Corporation Tax Act 2010

2010 CHAPTER 4

PART 8

OIL ACTIVITIES

CHAPTER 1

INTRODUCTION

270 Overview of Part

(1) This Part is about the corporation tax treatment of oil activities.

(2) Chapter 2 contains basic definitions used in this Part.

(3) Chapter 3 treats oil-related activities as a separate trade.

(4) Chapter 4 makes provision about the calculation of profits from oil activities.

(5) Chapter 5 makes provision about ring fence expenditure supplement.

(6) Chapter 6 makes provision about the supplementary charge in respect of ring fence trades.

(7) Chapter 7 makes provision about the reduction of the supplementary charge for certain new oil fields.

(8) For the meaning of—

(a) "oil-related activities", see section 274,

(b) "ring fence trade", see section 277, and

(c) "new oil field", see section 350.

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CHAPTER 2

BASIC DEFINITIONS

271 "Associated companies"

(1) For the purposes of this Part two companies are associated with one another if—

(a) one is a 51% subsidiary of the other,

(b) each is a 51% subsidiary of a third company,

(c) one is owned by a consortium of which the other is a member,

(d) one has control of the other, or

(e) both are under the control of the same person.

(2) For the purposes of this section—

(a) a company is owned by a consortium if at least 75% of the company's ordinary share capital is beneficially owned by other companies each of which beneficially owns at least 5% of that capital, and

(b) the other companies each owning at least 5% of that capital are the members of the consortium.

(3) In this section "control" has the same meaning as in Part 10 (close companies) (see sections 450 and 451).

272 "Oil extraction activities"

(1) In this Part "oil extraction activities" means activities within any of subsections (2) to (5) (but see also section 291(6)).

(2) Activities of a company in searching for oil in the United Kingdom or a designated area or causing such searching to be carried out for it.

(3) Activities of a company in extracting, or causing to be extracted for it, oil at any place in the United Kingdom or a designated area under rights which—

(a) authorise the extraction, and

(b) are held by it or by a company associated with it.

(4) Activities of a company in transporting, or causing to be transported for it, oil extracted at any such place not on dry land under rights which—

(a) authorise the extraction, and

(b) are held as mentioned in subsection (3)(b),

if the transportation meets condition A or B (see subsections (6) and (7)).

(5) Activities of a company in effecting, or causing to be effected for it, the initial treatment or initial storage of oil won from any oil field under rights which—

(a) authorise its extraction, and

(b) are held as mentioned in subsection (3)(b).

(6) Condition A is that the transportation is to the place where the oil is first landed in the United Kingdom.

(7) Condition B is that the transportation—

(a) is to the place in the United Kingdom, or

(b) in the case of oil first landed in another country, is to the place in that or any other country (other than the United Kingdom),

at which the seller in a sale at arm's length could reasonably be expected to deliver it (or, if there is more than one such place, the one nearest to the place of extraction).

(8) The definition of "initial storage" in section 12(1) of OTA 1975 applies for the purposes of this section.

(9) But in its application for those purposes in relation to the company mentioned in subsection (5) and to oil won from any one oil field, that definition is to have effect as if the reference to the maximum daily production rate of oil for the field mentioned in that definition were to a share of that maximum daily production rate proportionate to that company's share of the oil won from that field.

(10) In this section "initial treatment" has the same meaning as in Part 1 of OTA 1975 (see section 12(1) of that Act).

273 "Oil rights"

In this Part "oil rights" means—

(a) rights to oil to be extracted at any place in the United Kingdom or a designated area, or

(b) rights to interests in or to the benefit of such oil.

274 "Oil-related activities"

In this Part "oil-related activities" means—

(a) oil extraction activities, and

(b) any activities consisting of the acquisition, enjoyment or exploitation of oil rights.

275 "Ring fence income"

In this Part "ring fence income" means income arising from oil extraction activities or oil rights.

276 "Ring fence profits"

In this Part "ring fence profits", in relation to an accounting period, means—

(a) if in accordance with section 197(3) of TCGA 1992 a company has an aggregate gain for that period, that gain and that company's ring fence income (if any) for that period, or

(b) otherwise, that company's ring fence income for that period.

277 "Ring fence trade"

In this Part "ring fence trade" means activities which—

(a) are within the definition of "oil-related activities" in section 274, and

(b) constitute a separate trade (whether because of section 279 or otherwise).

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278 Other definitions

In this Part—

"chargeable period" has the same meaning as in Part 1 of OTA 1975 (see section 1(3) of that Act),

"designated area" means an area designated by Order in Council under section 1(7) of the Continental Shelf Act 1964,

"oil" means any substance won or capable of being won under the authority of a licence granted under Part 1 of the Petroleum Act 1998 or the Petroleum (Production) Act (Northern Ireland) 1964 (c. 28 (N.I.)), other than methane gas won in the course of operations for making and keeping mines safe,

"oil field" has the same meaning as in Part 1 of OTA 1975 (see section 12(1) of that Act),

"OTA 1975" means the Oil Taxation Act 1975, and

"participator" has the same meaning as in Part 1 of OTA 1975 (see section 12(1) of that Act).

CHAPTER 3

DEEMED SEPARATE TRADE

279 Oil-related activities treated as separate trade

If a company carries on any oil-related activities as part of a trade, those activities are treated for the purposes of the charge to corporation tax on income as a separate trade, distinct from all other activities carried on by the company as part of the trade.

CHAPTER 4

CALCULATION OF PROFITS

Oil valuation

280 Disposal to be valued by reference to section 2(5A) of OTA 1975

(1) This section applies if each of conditions A to G is met.

(2) Condition A is that oil is won from an oil field in the United Kingdom.

(3) Condition B is that there is a disposal of the oil by a company.

(4) Condition C is that the disposal is a disposal of the oil by the company crude in a sale at arm's length (as defined in paragraph 1 of Schedule 3 to OTA 1975).

(5) Condition D is that the circumstances are such that the price received or receivable—

(a) falls to be taken into account under section 2(5)(a) of that Act in calculating for petroleum revenue tax purposes the assessable profit or allowable loss accruing to the company in a chargeable period from the oil field, or

(b) would fall to be so taken into account, had the oil field been a taxable field (as defined in section 185 of FA 1993).

(6) Condition E is that the terms of the contract are such as are described in the opening words of section 2(5A) of OTA 1975 (transportation etc).

(7) Condition F is that, but for subsection (9), the company is not entitled to a transportation allowance in respect of the oil in calculating ring fence profits.

(8) Condition G is that the company does not claim a transportation allowance in respect of the oil in calculating for corporation tax purposes any profits that are not ring fence profits.

(9) Section 2(5A) of OTA 1975 is to apply in determining the amount which the company is to bring into account for the purposes of the charge to corporation tax on income in respect of the disposal as it applies (or would apply) for petroleum revenue tax purposes.

(10) In this section "transportation allowance", in relation to any oil, means—
- (a) a deduction in respect of the expense of transporting the oil as mentioned in the opening words of section 2(5A) of OTA 1975,
- (b) a deduction in respect of any costs of or incidental to the transportation of the oil as so mentioned, or
- (c) any such reduction in the price to be regarded as received or receivable for the oil as would result from the application of section 2(5A) of OTA 1975, if that provision applied for corporation tax purposes.

281 Valuation where market value taken into account under section 2 of OTA 1975

(1) This section applies if a person disposes of oil in circumstances such that the market value of the oil—
- (a) falls to be taken into account under section 2 of OTA 1975, otherwise than by virtue of paragraph 6 of Schedule 3 to that Act, in calculating for petroleum revenue tax purposes the assessable profit or allowable loss accruing to that person in a chargeable period from an oil field, or
- (b) would so fall but for section 10 of that Act.

(2) For the purposes of the charge to corporation tax on income, the disposal of the oil, and its acquisition by the person to whom it was disposed of, are to be treated as having been for a consideration equal to the market value of the oil—
- (a) as so taken into account under section 2 of that Act, or
- (b) as would have been so taken into account under that section but for section 10 of that Act.

282 Valuation where disposal not sale at arm's length

(1) This section applies if conditions A, B and C are met.

(2) Condition A is that a person disposes of oil acquired by the person—
- (a) in the course of oil extraction activities carried on by the person, or
- (b) as a result of oil rights held by the person.

(3) Condition B is that the disposal is not a sale at arm's length (as defined in paragraph 1 of Schedule 3 to OTA 1975).

(4) Condition C is that section 281 does not apply in relation to the disposal.

(5) For the purposes of the charge to corporation tax on income, the disposal of the oil, and its acquisition by the person to whom it was disposed of, are to be treated as having been for a consideration equal to the market value of the oil.

(6) Paragraphs 2 and 3A of Schedule 3 to OTA 1975 (definition of market value of oil including light gases) apply for the purposes of this section as they apply for the purposes of Part 1 of that Act, but with the following modifications.

(7) Those modifications are that—

(a) any reference in paragraph 2 to the notional delivery day for the actual oil is to be read as a reference to the day on which the oil is disposed of as mentioned in this section, and

(b) paragraph 2(4) is to be treated as omitted.

283 Valuation where excess of nominated proceeds

(1) This section applies if an excess of nominated proceeds for a chargeable period—

(a) is taken into account in calculating a company's profits under section 2(5)(e) of OTA 1975, or

(b) would have been so taken into account if the company were chargeable to tax under OTA 1975 in respect of an oil field.

(2) For the purposes of the charge to corporation tax on income, the amount of the excess is to be added to the consideration which the company is treated as having received in respect of oil disposed of by it in the period.

(3) For corporation tax purposes, that amount is to be available to the company as a deduction in calculating the profits of any trade which (whether because of section 279 or otherwise) does not consist of activities falling within the definition of “oil-related activities” in section 274.

284 Valuation where relevant appropriation but no disposal

(1) This section applies if conditions A and B are met.

(2) Condition A is that a company makes a relevant appropriation of oil without disposing of it.

(3) Condition B is that the company does so in circumstances such that the market value of the oil—

(a) falls to be taken into account under section 2 of OTA 1975 in calculating for petroleum revenue tax purposes the assessable profit or allowable loss accruing to it in a chargeable period from an oil field, or

(b) would so fall but for section 10 of that Act.

(4) For the purposes of the charge to corporation tax on income, the company is to be treated as having, at the time of the appropriation—

(a) sold the oil in the course of the separate trade consisting of activities falling within the definition of “oil-related activities” in section 274, and

(b) purchased it in the course of the separate trade consisting of activities not so falling.

(5) For those purposes, that sale and purchase is to be treated as having been at a price equal to the market value of the oil—

(a) as so taken into account under section 2 of OTA 1975, or

(b) as would have been so taken into account under that section but for section 10 of that Act.

(6) In this section "relevant appropriation" has the meaning given by section 12(1) of OTA 1975.

285 Valuation where appropriation to refining etc

(1) This section applies if conditions A, B and C are met.

