, debt interest deductibility and trade loss relief.

These five elements were specifically selected for the following reasons. The rules on trading income: (i) are the most important schedule and constitute the sine qua non of a charge to corporation tax; and (ii) concern the main productive activities of companies. R&D tax relief and capital allowances for plant and machinery are statutory tax incentives that both evidence at least some drive towards promoting increased resource productivity. Debt interest deductibility and trade loss relief have the effect of incentivizing outcomes that are arguably inconsistent with increased resource productivity.

*Trading income.* Section 4.2. argues that the trading income rules fail to promote or support increased resource productivity. It begins by identifying the main rules and principles of the trading income regime. It then marshals separate but ultimately interrelated arguments as to why the trading income rules might be considered not to promote or otherwise support increased resource productivity. These arguments are labelled the generic trade argument, the efficiency argument, the inputs argument and the economic rent argument.

*R&D tax relief.* Section 4.3. proposes that the current regime for R&D tax relief is limited in its ability to promote increased resource productivity. Three main arguments are adduced to support this proposition. First, it is argued that while the generation of new scientific knowledge would appear to be a necessary condition for R&D tax relief, new scientific knowledge is not a necessary condition for increased resource productivity. Second, the fact that there is no requirement that R&D should be successful for tax relief to be available means that there is no guarantee that innovations predicated upon new scientific knowledge will either come into existence or will be embodied in commercially viable goods and services. The absence of either entails no possibility of improvements in resource productivity. Third, the bias in favour of small to medium-sized enterprises (SMEs) – a higher rate of tax relief – exacerbates the problems that SMEs already have when trying to grow into “large” corporations. In practice, this means that as SMEs grow, there comes a point where they lose the advantage of the higher rate. This may have financing implications, which in turn might impede the growth of companies with a proven track record of improving their resource productivity.

Section 4.3.5. concludes that given the limitations of the R&D tax relief regime with regard to resource productivity, there is scope for an additional

relief that takes a longer-term view and rewards all knowledge, ideas and innovation that increase resource productivity.

*Plant and machinery.* Section 4.4. argues that although the capital allowances regime for plant and machinery contains a few provisions that promote increased resource productivity, those provisions are too limited in scope to constitute a departure from the main thrust of the regime, which arguably encourages the inefficient use of resources. After a brief overview of the capital allowances regime and a brief summary of the rules on the tax depreciation of plant and machinery, the section argues that, unlike generally accepted accounting practice (GAAP), the plant and machinery regime is less concerned with the true economic depreciation of fixed assets than it is with encouraging investment in small businesses, oil and gas extraction and heavy industry. This focus on investment alone translates into a tax relief that does not require new plant and machinery to bring about any increase in productivity, let alone resource productivity. In particular, subsidizing heavy industry – without a focus on resource productivity – is a failure to recognize the declining importance of physical capital in modern economic growth theories.

Section 4.4. concludes that, notwithstanding the effectiveness of the tax provisions that do help to promote resource productivity, capital allowances for plant and machinery leave considerable room for an additional incentive that promotes innovative methods of extracting resources and innovative uses for those resources.

*Debt interest deductibility.* Section 4.5. argues that the availability of a deduction for interest payments in respect of debt financing (“debt interest deductibility”) is a structural distortion that does not promote increased resource productivity. After a brief overview of the tax regime that covers the payment and receipt of interest by companies, possible rationales for debt interest deductibility are considered. While no underlying rationale for debt interest deductibility is apparent on the face of the legislation, the aggregate, real and artificial entity views of the corporation yield not only an underlying rationale but also a potential welfare override for the policy (i.e. if it impedes wealth creation it should not be in place). The literature on the differential tax treatment of debt and equity financing is cited in order to understand that incentivizing debt financing might well carry a welfare cost. It is argued that encouraging companies to hold a higher proportion of debt than issued share capital creates a likelihood that companies would be less prone to adopt riskier investment strategies, which includes investment

in potential increases in resource productivity, especially if companies are already generating consistent and reliable rates of return.