(2) Condition A is that a company appropriates oil acquired by it—

(a) in the course of oil extraction activities carried on by it, or

(b) as a result of oil rights held by it.

(3) Condition B is that the oil is appropriated to refining or to any use except the production purposes of an oil field (as defined in section 12(1) of OTA 1975).

(4) Condition C is that section 284 does not apply in relation to the appropriation.

(5) For the purposes of the charge to corporation tax on income—

(a) the company is to be treated as having, at the time of the appropriation, sold and purchased the oil as mentioned in section 284(4)(a) and (b), and

(b) that sale and purchase is to be treated as having been at a price equal to the market value of the oil.

(6) Paragraphs 2 and 3A of Schedule 3 to OTA 1975 (definition of market value of oil including light gases) apply for the purposes of this section as they apply for the purposes of Part 1 of that Act, but with the following modifications.

(7) Those modifications are that—

(a) any reference in paragraph 2 to the notional delivery day for the actual oil is to be read as a reference to the day on which the oil is appropriated as mentioned in this section,

(b) any reference in paragraphs 2 and 2A to oil being relevantly appropriated is to be read as a reference to its being appropriated as mentioned in this section, and

(c) paragraph 2(4) is to be treated as omitted.

Loan relationships

286 Restriction on debits to be brought into account

(1) Debits may not be brought into account for the purposes of Part 5 of CTA 2009 (loan relationships) in respect of a company's loan relationships in any way that results in a reduction of what would otherwise be the company's ring fence profits, but this is subject to subsections (2) to (4).

(2) Subsection (1) does not apply so far as a loan relationship is in respect of money borrowed by the company which has been—

(a) used to meet expenditure incurred by the company in carrying on oil extraction activities or in acquiring oil rights otherwise than from a connected person, or

(b) appropriated to meeting expenditure to be so incurred by the company.

(3) Subsection (1) does not apply, in the case of debits falling to be brought into account as a result of section 329 of CTA 2009 in respect of a loan relationship that has not been entered into, so far as the relationship would have been one entered into for the purpose of borrowing money to be used or appropriated as mentioned in subsection (2).

(4) Subsection (1) does not apply, in the case of debits in respect of a loan relationship to which Chapter 2 of Part 6 of CTA 2009 (relevant non-lending relationships) applies, so far as—

(a) the payment of interest under the relationship is expenditure incurred as mentioned in subsection (2)(a), or

(b) the exchange loss arising from the relationship is in respect of a money debt on which the interest payable (if any) is, or would be, such expenditure.

(5) If a debit—

(a) falls to be brought into account for the purposes of Part 5 of CTA 2009 in respect of a loan relationship of a company, but

(b) as a result of this section cannot be brought into account in a way that results in any reduction of what would otherwise be the company's ring fence profits,

the debit is to be brought into account for those purposes as a non-trading debit despite anything in section 297 of that Act.

(6) References in this section to a loan relationship, in relation to the borrowing of money, do not include a relationship to which Chapter 2 of Part 6 of CTA 2009 (relevant non-lending relationships) applies.

287 Restriction on credits to be brought into account

(1) Credits in respect of exchange gains from a company's loan relationships may not be brought into account for the purposes of Part 5 of CTA 2009 (loan relationships) in any way that results in an increase of what would otherwise be the company's ring fence profits, but this is subject to subsections (2) to (4).

(2) Subsection (1) does not apply so far as a loan relationship is in respect of money borrowed by the company which has been—

(a) used to meet expenditure incurred by the company in carrying on oil extraction activities or in acquiring oil rights otherwise than from a connected person, or

(b) appropriated to meeting expenditure to be so incurred by the company.

(3) Subsection (1) does not apply, in the case of credits falling to be brought into account as a result of section 329 of CTA 2009 in respect of a loan relationship that has not been entered into, so far as the relationship would have been one entered into for the purpose of borrowing money to be used or appropriated as mentioned in subsection (2).

(4) Subsection (1) does not apply, in the case of credits in respect of a loan relationship to which Chapter 2 of Part 6 of CTA 2009 (relevant non-lending relationships) applies, so far as—

(a) the payment of interest under the relationship is expenditure incurred as mentioned in subsection (2)(a), or

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(b) the exchange gain arising from the relationship is in respect of a money debt on which the interest payable (if any) is, or would be, such expenditure.

(5) If a credit—

(a) falls to be brought into account for the purposes of Part 5 of CTA 2009 in respect of any loan relationship of a company, but

(b) as a result of this section cannot be brought into account in a way that results in any increase of what would otherwise be the company's ring fence profits,

the credit is to be brought into account for those purposes as a non-trading credit despite anything in section 297 of that Act.

(6) Section 286(6) applies for the purposes of this section.

Sale and lease-back

288 Sale and lease-back

(1) This section applies if conditions A, B and C are met.

(2) Condition A is that a company ("the seller") carrying on a trade has disposed of—

(a) an asset which was used for the purposes of that trade, or

(b) an interest in such an asset.

(3) Condition B is that the asset is used, under a lease, by the seller or a company associated with the seller ("the lessee") for the purposes of a ring fence trade carried on by the lessee.

(4) Condition C is that the lessee uses the asset before the end of the period of two years beginning with the disposal.

(5) Subsection (6) applies to so much (if any) of the expenditure incurred by the lessee under the lease as—

(a) falls, in accordance with generally accepted accounting practice, to be treated in the accounts of the lessee as a finance charge, or

(b) falls, if the lease is a long funding operating lease, to be deductible in calculating the profits of the lessee for corporation tax purposes (after first making against any such expenditure any reductions falling to be made as a result of section 379 (lessee under long funding operating lease)).

But subsection (6) is subject to subsection (7).

(6) The expenditure is not allowable in calculating for the purposes of Part 3 of CTA 2009 the profits of the ring fence trade.

(7) Expenditure is not to be disallowed because of subsection (6) so far as the disposal mentioned in subsection (2) is made for a consideration which—

(a) is used to meet expenditure incurred by the seller in carrying on oil extraction activities or in acquiring oil rights otherwise than from a company associated with the seller, or

(b) is appropriated to meeting expenditure to be so incurred by the seller.

(8) If any expenditure—

(a) would, but for subsection (6), be allowable in calculating for the purposes of Part 3 of CTA 2009 the profits of the ring fence trade for an accounting period, but

(b) because of that subsection is not so allowable,

the expenditure is to be brought into account for the purposes of Part 5 of CTA 2009 (loan relationships) as if it were a non-trading debit in respect of a loan relationship of the lessee for that period.

(9) In this section—

"long funding operating lease" means a long funding operating lease for the purposes of Part 2 of CAA 2001 (see section 70YI(1) of that Act), and

"lease", in relation to an asset, has the same meaning as in Chapter 3 of Part 19 (see section 868).

Regional development grants

289 Reduction of expenditure by reference to regional development grant

(1) This section applies if conditions A and B are met.

(2) Condition A is that a person has incurred expenditure (by way of purchase, rent or otherwise) on the acquisition of an asset in a transaction to which paragraph 2 of Schedule 4 to OTA 1975 applies (transactions between connected persons or otherwise than at arm's length).

(3) Condition B is that the expenditure incurred by the other person mentioned in that paragraph in acquiring, bringing into existence or enhancing the value of the asset as mentioned in that paragraph—

(a) has been or is to be met by a regional development grant, and

(b) falls (in whole or in part) to be taken into account under Part 2 or 6 of CAA 2001 (capital allowances relating to plant and machinery or research and development).

(4) Subsection (5) applies for the purposes of the charge to corporation tax on the income arising from the activities of the person mentioned in subsection (2) which are treated by section 279 as a separate trade for those purposes.

(5) The expenditure mentioned in subsection (2) is to be reduced by the amount of the regional development grant mentioned in subsection (3).

(6) In this section "regional development grant" means a grant falling within section 534(1) of CAA 2001 (Northern Ireland regional development grant).

290 Adjustment as a result of regional development grant

(1) This section applies if conditions A, B and C are met.

(2) Condition A is that expenditure incurred by a company in relation to an asset in an accounting period ("the initial period") has been or is to be met by a regional development grant.

(3) Condition B is that, despite the provisions of section 534(2) and (3) of CAA 2001 (Northern Ireland regional development grants) and section 289 of this Act, in

determining that company's liability to corporation tax for the initial period, the whole or some part of that expenditure falls to be taken into account under Part 2 or 6 of CAA 2001.

(4) Condition C is that—

(a) expenditure on the asset becomes allowable under section 3 or 4 of OTA 1975 in an accounting period (an "adjustment period") subsequent to the initial period, or

(b) the proportion of any such expenditure which is allowable in an adjustment period is different as compared with the initial period.

(5) There is to be redetermined for the purposes of subsections (7) and (8) the amount of the expenditure mentioned in subsection (2) which would have been taken into account as mentioned in subsection (3) if the circumstances mentioned in subsection (4) had existed in the initial period.

(6) According to whether the amount as so redetermined is greater or less than the amount actually taken into account as mentioned in subsection (3), the difference is referred to in subsections (7) and (8) as the increase or the reduction in the allowance.

(7) If there is an increase in the allowance, an amount of capital expenditure equal to the increase is to be treated, for the purposes of Part 2 or 6 of CAA 2001, as having been incurred by the company concerned in the adjustment period on an extension of, or addition to, the asset mentioned in subsection (2).

(8) If there is a reduction in the allowance, the company concerned is to be treated, for the purpose of determining its liability to corporation tax, as having received in the adjustment period, as income of the trade in connection with which the expenditure mentioned in subsection (2) was incurred, a sum equal to the amount of the reduction in the allowance.

(9) In this section "regional development grant" has the meaning given by section 289(6).

Tariff receipts etc

291 Tariff receipts etc

(1) Subsection (5) applies to a sum which meets conditions A, B and C.

(2) Condition A is that the sum constitutes a tariff receipt or tax-exempt tariffing receipt of a person who is a participator in an oil field.

(3) Condition B is that the sum constitutes consideration in the nature of income rather than capital.

(4) Condition C is that the sum would not, but for subsection (5), be treated as mentioned in that subsection.

(5) The sum is to be treated as a receipt of the separate trade mentioned in section 279.

(6) So far as they would not otherwise be so treated, the activities—

(a) of a participator in an oil field, or

(b) of a person connected with the participator,

in making available an asset in a way which gives rise to tariff receipts or tax-exempt tariffing receipts of the participator are to be treated for the purposes of this Part as oil extraction activities.

(7) In determining for the purposes of subsection (2) whether a sum constitutes a tariff receipt or tax-exempt tariffing receipt of a person who is a participator, no account may be taken of any sum which—

(a) is in fact received or receivable by a person connected with the participator, and

(b) constitutes a tariff receipt or tax-exempt tariffing receipt of the participator.

But in relation to the person by whom such a sum is actually received, subsection (2) has effect as if the person were a participator and as if condition A were met.

(8) References in this section to a person connected with a participator include a person with whom the person is associated, within the meaning of paragraph 11 of Schedule 2 to the Oil Taxation Act 1983, but section 1176(1) of this Act (meaning of "connected" persons) does not apply for the purposes of this section.

(9) In this section—

"tax-exempt tariffing receipt" has the meaning given by section 6A(2) of the Oil Taxation Act 1983, and

"tariff receipt" has the same meaning as in that Act.

Abandonment guarantees

292 Expenditure on and under abandonment guarantees

(1) Subsection (2) applies if, as a result of section 3(1)(hh) of OTA 1975 (obtaining abandonment guarantee), expenditure incurred by a participator in an oil field is allowable (in whole or in part) for petroleum revenue tax purposes under section 3 of that Act.

(2) So far as that expenditure is so allowable, it is to be allowed as a deduction in calculating the participator's ring fence income.

(3) Subsection (4) applies if a payment is made by the guarantor under an abandonment guarantee.

(4) So far as any expenditure for which the relevant participator is liable is met, directly or indirectly, out of the payment, the expenditure is not to be regarded for corporation tax purposes as having been incurred by the relevant participator or any other participator in the oil field concerned.

(5) See also section 294 (payment under abandonment guarantee not immediately applied).

(6) In this Chapter—

"abandonment guarantee" has the same meaning as it has for the purposes of section 105 of FA 1991 (see section 104 of that Act), and

"the guarantor" and "the relevant participator" have the same meaning as in section 104 of that Act.

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293 Relief for reimbursement expenditure under abandonment guarantees

(1) This section applies if—

(a) a payment ("the guarantee payment") is made by the guarantor under an abandonment guarantee,

(b) as a result of the making of the guarantee payment, the relevant participator becomes liable under the terms of the abandonment guarantee to pay any sum to the guarantor, and

(c) expenditure is incurred, or consideration in money's worth is given, by the relevant participator in or towards meeting that liability.

(2) In this section "reimbursement expenditure" means expenditure incurred as mentioned in subsection (1)(c) or consideration (or the value of consideration) given as so mentioned; and any reference to the incurring of reimbursement expenditure is to be read accordingly.

(3) So much of any reimbursement expenditure as constitutes qualifying expenditure (see subsection (4)) is to be allowed as a deduction in calculating the relevant participator's ring fence income; and no part of the expenditure which is so allowed is to be otherwise deductible or allowable by way of relief for corporation tax purposes.

(4) The amount of reimbursement expenditure incurred in any accounting period by the relevant participator which constitutes qualifying expenditure is determined by the formula—

$$A \times \frac{B}{C}$$

where—
A is the reimbursement expenditure incurred in the accounting period,
B is so much of the expenditure represented by the guarantee payment as, had it been incurred by the relevant participator, would have been taken into account (by way of capital allowance or a deduction) in calculating the relevant participator's ring fence income, and
C is the total of the sums which, at or before the end of the accounting period, the relevant participator is or has become liable to pay to the guarantor as mentioned in subsection (1)(b).

But this is subject to subsection (5).

(5) In relation to the guarantee payment, the total of the reimbursement expenditure (whenever incurred) which constitutes qualifying expenditure may not exceed whichever is the less of B and C in subsection (4).

(6) Any limitation on qualifying expenditure under subsection (5) is to be applied to the expenditure of a later accounting period in preference to an earlier one.

(7) For the purposes of this section, the expenditure represented by the guarantee payment is any expenditure—

(a) for which the relevant participator is liable, and

(b) which is met, directly or indirectly, out of the guarantee payment (and which, accordingly, because of section 292(4) is not to be regarded as expenditure incurred by the relevant participator).

(8) See also—

(a) section 294 (payment under abandonment guarantee not immediately applied), and

(b) section 295 which excludes amounts from subsection (1).

294 Payment under abandonment guarantee not immediately applied

(1) This section applies if—

(a) a payment made by the guarantor under an abandonment guarantee is not immediately applied in meeting any expenditure,

(b) the payment is for any period invested (either specifically or together with payments made by persons other than the guarantor) so as to be represented by, or by part of, the assets of a fund or account, and

(c) at a subsequent time, any expenditure for which the relevant participator is liable is met out of the assets of the fund or account.

(2) The references in sections 292(4) and 293(7) to expenditure which is met, directly or indirectly, out of the payment are to be read as references to so much of the expenditure for which the relevant participator is liable as is met out of those assets of the fund or account which, at the subsequent time mentioned in subsection (1)(c), it is just and reasonable to attribute to the payment.

295 Amounts excluded from section 293(1)

(1) This section applies if—

(a) the whole of the guarantee payment mentioned in section 293, or of the assets which under section 294 are attributed to the guarantee payment, is not applied in meeting liabilities of the relevant participator so mentioned which fall within section 104(1)(a) and (b) of FA 1991, and

(b) a sum representing the unapplied part of the guarantee payment or of those assets is repaid, directly or indirectly, to the guarantor so mentioned.

(2) Any liability of the relevant participator to repay that sum is to be excluded in determining the total liability of the relevant participator which falls within section 293(1)(b).

(3) The repayment to the guarantor of that sum is not to be regarded as expenditure incurred by the relevant participator as mentioned in section 293(1)(c).

Abandonment expenditure

296 Introduction to sections 297 and 298

(1) Sections 297 and 298 apply if—

(a) paragraph 2A of Schedule 5 to OTA 1975 applies, or would apply if a claim under paragraph 2A(2) of that Schedule were made, and

(b) the default payment falls (in whole or part) to be attributed to the contributing participator under paragraph 2A(2) of that Schedule.

(2) In section 297 "the additional abandonment expenditure" means the amount which is attributed to the contributing participator as mentioned in subsection (1)(b) (whether representing the whole or only part of the default payment).

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(3) In this Chapter "default payment", "the defaulter" and "contributing participator" have the same meaning as in paragraph 2A of Schedule 5 to OTA 1975.

297 Relief for expenditure incurred by a participator in meeting defaulter's abandonment expenditure

(1) Relief by way of capital allowance, or a deduction in calculating ring fence income, is to be available to the contributing participator in respect of the additional abandonment expenditure if any such relief or deduction would have been available to the defaulter if—

(a) the defaulter had incurred the additional abandonment expenditure, and

(b) at the time that that expenditure was incurred the defaulter continued to carry on a ring fence trade.

(2) The basis of qualification for or entitlement to any relief or deduction which is available to the contributing participator under this section is to be determined on the assumption that the conditions in subsection (1)(a) and (b) are met.

(3) But, subject to subsection (2), any such relief or deduction is to be available in the same way as if the additional abandonment expenditure had been incurred by the contributing participator for the purposes of the ring fence trade carried on by the contributing participator.

298 Reimbursement by defaulter in respect of certain abandonment expenditure

(1) This section applies if expenditure is incurred, or consideration in money's worth is given, by the defaulter in reimbursing the contributing participator in respect of, or otherwise making good to the contributing participator, the whole or any part of the default payment.

(2) In this section "reimbursement expenditure" means expenditure incurred as mentioned in subsection (1) or consideration (or the value of consideration) given as so mentioned; and any reference to the incurring of reimbursement expenditure is to be read accordingly.

(3) Reimbursement expenditure is to be allowed as a deduction in calculating the defaulter's ring fence income (but this is subject to subsection (6)).

(4) Reimbursement expenditure received by the contributing participator is to be treated as a receipt (in the nature of income) of the participator's ring fence trade for the relevant accounting period (but this is subject to subsection (6)).

(5) Any additional assessment to corporation tax required in order to take account of the receipt of reimbursement expenditure by the contributing participator may be made at any time not later than 4 years after the end of the calendar year in which the reimbursement expenditure is so received.

(6) In relation to a particular default payment, reimbursement expenditure incurred at any time—

(a) is to be allowed as mentioned in subsection (3), and

(b) is to be taken into account as a result of subsection (4) in calculating the contributing participator's ring fence income,

only so far as, when aggregated with any reimbursement expenditure previously incurred in respect of that default payment, it does not exceed so much of the default payment as falls to be attributed to the contributing participator as mentioned in section 296(1)(b).

(7) The incurring of reimbursement expenditure is not to be regarded, by virtue of section 532 of CAA 2001 (the general rule excluding contributions), as the meeting of the expenditure of the contributing participator in making the default payment.

(8) In subsection (4) "the relevant accounting period" means—

(a) the accounting period in which the reimbursement expenditure is received by the contributing participator,

(b) if the contributing participator ceases to carry on the ring fence trade before the receipt of the reimbursement expenditure, the last accounting period of the trade, or

(c) if the contributing participator ceases to be within the charge to corporation tax in respect of the ring fence trade before the receipt of the reimbursement expenditure, the accounting period during or at the end of which the contributing participator ceased to be within the charge to corporation tax in respect of the trade.

Deduction of PRT in calculating income for corporation tax purposes

299 Deduction of PRT in calculating income for corporation tax purposes

(1) This section applies if a participator in an oil field has paid any petroleum revenue tax with which the participator was chargeable for a chargeable period.

(2) In calculating for corporation tax the amount of the participator's income arising from oil extraction activities or oil rights in the relevant accounting period, there is to be deducted an amount equal to that petroleum revenue tax.

(3) There are to be made all such adjustments of assessments to corporation tax as are required in order to give effect to subsection (2).

(4) In this section "the relevant accounting period", in relation to any petroleum revenue tax paid by a company, means—

(a) the accounting period of the company in or at the end of which the chargeable period for which that tax was charged ends, or

(b) if that chargeable period ends after the accounting period of the company in or at the end of which the company—

(i) ceases to carry on the trade giving rise to the income referred to above, or

(ii) ceases to be within the charge to corporation tax in respect of the trade,

that accounting period.

300 Effect of repayment of PRT: general rule

(1) This section applies if some or all of the petroleum revenue tax in respect of which a deduction has been made under section 299(2) is subsequently repaid.

(2) The deduction is to be reduced or extinguished accordingly.

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(3) Any additional assessment to corporation tax required in order to give effect to subsection (2) may be made at any time not later than 4 years after the end of the calendar year in which the petroleum revenue tax was repaid.

(4) This section is subject to section 301.

301 Effect of repayment of PRT: special rule

(1) This section applies if, in a case where paragraph 17 of Schedule 2 to OTA 1975 applies, an amount of petroleum revenue tax in respect of which a deduction has been made under section 299(2) is repaid as a result of an assessment under that Schedule or an amendment of such an assessment.

(2) As regards so much of that repayment as constitutes the appropriate repayment—

(a) section 300 does not apply, and

(b) the following provisions apply in relation to the company which is entitled to the repayment.

(3) In calculating for corporation tax the amount of the company's income arising in the relevant accounting period from oil extraction activities or oil rights there is to be added an amount equal to the appropriate repayment (but this is subject to subsections (4) and (5)).