*Trade loss relief.* Section 4.6. argues that the way in which trade loss relief operates does not promote increased resource productivity. After explaining why trade loss relief is a suitable element of the corporation tax for analysis, and presenting an overview of the trade loss relief regime for companies, the section argues that the regime's failure to incentivize profitable companies to take more risk in their main business activities has a potentially negative impact on resource productivity. Further, it argues that while trade loss relief is a kind of risk management policy in relation to the main economic activities of companies incurring losses, the way the relief is structured may well encourage otherwise profitable companies to adopt risk management strategies based on diversification. Such strategies encourage those companies to divert time, money and effort away from their main economic activities by allowing (i) trade losses to offset investment income and (ii) the losses from new trading ventures to be offset against trading profits from the main trade.

Section 4.6. concludes that there is a need for an incentive that encourages already profitable business to adopt higher risk strategies that will, if successful, increase resource productivity in their main economic activities.

*Conclusion.* The conclusion drawn from the analysis in chapter 4 is that, albeit to varying extents, these five broadly representative elements of the UK corporation tax fall some way short of promoting increased resource productivity. Accordingly, given that the corporation tax is an appropriate legal instrument to promote resource productivity and that as currently configured the corporation tax does not promote resource productivity, there is scope for the corporation tax to be amended in such a way as to promote increased resource productivity.

## **1.6. Chapter five outline: The Resource Productivity Tax Credit**

The objective of the RPTC is to promote higher resource productivity in the trading activities of individual companies, in particular sectors,<sup>8</sup> through improvements to the knowledge base of the company rather than through

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8. It is ultimately for the UK government to decide which sectors it considers should be targeted by the RPTC.

the increased use of raw materials, non-renewable energy and/or intermediate goods.<sup>9</sup>

The RPTC works by rewarding companies that outperform other UK companies undertaking the same trade, where Relevant Trade Profitability (RTP) measures performance.<sup>10</sup>

$$\text{RTP} = \text{RTR} / \text{RTE}$$

where:

RTR = Relevant Trade Receipts (i.e. total revenue derived from a particular trade)

RTE = Relevant Trade Expenditure (i.e. allowable deductions for expenses incurred wholly and exclusively for the purposes of the same trade)

The basis for identifying and ring-fencing specific trades for the purposes of the RPTC is the European standard classification of productive economic activities (NACE), which is produced by Eurostat.<sup>11</sup> For example, the manufacture of batteries and accumulators (NACE Rev. 2, C27.20) is classed under the manufacture of electrical equipment (C27). The manufacture of batteries and accumulators is a potential “sector” for the purposes of the RPTC. In line with C27.20, specific trades in this sector might include the manufacture of:

- primary cells and primary batteries;<sup>12</sup>
- electric accumulators and their parts (e.g. separators, containers, covers);
- lead acid batteries;

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9. Intermediate goods are defined as goods consumed as inputs by a process of production, excluding fixed assets. Intermediate goods (as opposed to services) can be viewed as embodied resources (i.e. they contain resources). As such, intermediate goods can be treated for the purposes of this book as a resource.

10. “Relevant” here refers to the fact that a company may have more than one trade.

11. NACE stands for *Nomenclature statistique des activités économiques dans la Communauté européenne*.

12. “Primary” refers to any kind of battery in which the electrochemical reaction is not reversible, rendering the cell or battery non-rechargeable (e.g. the disposable battery). A secondary cell refers to the fact that the reaction can be reversed by running a current into the cell (i.e. the chemical reactants are restored to their initial condition). “Cell” refers to a single unit at the base voltage, which varies according to the type of chemical reaction that powers the cell. A “battery” can be a single cell or multiple cells connected together in series or parallel to make the voltage/current rating desired (e.g. a car battery is a series of six cells, each having a base voltage of 2 volts).