(4) Subsection (5) applies if—

(a) two or more carried back losses give rise to the appropriate repayment,

(b) the operative chargeable period in relation to each of the carried back losses is not the same, and

(c) if this section were applied separately in relation to each of the carried back losses there would be more than one relevant accounting period.

(5) The appropriate repayment is to be treated as apportioned between each of the relevant accounting periods mentioned in subsection (4)(c) in such a way as to secure that the amount added as a result of subsection (3) in relation to each of those relevant accounting periods is what it would have been if—

(a) relief for each of the carried back losses for which there is a different operative chargeable period had been given by a separate assessment or amendment of an assessment under Schedule 2 to OTA 1975, and

(b) relief for a carried back loss accruing in an earlier chargeable period had been so given before relief for a carried back loss accruing in a later chargeable period.

(6) Any additional assessment to corporation tax required in order to give effect to the addition of an amount as a result of subsection (3) may be made at any time not later than 4 years after the end of the calendar year in which the repayment of petroleum revenue tax comprising the appropriate repayment is made.

(7) In this section—

"allowable loss" has the same meaning as in Part 1 of OTA 1975 (see section 2 of that Act),

"the appropriate repayment" has the meaning given by paragraph 17(2) of Schedule 2 to that Act,

"carried back loss", in relation to the appropriate repayment, means an allowable loss—

(a) which falls within paragraph 17(1)(a) of Schedule 2 to OTA 1975, and

(b) which (alone or together with one or more other carried back losses) gives rise to the appropriate repayment,

"the operative chargeable period", in relation to a carried back loss, means the chargeable period in which the loss accrued, and

"the relevant accounting period", in relation to the company which is entitled to the appropriate repayment, means—

(a) the accounting period in or at the end of which the operative chargeable period ends,

(b) if the company ceases to carry on its ring fence trade before the end of the operative chargeable period, the last accounting period of that trade, or

(c) if the company ceases to be within the charge to corporation tax in respect of that trade before the end of the operative chargeable period, the accounting period during or at the end of which the company ceased to be within the charge to corporation tax in respect of that trade.

Interest on repayment of PRT or APRT

302 Interest on repayment of PRT or APRT

(1) Subsection (3) applies if any amount of petroleum revenue tax paid by a participator in an oil field is, under any provision of Part 1 of OTA 1975, repaid to the participator with interest.

(2) Subsection (3) also applies if interest is paid to a participator under paragraph 10(4) of Schedule 19 to FA 1982 (interest on advance petroleum revenue tax which becomes repayable).

(3) The interest paid is to be disregarded in calculating the participator's income for corporation tax purposes.

Relief

303 Management expenses

No deduction under section 1219 of CTA 2009 (expenses of management of a company's investment business) is to be allowed from a company's ring fence profits.

304 Losses

(1) Relief in respect of a loss incurred by a company may not be given under section 37 (relief for trade losses against total profits) against that company's ring fence profits except so far as the loss arises from oil extraction activities or from oil rights.

(2) Subsection (5) applies if conditions A and B are met.

(3) Condition A is that a company incurs a loss in an accounting period in activities ("separate activities") which, for that or any subsequent accounting period, are treated by section 279 as a separate trade for the purposes of the charge to corporation tax on income.

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(4) Condition B is that any of the company's trading income in any subsequent accounting period is derived from activities ("related activities") which are not part of the separate activities but which would together with those activities constitute a single trade, were it not for section 279.

(5) The loss may be used under section 45 (carry forward of trade loss against subsequent trade profits) to reduce so much of the company's trading income in any subsequent accounting period as is derived from the related activities.

(6) Subsection (5) applies despite anything in section 279.

305 Group relief

(1) On a claim for group relief made by a claimant company in relation to a surrendering company, group relief may not be allowed against the claimant company's ring fence profits except so far as the claim relates to losses incurred by the surrendering company that arose from oil extraction activities or from oil rights.

(2) In section 105 (restriction on surrender of losses etc within section 99(1)(d) to (g)) the references to the surrendering company's gross profits of the surrender period do not include the company's relevant ring fence profits for that period.

(3) The company's "relevant ring fence profits" for that period are—

(a) if for that period there are no qualifying charitable donations made by the company that are allowable under Part 6 (charitable donations relief), the company's ring fence profits for that period, or

(b) otherwise, so much of the company's ring fence profits for that period as exceeds the amount of the qualifying charitable donations made by the company that are allowable under section 189 for that period.

(4) In this section "claimant company" and "surrendering company" are to be read in accordance with Part 5 (group relief) (see section 188).

306 Capital allowances

(1) A capital allowance may not to any extent be given effect under section 259 or 260 of CAA 2001 (special leasing) by deduction from a company's ring fence profits.

(2) But subsection (1) does not apply to a capital allowance which falls to be made to a company for any accounting period in respect of an asset which—

(a) is used in the relevant accounting period by a company associated with it, and

(b) is so used in carrying on oil extraction activities.

(3) "The relevant accounting period" means that for which the allowance in question first falls to be made to the company (whether or not it can to any extent be given effect in that period under section 259 of CAA 2001).

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CHAPTER 5

RING FENCE EXPENDITURE SUPPLEMENT

Introduction

307 Overview of Chapter

(1) This Chapter entitles a company carrying on a ring fence trade, on making a claim in respect of an accounting period, to a supplement in respect of—
  (a) qualifying pre-commencement expenditure incurred before the trade is set up and commenced,
  (b) losses incurred in the trade, and
  (c) some or all of the supplement allowed in respect of earlier periods.

(2) Sections 308 to 314 make provision about the application and interpretation of this Chapter.

(3) Sections 315 to 320 make provision about supplement in relation to expenditure incurred by the company—
  (a) with a view to carrying on a ring fence trade, but
  (b) in an accounting period before the company sets up and commences that trade.

(4) Sections 321 to 329 make provision about supplement in relation to losses incurred in carrying on the ring fence trade.

(5) There is a limit (of 6) on the number of accounting periods in respect of which a company may claim supplement.

(6) In determining the amount of supplement allowable, reductions fall to be made in respect of—
  (a) disposal receipts in respect of any asset representing qualifying pre-commencement expenditure.
  (b) ring fence losses that could be deducted under section 37 (relief for trade losses against total profits) or section 42 (ring fence trades: further extension of period for relief) from ring fence profits of earlier periods,
  (c) ring fence losses incurred in earlier periods that fall to be used under section 45 (carry forward of trade loss against subsequent trade profits) to reduce profits of succeeding periods,
  (d) unrelieved group ring fence profits.

Application and interpretation

308 Qualifying companies

(1) This Chapter applies in relation to any company which—
  (a) carries on a ring fence trade, or
  (b) is engaged in any activities with a view to carrying on a ring fence trade.

(2) In this Chapter such a company is referred to as a "qualifying company".

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309 Accounting periods

(1) In this Chapter, in the case of a qualifying company—

"the commencement period" means the accounting period in which the company sets up and commences its ring fence trade,

"post-commencement period" means an accounting period beginning on or after 1 January 2006—

(a) which is the commencement period, or

(b) which ends after the commencement period, and

"pre-commencement period" means an accounting period—

(a) beginning on or after 1 January 2006, and

(b) ending before the commencement period.

(2) For the purposes of this Chapter, a company not within the charge to corporation tax which incurs any expenditure is to be treated as having such accounting periods as it would have if—

(a) it carried on a trade consisting of the activities in respect of which the expenditure is incurred, and

(b) it had started to carry on that trade when it started to carry on the activities in the course of which the expenditure is incurred.

(3) In the case of an accounting period (a "straddling period") of a qualifying company beginning before 1 January 2006 and ending on or after that date—

(a) so much of the straddling period as falls before 1 January 2006, and

(b) so much of the straddling period as falls on or after that date,

are treated as separate accounting periods for the purposes of this Chapter.

(4) But special provision is made elsewhere in this Chapter in relation to straddling periods (see sections 311, 324 and 327(4) to (7)).

310 The relevant percentage

(1) For the purposes of this Chapter, the relevant percentage for an accounting period is **[**[F1]10%**]**.

(2) The Treasury may by order vary the percentage for the time being specified in subsection (1) for such accounting periods as may be specified in the order.

Textual Amendments

F1 Figure in s. 310(1) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by The Corporation Tax (Variation of the Relevant Percentage) Order 2011 (S.I. 2011/2885), arts. 1(2), **2**

311 Limit on number of accounting periods for which supplement may be claimed

(1) A company may claim supplement under this Chapter in respect of no more than 6 accounting periods.

(2) The accounting periods in respect of which claims are made need not be consecutive.

(3) A claim for supplement by the company under Schedule 19B to ICTA (exploration expenditure supplement) in respect of an accounting period is to count for the purposes

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of this section as a claim for supplement under this Chapter in respect of that accounting period.

(4) But, if the company makes a claim for supplement under this Chapter in respect of the deemed accounting period, any claim for supplement by the company under Schedule 19B to ICTA in respect of the Schedule 19B deemed accounting period is to be ignored for the purposes of this section.

(5) In subsection (4)—

"the deemed accounting period" means the deemed accounting period under section 309(3) beginning on 1 January 2006, and

"the Schedule 19B deemed accounting period" means the deemed accounting period under paragraph 3(3) of Schedule 19B to ICTA ending before 1 January 2006.

312 Qualifying pre-commencement expenditure

(1) For the purposes of this Chapter, expenditure is "qualifying pre-commencement expenditure" if it meets each of conditions A to D.

(2) Condition A is that the expenditure is incurred on or after 1 January 2006.

(3) Condition B is that the expenditure is incurred in the course of oil extraction activities.

(4) Condition C is that the expenditure is incurred by a company with a view to carrying on a ring fence trade but before the company sets up and commences the ring fence trade.

(5) Condition D is that the expenditure—

(a) is subsequently allowable as a deduction in calculating the profits of the ring fence trade for the commencement period (whether or not any part of it is so allowable for any post-commencement period), or

(b) is relevant R&D expenditure incurred by an SME.

(6) For the purposes of this section, expenditure incurred by a company is "relevant R&D expenditure incurred by an SME" if—

(a) the company makes an election under section 1045 of CTA 2009 (alternative treatment for pre-trading expenditure: deemed trading loss) in respect of that expenditure, but

(b) the company does not make a claim for an R&D tax credit under section 1054 of that Act in respect of that expenditure.

(7) In the case of any qualifying pre-commencement expenditure which is relevant R&D expenditure incurred by an SME, the amount of that expenditure is treated for the purposes of this Chapter as being equal to 150% of its actual amount.

(8) In the case of any qualifying pre-commencement expenditure which is relevant R&D expenditure incurred by a large company, the amount of that expenditure is treated for the purposes of this Chapter as being equal to 125% of its actual amount.

(9) In subsection (8) "relevant R&D expenditure incurred by a large company" means qualifying Chapter 5 expenditure, as defined in section 1076 of CTA 2009.

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313 Unrelieved group ring fence profits for accounting periods

(1) There is an amount of unrelieved group ring fence profits for an accounting period of a qualifying company ("company Q") if—

(a) the company and any other company ("company X") are members of the same group, and

(b) company X has an amount of taxable ring fence profits (see section 314) for a corresponding accounting period.

(2) An accounting period of company X corresponds to an accounting period of company Q if—

(a) it coincides with, or falls wholly within, the accounting period of company Q, or

(b) it falls partly within the accounting period of company Q.

(3) If an accounting period of company X—

(a) coincides with an accounting period of company Q, or

(b) falls wholly within an accounting period of company Q,

there is, for the accounting period of company Q, an amount of unrelieved group ring fence profits equal to the whole of company X's taxable ring fence profits for its accounting period.

(4) If an accounting period of company X falls partly within an accounting period of company Q—

(a) there is an amount of unrelieved group ring fence profits for the accounting period of company Q, and

(b) that amount is an amount equal to the part of company X's taxable ring fence profits for its accounting period that is attributable, on an apportionment in accordance with section 1172, to the part of that period which falls within the accounting period of company Q.

(5) For the purposes of this section, two companies are members of the same group if they are members of the same group of companies within the meaning of Part 5 (group relief).

(6) This section applies for the purposes of this Chapter.

314 Taxable ring fence profits for an accounting period

For the purposes of this Chapter, a company has taxable ring fence profits for an accounting period if it has an amount of ring fence profits which is chargeable to corporation tax for that accounting period after any group relief claimed under Part 5 (group relief).

Pre-commencement supplement

315 Supplement in respect of a pre-commencement accounting period

(1) If—

(a) a qualifying company incurs qualifying pre-commencement expenditure in respect of a ring fence trade, and

(b) the expenditure is incurred before the commencement period,

the company may claim supplement under this section ("pre-commencement supplement") in respect of one or more pre-commencement periods.

(2) Any pre-commencement supplement allowed on a claim in respect of a pre-commencement period is to be treated as expenditure—

(a) which is incurred by the company in the commencement period, and

(b) which is allowable as a deduction in calculating the profits of the ring fence trade for that period.

(3) The amount of the supplement for any pre-commencement period in respect of which a claim under this section is made is the relevant percentage for that period of the reference amount for that period.

(4) If the pre-commencement period is a period of less than 12 months, the amount of the supplement for the period (apart from this subsection) is to be reduced proportionally.

(5) Sections 316 to 319 have effect for the purpose of determining the reference amount for a pre-commencement period.

316 The mixed pool of qualifying pre-commencement expenditure and supplement previously allowed

(1) For the purpose of determining the amount of any pre-commencement supplement, a qualifying company is to be taken to have had, at all times in the pre-commencement periods of the company, a continuing mixed pool of—

(a) the relevant amount (if any) which the company carries forward under Schedule 19B to ICTA,

(b) qualifying pre-commencement expenditure, and

(c) pre-commencement supplement.

(2) The pool is to be taken to have consisted of—

(a) the relevant amount (if any) which the company carries forward under Schedule 19B to ICTA,

(b) the company's qualifying pre-commencement expenditure, allocated to the pool for each pre-commencement period in accordance with subsection (3), and

(c) the company's pre-commencement supplement, allocated to the pool for each pre-commencement period in accordance with subsection (4).

(3) To allocate qualifying pre-commencement expenditure to the pool for any pre-commencement period, take the following steps—

Step 1

Count as eligible expenditure for that period so much of the qualifying pre-commencement expenditure mentioned in section 315(1) as was incurred in that period.

Step 2

Find the total of all the eligible expenditure for that period (amount E).

Step 3

If section 317 applies, reduce amount E in accordance with that section.

Step 4

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If section 318 applies, reduce (or, as the case may be, further reduce) amount E in accordance with that section.

And so much of amount E as remains after making those reductions is to be taken to have been added to the pool in that period

(4) If any pre-commencement supplement is allowed on a claim in respect of a pre-commencement period, the amount of that supplement is to be taken to have been added to the pool in that period.

(5) In this section references to the relevant amount (if any) which the company carries forward under Schedule 19B to ICTA are to the amount (if any) in its mixed pool for the purposes of Part 3 of Schedule 19B to ICTA immediately before 1 January 2006.

317 Reduction in respect of disposal receipts under CAA 2001

(1) This section applies in the case of the qualifying company if—
  (a) it incurs qualifying pre-commencement expenditure in respect of a ring fence trade in any pre-commencement period,
  (b) it would, on the relevant assumption, be entitled to an allowance under any provision of CAA 2001 in respect of that expenditure,
  (c) an event occurs in relation to any asset representing the expenditure in any pre-commencement period, and
  (d) the event would, on the relevant assumption, require a disposal value (the "deductible amount") to be brought into account under any provision of CAA 2001 for any pre-commencement period.

(2) The relevant assumption is that the company was carrying on the ring fence trade—
  (a) when the expenditure was incurred, and
  (b) when the event giving rise to the disposal value occurred.

(3) For the purpose of allocating qualifying pre-commencement expenditure to the pool for each pre-commencement period—
  (a) find the total amount of the disposal values in the case of all such events (amount D), and
  (b) taking later periods before earlier periods, reduce (but not below nil) amount E for any pre-commencement period by setting against it so much of amount D as does not fall to be set against amount E for a later pre-commencement period.

318 Reduction in respect of unrelieved group ring fence profits

(1) This section applies if there is an amount of unrelieved group ring fence profits for a pre-commencement period.

(2) For the purpose of allocating qualifying pre-commencement expenditure to the pool for that period—
  (a) find so much (if any) of amount E for that period as remains after any reduction falling to be made under section 317, and
  (b) reduce that amount (but not below nil) by setting against it a sum equal to the aggregate of the amounts of unrelieved group ring fence profits for the period.

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319 The reference amount for a pre-commencement period

For the purposes of section 315, the reference amount for a pre-commencement period is the amount in the pool at the end of the period—

- (a) after the addition to the pool of any qualifying pre-commencement expenditure allocated to the pool for that period in accordance with section 316(3), but
- (b) before determining, and adding to the pool, the amount of any pre-commencement supplement claimed in respect of the period.

320 Claims for pre-commencement supplement

(1) Any claim for pre-commencement supplement in respect of a pre-commencement period must be made as a claim for the commencement period.

(2) Paragraph 74 of Schedule 18 to FA 1998 (company tax returns etc: time limit for claims for group relief) applies in relation to a claim for pre-commencement supplement as it applies in relation to a claim for group relief.

Post-commencement supplement

321 Supplement in respect of a post-commencement period

(1) A qualifying company which incurs a ring fence loss (see section 323) in any post-commencement period may claim supplement under this section ("post-commencement supplement") in respect of—

- (a) that period, or
- (b) any subsequent accounting period in which it carries on its ring fence trade.

(2) Any post-commencement supplement allowed on a claim in respect of a post-commencement period is to be treated for the purposes of the Corporation Tax Acts (other than the post-commencement supplement provisions or Part 4 of Schedule 19B to ICTA) as if it were a loss—

- (a) which is incurred in carrying on the ring fence trade in that period, and
- (b) which falls in whole to be used under section 45 (carry forward of trade loss against subsequent trade profits) to reduce trading income from the ring fence trade in succeeding accounting periods.

(3) Paragraph 74 of Schedule 18 to FA 1998 (company tax returns etc: time limit for claims for group relief) applies in relation to a claim for post-commencement supplement as it applies in relation to a claim for group relief.

(4) In this Chapter "the post-commencement supplement provisions" means this section and sections 322 to 329.

322 Amount of post-commencement supplement for a post-commencement period

(1) The amount of the post-commencement supplement for any post-commencement period in respect of which a claim under section 321 is made is the relevant percentage for that period of the reference amount for that period.

(2) If the post-commencement period is a period of less than 12 months, the amount of the supplement for the period (apart from this subsection) is to be reduced proportionally.

(3) Sections 325 to 329 have effect for the purpose of determining the reference amount for a post-commencement period.

323 Ring fence losses

(1) If—

(a) in any post-commencement period ("the period of the loss") a qualifying company carrying on a ring fence trade incurs a loss in the trade, and

(b) some or all of the loss falls to be used under section 45 (carry forward of trade loss against subsequent trade profits) to reduce trading income from the trade in succeeding accounting periods,

so much of the loss as falls to be so used is a "ring fence loss" of the company.

(2) In determining for the purposes of the post-commencement supplement provisions how much of a loss incurred in a ring fence trade falls to be used as mentioned in subsection (1)(b), the following assumptions are to be made.

(3) The first assumption is that every claim is made that could be made by the company under section 37 (relief for trade losses against total profits) to deduct losses incurred in the ring fence trade from ring fence profits of earlier post-commencement periods.

(4) The second assumption is that (where appropriate) section 42 (ring fence trades: further extension of period for relief) applies in relation to every such claim under section 37.

(5) This section is subject to section 324 (special rule for straddling periods).

(6) This section has effect for the purposes of the post-commencement supplement provisions.

324 Special rule for straddling periods

(1) This section applies if the period of the loss is the deemed accounting period under section 309(3) beginning on 1 January 2006 ("the deemed accounting period").

(2) The amount of ring fence loss in the deemed accounting period is determined as follows—

Step 1

Calculate so much of the ring fence loss in the straddling period as, for the purposes of Part 4 of Schedule 19B to ICTA, is attributable to qualifying E&A allowances for the straddling period. The amount given by this step is "the qualifying Schedule 19B amount".

Step 2

Calculate so much of the ring fence loss in the straddling period as is attributable to allowances for the straddling period under Part 6 of CAA 2001 in respect of relevant expenditure. For the purposes of this step "relevant expenditure" means expenditure incurred by the company on or after 1 January 2006 which, but for that fact, would be qualifying E&A expenditure for the purposes of Schedule 19B to ICTA. For the purposes of this step a ring fence loss is attributable to those allowances so far as the amount of the loss (less the qualifying Schedule 19B amount) does not exceed the amount of those allowances for that period. The

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amount given by this step is "the amount of the post-1 January 2006 E&A allowances".

Step 3

Deduct the qualifying Schedule 19B amount and the amount of the post-1 January 2006 E&A allowances from the amount of the ring fence loss in the straddling period.

Step 4

Apportion the remaining amount of that loss (if any) to the deemed accounting period in proportion to the number of days in the deemed accounting period that fall in the straddling period. The amount given by this step is "the amount of the apportioned loss"

Step 5

The amount of the ring fence loss in the deemed accounting period is the amount of the apportioned loss plus the amount of the post-1 January 2006 E&A allowances.

(3) In this section "the straddling period", in relation to a qualifying company, means an accounting period of the company—

(a) beginning before 1 January 2006, and

(b) ending on or after that date,

disregarding section 309(3).