- NiCad batteries;<sup>13</sup>
- NiMH batteries;
- lithium batteries;
- dry cell batteries; and
- wet cell batteries.

Each of these eight specific trades within this sector would have a dedicated Specific Trade Index. Thus, all companies that manufacture lead acid batteries in the United Kingdom would be assigned an RTP figure for the “lead acid battery” Specific Trade Index. If a particular company undertakes all eight trades, it will be assigned eight RTP figures, one for every trade identified in the list above.

Returning to the specific trade that is the manufacture of lead acid batteries, the RTP figures for that trade from every eligible company are then ranked in the “lead acid battery” Specific Trade Index, the idea being that RTP figures with the largest numerical values equate to higher resource productivity. Companies at the bottom of the Specific Trade Index will not receive a tax credit. The companies at the top of the Specific Trade Index will be awarded a tax credit in accordance with their ranking for that trade. The company at the top of the Specific Trade Index will get the highest credit in percentage terms (i.e. the highest proportion of its specific trading profit (RTR – RTE) for the same period). This process is repeated for the other seven Specific Trade Indices that relate to the “manufacture of batteries and accumulators” sector.

RTP is a measure of profitability based on resource productivity. Profitability (revenue divided by costs) and profit (revenue minus costs) are both generally considered good performance measures of firms in a competitive market economy. Notwithstanding its precise formulation, adapted as it is for corporation tax purposes, the reason for using what would appear to be a kind of profitability measure as the basis for the RTP is that it has a very particular relationship with productivity, which is central to our current understanding of competitiveness. The literature suggests that productivity is the most important component of profitability, which measures inputs and outputs using market prices.

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13. There are severe restrictions on marketing certain batteries and accumulators containing cadmium (and mercury). *See* article 4 of Directive 2006/66/EC of the European Parliament and of the Council of 6 September 2006 on batteries and accumulators and waste batteries and accumulators (OJ L 266, 26.9.2006, p. 1) as amended by Directives 2008/12/EC and 2008/103/EC.

Using market prices has a specific and significant advantage when using the corporation tax to promote increased resource productivity. The corporation tax is a price-based market instrument. As such, it can affect the price of inputs and outputs. Correspondingly, the corporation tax cannot affect those inputs or outputs that do not carry either a market or a deemed price.

This work categorizes business inputs as labour, resource-based and knowledge-based inputs. Resource-based inputs are physical assets (or in the case of non-renewable energy, inputs derived from physical assets) and all resource-based inputs carry a market price. Knowledge-based inputs are intangible assets. With regard to the pricing of knowledge-based inputs, while the acquisition of some types of knowledge represents a direct business cost, as with R&D expenditure,<sup>14</sup> there are many other kinds of knowledge-based inputs that are costless (e.g. learning-by-doing, imitation, management effort and organizational change).<sup>15</sup> The RPTC is designed to promote increases in productivity that reflect improvements in knowledge-based inputs rather than increases in resource-based inputs. It does this by discounting from RTE the costs of non-resource-based inputs that would ordinarily be deductible under the trading income rules, such as knowledge expenditure and labour costs. For reasons explored in sections 5.4.1. and 5.6., capital asset expenditure and financing costs respectively, are also left out of RTE.

As the trade concept employed by UK tax law reflects the most productive, value adding economic activities of a business, the RPTC concerns itself only with the trading income schedule. Thus, RTP disregards any income or expense attributable to other corporate income schedules, such as investment income and expenses, and income and expenses in relation to capital assets.

The exclusive focus on trading income by RTP requires an accurate legal descriptor of the particular trades being targeted by the RPTC. This enables a like-with-like comparison in each of the Specific Trade Indices. In order to justify the use of NACE as the basis for furnishing a legal descriptor for the targeted trades, a comparison is drawn between the oil and gas ring fence for petroliferous trades and the corresponding industrial classification supplied by NACE. The result shows a very high degree of similarity between the two,

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14. It is notable that paid-for knowledge tends to be a “once and for all” payment. Knowledge-based inputs are much less of a recurring cost than resources-based inputs. This is because knowledge is not consumed or “used-up”. It is, though, subject to becoming obsolescent.

15. These costless knowledge-based inputs are endogenous or internally generated by companies.

with any deviations explained away by the very specific policy objectives of the oil and gas tax regime.

Section 5.7. concerns the advantages that a tax credit has over other tax incentives. Tax credits normally reduce the amount of tax due,<sup>16</sup> the main consequence of which is that they provide greater certainty about the after-tax benefit of the incentive. In other words, tax credits are a tax subsidy whose applicability and value are not tax base or tax rate dependent. This, along with the fact that they are easily implemented, makes tax credits an attractive option from a policy implementation perspective. Independence, specifically with regard to the tax base, also means that the RPTC can co-exist with other tax incentives and other elements of the corporation tax. In fact, the RPTC may mitigate the negative distortionary effects on resource productivity caused by other statutory tax incentives, effective tax incentives or structural distortions that form part of the corporation tax.

Section 5.8. suggests that the RPTC should be made available only to companies. This limitation both saves the government administrative costs and encourages firms to incorporate so that they become eligible for the credit. Not only does incorporation make raising external capital easier, as well as affording the firm limited liability, but incorporation is also relatively straightforward in the United Kingdom. Therefore, given the proposed transparency of the RPTC, any unincorporated owner-managed businesses that have a chance of being awarded a credit should consider incorporation.

A fuller and distinct summary of chapter 6 is contained in section 5.10.

## 1.7. Chapter six outline: Conclusion

Chapter 6 concludes this book. It argues that it is not necessary to have a theory of the creative process in order to promote increased resource productivity. Moreover, focusing on resource productivity means it is unnecessary to try and second-guess what kind of knowledge most promotes growth when incentivizing knowledge production. Whereas the R&D regime, predicated as it is on new scientific knowledge, focuses on the means, the RPTC, by focusing on profitability and the successful use of knowledge, focuses on the end result. In other words, the R&D regime and many other tax incentives reward up-front expenditure, whereas the RPTC rewards successful outcomes. For the RPTC, it matters not whether increased resource productivity

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16. Tax credits, if they take the form of a repayable credit, can also increase net income.

results from a 1,000 minor tweaks that make the production process more efficient or from a huge leap in technological innovation.

*Potential weaknesses of the RPTC.* Chapter 6 recognizes that the RPTC may not be the only way of promoting sustainable development and competitiveness through the tax system. Indeed, it has a number of potential weaknesses. The first is that it relies exclusively on prices. Ideally, increased resource productivity would be promoted by focusing on the quantity of resources used rather than the total price of the resources used. Thus, market prices act as a kind of proxy for the quantity of resource used as inputs. This is thought to be a necessary simplification that avoids added complexity – the enemy of implementation. A second potential weakness relates to the fact that industrial classification criteria used for defining each of the trades are often quite vague. However, it is thought that a period of consultation for each sector targeted would help bring precision to the definition, as well as providing the government with useful information. A third potential weakness relates to the fact that “sector” does not appear to have anything like an accepted definition. However, it is argued that this at least gives scope for the UK government to consider whether they want to target “sectors” horizontally or vertically.

*Potential strengths of the RPTC.* First, the RPTC is flexible and can be targeted at particular sectors, including fledgling, productive, supporting<sup>17</sup> or even failing sectors. Second, it combines and promotes both sustainable development and competitiveness. Not only does this promotion fulfil part of the legal mandate enshrined in article 3(3) of the TEU but it also appears to go to the heart of what is needed for the health of the UK economy in the medium and longer term (i.e. sustainable economic or “greener” growth). Third, it can be implemented quickly and, because it need only be introduced one sector at a time, the UK government can try it out and see if it works on the ground, incurring little financial cost and limited reputational risk in so doing.

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17. In the sense that some sectors support other more productive sectors.