(4) In this section references to the ring fence loss in the straddling period are to that loss determined on the assumption that the straddling period is the period of the loss for the purposes of section 323.

(5) This section has effect for the purposes of the post-commencement supplement provisions.

325 The pool of ring fence losses and the pool of non-qualifying Schedule 19B losses

(1) For the purpose of determining the amount of any post-commencement supplement, a qualifying company is to be taken at all times in its post-commencement periods to have a continuing mixed pool (the "ring fence pool") of—

(a) the carried forward qualifying Schedule 19B amount (if any),

(b) the company's ring fence losses, and

(c) post-commencement supplement.

(2) The ring fence pool continues even if the amount in it is nil.

(3) For the purpose of determining the amount of any post-commencement supplement, a qualifying company is also to be taken in its post-commencement periods to have a non-qualifying pool consisting of the carried forward non-qualifying Schedule 19B amount.

(4) But the non-qualifying pool ceases to exist when the amount in it is reduced to nil.

(5) In this section—

"the carried forward qualifying Schedule 19B amount", in relation to a qualifying company, means the amount in its qualifying pool for the purposes of Part 4 of Schedule 19B to ICTA immediately before 1 January 2006, and

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"the carried forward non-qualifying Schedule 19B amount", in relation to a qualifying company, means the amount in its non-qualifying pool for the purposes of Part 4 of Schedule 19B to that Act immediately before 1 January 2006.

326 The ring fence pool

(1) The ring fence pool consists of—

(a) the carried forward qualifying Schedule 19B amount (if any),

(b) the company's ring fence losses, allocated to the pool in accordance with subsection (2)(a), and

(c) the company's post-commencement supplement, allocated to the pool in accordance with subsection (2)(b).

(2) The allocation of ring fence losses and post-commencement supplement to the pool is made as follows—

(a) the amount of a ring fence loss is added to the pool in the period of the loss, and

(b) if any post-commencement supplement is allowed on a claim in respect of a post-commencement period, the amount of that supplement is added to the pool in that period.

(3) The amount in the ring fence pool is subject to reductions in accordance with the following provisions of this Chapter.

(4) If a reduction in the amount in the ring fence pool falls to be made in any accounting period, the reduction is to be made—

(a) after the addition to the pool of the amount of any ring fence losses allocated to the pool in that period in accordance with subsection (2)(a), but

(b) before determining, and adding to the pool, the amount of any supplement claimed in respect of the period,

and references to the amount in the pool are to be read accordingly.

(5) In this section "the carried forward qualifying Schedule 19B amount", in relation to a qualifying company, means the amount in its qualifying pool for the purposes of Part 4 of Schedule 19B to ICTA immediately before 1 January 2006.

327 Reductions in respect of utilised ring fence losses

(1) If one or more ring fence losses are used under section 45 (carry forward of trade loss against subsequent trade profits) to reduce any profits of a post-commencement period, reductions are to be made in that period in accordance with this section.

(2) If the company has a non-qualifying pool, the amount in the non-qualifying pool is to be reduced (but not below nil) by setting against it a sum equal to the total amount used as mentioned in subsection (1).

(3) If—

(a) any of that sum remains after being so set against the amount in the non-qualifying pool, or

(b) the company does not have a non-qualifying pool,

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the amount in the ring fence pool is to be reduced (but not below nil) by setting against it so much of that sum as so remains or (as the case may be) a sum equal to the total amount used as mentioned in subsection (1).

(4) If the post-commencement period is the deemed accounting period under section 309(3) beginning on 1 January 2006 ("the deemed accounting period"), the amount of the profits of the deemed accounting period is determined as follows.

(5) The amount of the profits of the straddling period is apportioned to the deemed accounting period in proportion to the number of days in the deemed accounting period that fall in the straddling period.

(6) The apportioned amount is taken for the purposes of this section to be the amount of the profits of the deemed accounting period.

(7) In this section "the straddling period", in relation to a qualifying company, means an accounting period of the company—

(a) beginning before 1 January 2006, and

(b) ending on or after that date,

disregarding section 309(3).

328 Reductions in respect of unrelieved group ring fence profits

(1) If there is an amount of unrelieved group ring fence profits for a post-commencement period, reductions are to be made in that period in accordance with this section.

(2) If, after making any reductions that fall to be made in accordance with section 327, the company does not have a non-qualifying pool, the remaining amount in the ring fence pool is to be reduced (but not below nil) by setting against it a sum equal to the aggregate of the amounts of unrelieved group ring fence profits for the period.

(3) If, after making any reductions that fall to be made in accordance with section 327, the company has an amount in a non-qualifying pool, the amount in that pool is to be reduced (but not below nil) by setting against it a sum equal to the aggregate of the amounts of unrelieved group ring fence profits for the period.

(4) If any of that sum remains after being so set against the amount in the non-qualifying pool, the remaining amount in the ring fence pool is to be reduced (but not below nil) by setting against it so much of that sum as so remains.

(5) For the purposes of this section references to the remaining amount in the ring fence pool are references to so much (if any) of the amount in the ring fence pool as remains after making any reductions that fall to be made in accordance with section 327.

329 The reference amount for a post-commencement period

For the purposes of section 322 the reference amount for a post-commencement period is so much of the amount in the ring fence pool as remains after making any reductions required by section 327 or 328.

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CHAPTER 6

SUPPLEMENTARY CHARGE IN RESPECT OF RING FENCE TRADES

330 Supplementary charge in respect of ring fence trades

(1) If a company carries on a ring fence trade in an accounting period, a sum equal to **[**F2 32%**]** of its adjusted ring fence profits for that period is to be charged on the company as if it were an amount of corporation tax chargeable on the company.

(2) A company's "adjusted ring fence profits" for an accounting period are the amount which, on the assumption mentioned in subsection (3), would be determined for that period as the **[**F3 company's ring fence profits**]** chargeable to corporation tax.

[F4 See also sections 330A and 330B (which provide for the amount of adjusted ring fence profits to be further adjusted where decommissioning expenditure has been taken into account).**]**

(3) The assumption is that financing costs are left out of account in calculating—

(a) the amount of the profits or loss of any ring fence trade of the company for an accounting period, and

(b) if for any such period the whole or part of any loss relief is surrendered to the company in accordance with section 305(1), the amount of that relief or part.

(4) See also section 331 (meaning of financing costs etc).

(5) This Chapter is subject to Chapter 7 (which contains provision about the reduction of the supplementary charge for certain new oil fields).

Textual Amendments

F2 Figure in s. 330(1) substituted (with effect in accordance with s. 7(2)-(11) of the amending Act) by Finance Act 2011 (c. 11), **s. 7(1)**

F3 Words in s. 330(2) substituted (retrospective to 6.12.2011) by Finance Act 2012 (c. 14), **s. 182(1)**(2)

F4 Words in s. 330(2) inserted (with effect in accordance with Sch. 21 para. 6 of the amending Act) by Finance Act 2012 (c. 14), **Sch. 21 para. 2**

[F5 330A Decommissioning expenditure taken into account in calculating ring fence profits

(1) This section applies where—

(a) any decommissioning expenditure is taken into account in calculating the amount mentioned in paragraph (a) of subsection (3) of section 330 or the amount mentioned in paragraph (b) of that subsection, and

(b) if that expenditure were not so taken into account, the amount of the adjusted ring fence profits of the company for the accounting period would be greater than nil.

(2) In calculating for the purposes of section 330(1) the amount of the adjusted ring fence profits of the company for the accounting period, there is to be added an amount equal to the appropriate fraction of the used-up amount of that expenditure.

(3) For the purposes of this section—

"the appropriate fraction" is

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SC – 20 % SC

where SC is the percentage specified in section 330(1) for the accounting period, and

"the used-up amount", in relation to any expenditure, is the difference between—

(a) the adjusted ring fence profits of the company for the accounting period determined in the absence of this section (which may be nil), and

(b) what the adjusted ring fence profits of the company for that accounting period would be if that expenditure were not taken into account as mentioned in subsection (1).

(4) In determining for the purposes of this section whether, and to what extent, any losses which have been taken into account as mentioned in subsection (1) are attributable to decommissioning expenditure—

(a) assume that any amounts of any other expenditure which could be taken into account in calculating those losses are taken into account before any amounts of decommissioning expenditure, and

(b) where any losses have been surrendered in accordance with Part 5, the company must specify, in accordance with a basis determined jointly by the company, the surrendering company (if different) and any other claimant company, whether any of those losses is attributable to decommissioning expenditure.

(5) But if paragraph (a) of subsection (4) would work unfavourably in the company's case, the company may elect for that paragraph not to apply in relation to it and for any amounts of expenditure which could be taken into account in calculating those losses instead to be taken into account in the order specified in the election.

(6) In determining for the purposes of this section the used-up amount of decommissioning expenditure, assume that any other amounts that could be deducted in calculating the adjusted ring fence profits of the company for the accounting period have already been so deducted.

(7) But if subsection (6) would work unfavourably in the company's case, the company may elect for that subsection not to apply in relation to it and for any amounts that could be deducted in calculating those adjusted ring fence profits instead to be deducted in the order specified in the election.

(8) For the purposes of this section, any deduction made under section 330B is to be disregarded.

(9) This section does not apply in relation to any accounting period for which the percentage specified in section 330(1) is less than or equal to 20% (including any accounting period beginning before 24 March 2011 and ending on or after that date).

(10) In this section—

"claimant company" and "surrendering company" are to be read in accordance with Part 5 (see section 188), and

"decommissioning expenditure" has the meaning given by section 330C.**]**

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Textual Amendments

F5 Ss. 330A-330C inserted (with effect in accordance with Sch. 21 para. 6 of the amending Act) by Finance Act 2012 (c. 14), **Sch. 21 para. 3**

[F5 330B Decommissioning expenditure taken into account for PRT purposes

(1) This section applies where—

(a) any decommissioning expenditure is taken into account in calculating the assessable profit accruing to a participator in any chargeable period from an oil field, and

(b) if that expenditure were not so taken into account, the amount of petroleum revenue tax with which the participator would be chargeable in respect of the field for the chargeable period would be greater than nil.

(2) In calculating for the purposes of section 330(1) the amount of the participator's adjusted ring fence profits for the relevant accounting period, there is to be deducted an amount equal to the appropriate fraction of the PRT difference.

(3) For the purposes of this section—

"the appropriate fraction" is

$$\frac{SC - 20\,\%}{SC}$$

where SC is the percentage specified in section 330(1) for the relevant accounting period, and

"the PRT difference" is the difference between—

(a) the amount of petroleum revenue tax with which the participator is chargeable for the chargeable period (which may be nil), and

(b) the amount of petroleum revenue tax with which the participator would be chargeable for that chargeable period if the decommissioning expenditure were not taken into account as mentioned in subsection (1).

(4) In determining for the purposes of this section whether, and to what extent, any allowable losses which have been taken into account as mentioned in subsection (1) are attributable to decommissioning expenditure, assume that any amounts of any other expenditure which could be taken into account in calculating those losses are taken into account before any amounts of decommissioning expenditure.

(5) But if subsection (4) would work unfavourably in the participator's case, the participator may elect for that subsection not to apply in relation to it and for any amounts of expenditure which could be taken into account in calculating those losses instead to be taken into account in the order specified in the election.

(6) This section does not apply in relation to any accounting period for which the percentage specified in section 330(1) is less than or equal to 20% (including any accounting period beginning before 24 March 2011 and ending on or after that date).

(7) In this section—

"assessable profit" and "allowable loss" have the same meaning as in Part 1 of OTA 1975 (see section 2 of that Act),

"decommissioning expenditure" has the meaning given by section 330C, and

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"the relevant accounting period"—

(a) in a case where section 301 applies, is to be construed in accordance with subsection (7) of that section, and

(b) in any other case, means the accounting period for which a deduction in respect of any petroleum revenue tax with which the participator may be chargeable for the chargeable period mentioned in subsection (1) would be made under section 299(2) (deduction of PRT in calculating income for corporation tax purposes).**]**

Textual Amendments

F5 Ss. 330A-330C inserted (with effect in accordance with Sch. 21 para. 6 of the amending Act) by Finance Act 2012 (c. 14), **Sch. 21 para. 3**

[F5 330C Meaning of "decommissioning expenditure"

(1) In sections 330A and 330B "decommissioning expenditure" means expenditure incurred in connection with—

(a) demolishing any plant or machinery,

(b) preserving any plant or machinery pending its reuse or demolition,

(c) preparing any plant or machinery for reuse,

(d) arranging for the reuse of any plant or machinery, or

(e) the restoration of any land.

(2) It is immaterial for the purposes of subsection (1)(b) whether the plant or machinery is reused, is demolished or is partly reused and partly demolished.

(3) It is immaterial for the purposes of subsection (1)(c) and (d) whether the plant or machinery is in fact reused.

(4) In subsection (1)(e) "restoration" includes landscaping.

(5) The Treasury may by order amend this section.

(6) An order under subsection (5) may include transitional provision and savings.**]**

Textual Amendments

F5 Ss. 330A-330C inserted (with effect in accordance with Sch. 21 para. 6 of the amending Act) by Finance Act 2012 (c. 14), **Sch. 21 para. 3**

331 Meaning of "financing costs" etc

(1) This section applies for the purposes of section 330.

(2) "Financing costs" means the costs of debt finance.

(3) In calculating the costs of debt finance for an accounting period the matters to be taken into account include—

(a) any costs giving rise to debits in respect of debtor relationships of the company under Part 5 of CTA 2009 (loan relationships), other than debits in respect of exchange losses from such relationships,

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(b) any exchange gain or loss from a debtor relationship of the company in relation to debt finance,
(c) any credit or debit falling to be brought into account in accordance with Part 7 of CTA 2009 (derivative contracts) in relation to debt finance,
(d) the financing cost implicit in a payment under a finance lease,
(e) if the company is the lessee under a long funding operating lease, the amount deductible in respect of payments under the lease in calculating the profits of the lessee for corporation tax purposes (after first making against any such amount any reductions falling to be made as a result of section 379 (lessee under long funding operating lease)), and,
(f) any other costs arising from what would be considered in accordance with generally accepted accounting practice to be a financing transaction.

(4) If an amount representing the whole or part of a payment falling to be made by a company—
(a) falls (or would fall) to be treated as a finance charge under a finance lease for the purposes of accounts which relate to that company and one or more other companies and are prepared in accordance with generally accepted accounting practice, but
(b) is not so treated in the accounts of the company,

the amount is to be treated as a financing cost within subsection (3)(d).

(5) If—
(a) in calculating the adjusted ring fence profits of a company for an accounting period, an amount falls to be left out of account as a result of subsection (3)(d), but
(b) the whole or any part of that amount is repaid,

the repayment is also to be left out of account in calculating the adjusted ring fence profits of the company for any accounting period.

(6) In this section "finance lease" means any arrangements which—
(a) provide for an asset to be leased or otherwise made available by a person to another person ("the lessee"), and
(b) under generally accepted accounting practice—
(i) fall (or would fall) to be treated, in the accounts of the lessee or a person connected with the lessee, as a finance lease or a loan, or
(ii) are comprised in arrangements which fall (or would fall) to be so treated.

(7) For the purposes of applying subsection (6)(b), the lessee and any person connected with the lessee are to be treated as being companies which are incorporated in a part of the United Kingdom.

(8) Section 1176(1) (meaning of "connected" persons) does not apply for the purposes of this section.

(9) In this section—

"accounts", in relation to a company, includes accounts which—
(a) relate to two or more companies of which that company is one, and
(b) are drawn up in accordance with generally accepted accounting practice,

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"debtor relationship" has the meaning given by section 302(6) of CTA 2009,

"exchange gains" and "exchange losses" are to be read in accordance with section 475 of CTA 2009, and

"long funding operating lease" means a long funding operating lease for the purposes of Part 2 of CAA 2001 (see section 70YI(1) of that Act).

332 Assessment, recovery and postponement of supplementary charge

(1) The provisions of section 330(1) relating to the charging of a sum as if it were an amount of corporation tax are to be taken as applying all enactments applying generally to corporation tax.

(2) But this is subject to—
- (a) the provisions of the Taxes Acts,
- (b) any necessary modifications, and
- (c) subsection (5).

(3) The enactments mentioned in subsection (1) include—
- (a) those relating to returns of information and the supply of accounts, statements and reports,
- (b) those relating to the assessing, collecting and receiving of corporation tax,
- (c) those conferring or regulating a right of appeal, and
- (d) those concerning administration, penalties, interest on unpaid tax and priority of tax in cases of insolvency under the law of any part of the United Kingdom.

(4) Accordingly TMA 1970 is to have effect as if any reference to corporation tax included a sum chargeable under section 330(1) as if it were an amount of corporation tax (but this does not limit subsections (1) to (3)).

(5) In the Corporation Tax (Treatment of Unrelieved Surplus Advance Corporation Tax) Regulations 1999 (S.I. 1999/358) or any further regulations made under section 32 of FA 1998 (unrelieved surplus advance corporation tax)—
- (a) references to corporation tax do not include a sum chargeable on a company under section 330(1) as if it were corporation tax, and
- (b) references to profits charged to corporation tax do not include adjusted ring fence profits, within the meaning of section 330.

(6) In this section "the Taxes Acts" has the same meaning as in TMA 1970 (see section 118(1) of that Act).

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CHAPTER 7

REDUCTION OF SUPPLEMENTARY CHARGE FOR CERTAIN NEW OIL FIELDS

Reduction of adjusted ring fence profits

333 Reduction of adjusted ring fence profits

(1) A company's adjusted ring fence profits for an accounting period are to be reduced by the amount of the company's pool of field allowances for that accounting period (see sections 334 to 336).

(2) But, if the profits are less than the amount of the pool, the profits are to be reduced to nil.

Pool of field allowances

334 Company's pool of field allowances

A company's pool of field allowances for an accounting period ("the relevant accounting period") is—

$$P + R$$

where—
P is the amount of the company's pool of field allowances for the previous accounting period that has been carried into the relevant accounting period (see sections 335 and 336), and
R is the aggregate of the amounts of field allowances for new oil fields which the company holds (see sections 337 to 339) that are activated in respect of—

(a) the relevant accounting period (see sections 340 and 341), and

(b) reference periods that fall within the relevant accounting period (see sections 342 to 344).

335 Carrying part of pool of field allowances into following period

(1) This section applies if —

(a) a company has a pool of field allowances for an accounting period ("accounting period 1"), and

(b) the company's adjusted ring fence profits for accounting period 1 are reduced to nil in accordance with section 333(2).

(2) A part of the company's pool of field allowances for accounting period 1 is to be carried into the following accounting period ("accounting period 2").

(3) The part to be carried into accounting period 2 is—

$$F - P$$

where—
F is the amount of the company's pool of field allowances for accounting period 1, and

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P is the amount of the adjusted ring fence profits for accounting period 1.

336 Carrying whole of pool of field allowances into following period

(1) This section applies if a company—
   (a) has a pool of field allowances for an accounting period, but
   (b) has no adjusted ring fence profits for the accounting period.

(2) The whole of the company's pool of field allowances for the accounting period is to be carried into the following accounting period.

Field allowance: when held and unactivated amount

337 Initial licensee to hold a field allowance

(1) A company that is an initial licensee in a new oil field is to hold a field allowance for that field as from the beginning of the **[**[F6]accounting period in which the authorisation day falls**]**.

(2) The amount of the field allowance which the licensee is to hold at that time is—

$$T \times S$$

where—
T is the amount of the total field allowance for the field (see section 356), and
S is the share of the equity in the field which the initial licensee has at the beginning of the authorisation day.

Textual Amendments

F6 Words in s. 337(1) substituted (with effect in accordance with s. 63(4) of the amending Act) by Finance Act 2011 (c. 11), **s. 63(1)**

338 Holding a field allowance on acquisition of equity share

For provision about holding a field allowance by virtue of the acquisition of a share of the equity in a new oil field, see section 347(2).

339 Unactivated amount of field allowance

(1) This section applies if a company holds a field allowance for a new oil field by virtue of section 337 or 347(2).

(2) The unactivated amount of that allowance at a particular time (“the relevant time”) is—

$$(R + E) - (A + D)$$

where—
R is the amount of the field allowance which the company held before the relevant time by virtue of section 337 or 347(2),

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E is the total amount of the field allowance received before the relevant time by virtue of section 347(1) (company already holding field allowance acquires equity share),
A is the total amount of the field allowance activated in respect of —
(a) accounting periods ending before the relevant time, or
(b) reference periods ending before the relevant time, and
D is the total amount of reductions in the field allowance made before the relevant time by virtue of section 346 (company disposes of equity share).

(3) A company ceases to hold a field allowance for a new oil field if the unactivated amount of that allowance falls to nil.

No change in equity share: activation of allowance

340 Introduction to section 341

(1) Section 341 applies to a company in respect of a new oil field and an accounting period if the following conditions are met.

(2) Condition A is that the company is a licensee in the field for the whole of the accounting period.

(3) Condition B is that the company's share of the equity in the field is the same during the whole of the accounting period.

(4) Condition C is that the company holds an unactivated amount of field allowance for the field at the beginning of the accounting period.

(5) Condition D is that the company has relevant income from the new oil field in the accounting period.

341 Activation of field allowance

(1) An amount of the company's field allowance for the new oil field is to be activated in respect of the accounting period.

(2) The amount of the field allowance to be activated is the smallest of the following amounts—
(a) the relevant activation limit,
(b) the company's relevant income from the field in the accounting period, and
(c) the unactivated amount of the field allowance which the company holds at the beginning of the accounting period.

(3) The relevant activation limit is—

$$\frac{T}{5} \times E \times \frac{N}{365}$$

where—
T is the amount of the total field allowance for the field (see section 356),
E is the company's share of the equity in the field during the accounting period, and
N is the number of days in the accounting period.

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Change in equity share: activation of allowance

342 Introduction to sections 343 and 344

(1) Sections 343 and 344 apply to a company in respect of a new oil field and an accounting period if the following conditions are met.

(2) Condition A is that the company is a licensee in the field for the whole, or for part, of the accounting period.

(3) Condition B is that the company's share of the equity in the field is different at different times during the accounting period.

(4) Condition C is that the company holds an unactivated amount of field allowance for the field at any time during the accounting period.

(5) Condition D is that the company has relevant income from the field in the accounting period.

(6) In a case where a company has three or more different shares of the equity in a new oil field during a particular day, sections 343 and 344 (in particular provisions relating to the beginning or end of a day) have effect subject to the necessary modifications.

343 Reference periods

(1) For the purposes of section 344, the accounting period, or (if the company is not a licensee for the whole of the accounting period) the part or parts of the accounting period for which the company is a licensee, is to be divided into reference periods.

(2) A reference period is a period of consecutive days that meets the following conditions.

(3) Condition A is that, at the beginning of each day in the period, the company is a licensee in the new oil field.

(4) Condition B is that, at the beginning of each day in the period, the company's share of the equity in the field is the same.

(5) Condition C is that, at the beginning of the first day of the period, the company holds an unactivated amount of field allowance for the field.

(6) Condition D is that each day in the period falls within the accounting period.

344 Activation of field allowance

(1) An amount of the company's field allowance for the new oil field is to be activated in respect of each reference period.

(2) The amount of the field allowance to be activated is the smallest of the following amounts—

- (a) the relevant activation limit,
- (b) the company's relevant income from the field in the reference period, and
- (c) the unactivated amount of the field allowance which the company holds at the beginning of the reference period.

(3) The relevant activation limit is—

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$$\frac{T}{5} \times E \times \frac{R}{365}$$

where—
T is the amount of the total field allowance for the field (see section 356),
E is the company's share of the equity in the field during the reference period, and
R is the number of days in the reference period.

(4) The company's relevant income from the field in the reference period is—

$$I \times \frac{R}{L}$$

where—
I is the company's relevant income from the field in the whole of the accounting period,
R is the number of days in the reference period, and
L is the number of days in the accounting period for which the company is a licensee in the new oil field.

Change in equity share: transfer of field allowance

345 Introduction to sections 346 and 347

(1) Sections 346 and 347 apply if the following conditions are met.

(2) Condition A is that a company that is a licensee in a new oil field ("the transferor") disposes of the whole or a part of its share of the equity in the new oil field (and in section 347 each of those to which a share of the equity is disposed of is referred to as "a transferee").

(3) Condition B is that, immediately before the disposal, the transferor holds an unactivated amount of field allowance for the new oil field.

(4) Subsection (5) applies when—

(a) determining (for the purposes of this section) whether a transferor holds an unactivated amount of field allowance immediately before the disposal ("the relevant time"), and

(b) determining (for the purposes of section 346), the unactivated amount of field allowance which a transferor holds at the relevant time;

but it applies only if an amount of field allowance for the new oil field ("the relevant amount") has, by virtue of section 344, been activated in respect of the reference period that ends because of the disposal.

(5) When making the determination, the relevant amount of the field allowance must be treated as having been activated at a time before the relevant time.

(6) In a case where a company has three or more different shares of the equity in a new oil field during a particular day, sections 346 and 347 (in particular provisions relating to the beginning or end of a day) have effect subject to the necessary modifications.

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346 Reduction of field allowance if equity disposed of

(1) The unactivated amount of the field allowance for the new oil field which the transferor holds immediately before the disposal is to be reduced by the following amount—

$$F \times \frac{E1 - E2}{E1}$$

where—
F is the unactivated amount of the field allowance which the transferor holds immediately before the disposal,
E1 is the transferor's share of the equity in the new oil field immediately before the disposal, and
E2 is the transferor's share of the equity in the new oil field immediately after the disposal.

(2) This section has effect at the end of the day on which the disposal takes place.

347 Acquisition of field allowance if equity acquired

(1) If a transferee holds a field allowance for the new oil field immediately before the disposal, the unactivated amount of the field allowance is to be increased by the amount calculated in accordance with subsection (4).

(2) If a transferee does not hold a field allowance for the new oil field immediately before the disposal, the transferee is to hold a field allowance for the new oil field.

(3) The amount of the field allowance which the transferee is to hold is calculated in accordance with subsection (4).

(4) The amount referred to in subsections (1) and (3) is—

$$R \times \frac{E3}{E1 - E2}$$

where—
R is the amount of the reduction determined in accordance with section 346,
E3 is the share of the equity in the new oil field that the transferee has acquired from the transferor, and
E1 and E2 are the same as in section 346.

(5) This section has effect at the end of the day on which the disposal takes place.

Miscellaneous

348 Adjustments

(1) This section applies if there is any alteration in a company's adjusted ring fence profits for an accounting period after this Chapter has had effect in relation to the profits.

(2) Any necessary adjustments to the operation of this Chapter (whether in relation to the profits or otherwise) are to be made (including any necessary adjustments to the effect of section 333 on the profits or to the calculation of the company's pool of field allowances for a subsequent accounting period).

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349 Orders

(1) The Commissioners for Her Majesty's Revenue and Customs may by order make provision about the oil fields that are **[**[F7]additionally-developed oil fields or**]** qualifying oil fields for the purposes of this Chapter.

(2) The Commissioners for Her Majesty's Revenue and Customs may by order make provision about the amount of the total field allowance for any description of **[**[F8]eligible oil field**]** (whether or not provision has been made under subsection (1) about that description of **[**[F8]eligible oil field**]**).

[[F9](2A) The Commissioners for Her Majesty's Revenue and Customs may by order make provision about the meaning of any term used in this Chapter.**]**

[[F10](3) The provision that may be made by an order under this section includes—

(a) provision amending this Chapter,

(b) provision that has effect in relation to times before the order is made and does not increase any person's liability to tax, and

(c) incidental, supplemental, consequential, transitional or saving provision, including provision amending, repealing or revoking any provision made by or under this Act.**]**

(4) No order may be made under this section unless a draft of the statutory instrument containing it has been laid before and approved by a resolution of the House of Commons.

Textual Amendments

F7 Words in s. 349(1) inserted (17.7.2012) by Finance Act 2012 (c. 14), **Sch. 22 paras. 14(2)**, 21(2)

F8 Words in s. 349(2) substituted (17.7.2012) by Finance Act 2012 (c. 14), **Sch. 22 paras. 14(3)**, 21(2)

F9 S. 349(2A) inserted (17.7.2012) by Finance Act 2012 (c. 14), **Sch. 22 paras. 14(4)**, 21(2)

F10 S. 349(3) substituted (17.7.2012) by Finance Act 2012 (c. 14), **Sch. 22 paras. 14(5)**, 21(2)

Interpretation

[[F11]349A Additionally-developed oil field”

(1) In this Chapter an oil field is an “additionally-developed oil field” if—

(a) a national authority has authorised a project described in an addendum to the consent for development for the oil field, and

(b) the project meets such conditions as may be specified in an order made by the Commissioners for Her Majesty's Revenue and Customs.

(2) In this section—

“consent for development”, in relation to an oil field, does not include consent which is limited to the purpose of testing the characteristics of an oil-bearing area,

“development”, in relation to an oil field, means winning oil from the field otherwise than in the course of searching for oil or drilling wells, and

“national authority” means—

(a) the Secretary of State, or

(b) a Northern Ireland department.

(3) An order under this section may include provision having effect in relation to times before it is made, provided that it does not increase any person's liability to tax.

(4) No order may be made under this section unless a draft of the statutory instrument containing it has been laid before and approved by a resolution of the House of Commons.**]**

Textual Amendments

F11 S. 349A inserted (17.7.2012) by Finance Act 2012 (c. 14), **Sch. 22 paras. 15**, 21(2)

[F12 350 New oil field"

(1) In this Chapter " new oil field " means an oil field—

(a) which is a qualifying oil field, and

(b) whose development (in whole or in part) is authorised for the first time on or after 22 April 2009.

(2) If all assets of an oil field which are relevant assets have been decommissioned, there is to be ignored for the purposes of subsection (1)(b) any authorisation in respect of that oil field which occurs before that decommissioning.

(3) Sub-paragraphs (2) to (9) of paragraph 7 of Schedule 1 to OTA 1975 apply for the purpose of determining whether relevant assets of an oil field are decommissioned as they apply for the purpose of determining whether qualifying assets of a relevant area are decommissioned.

(4) For the purposes of this section, an asset is a relevant asset of an oil field if—

(a) it has at any time been a qualifying asset (within the meaning of the Oil Taxation Act 1983) in relation to any participator in the field, and

(b) it has at any time been used for the purpose of winning oil from the field.**]**

Textual Amendments

F12 S. 350 substituted (with effect in accordance with s. 63(4) of the amending Act) by Finance Act 2011 (c. 11), **s. 63(2)**

351 "Authorisation of development of an oil field"

(1) In this Chapter a reference to authorisation of development of an oil field is a reference to a national authority—

(a) granting a licensee consent for development for the field,

(b) serving on a licensee a programme of development for the field, or

(c) approving a programme of development for the field.

(2) In this section—

"consent for development", in relation to an oil field, does not include consent which is limited to the purpose of testing the characteristics of an oil-bearing area,

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"development", in relation to an oil field, means winning oil from the field otherwise than in the course of searching for oil or drilling wells, and

"national authority" means—

(a) the Secretary of State, or

(b) a Northern Ireland department.

352 "Qualifying oil field"

In this Chapter "qualifying oil field" means an oil field that is, on the authorisation day—

(a) a small oil field,

(b) an ultra heavy oil field, or

(c) an ultra high pressure/high temperature oil field.

353 "Small oil field"

(1) In this Chapter "small oil field" means an oil field which has reserves of oil of 3,500,000 tonnes or less.

(2) For the purposes of this section and section 356(2)—

(a) the amount of reserves of oil which an oil field has is to be determined on the authorisation day, and

(b) 1,100 cubic metres of gas at a temperature of 15 degrees celsius and pressure of one atmosphere is to be counted as equivalent to one tonne.

354 "Ultra heavy oil field"

(1) In this Chapter "ultra heavy oil field" means an oil field with oil at—

(a) an API gravity below 18 degrees, and

(b) a viscosity of more than 50 centipoise at reservoir temperature and pressure.

(2) For that purpose API gravity, in relation to oil, is the amount determined by the following calculation—

$$\frac{141.5}{G} - 131.5$$

where G is the specific gravity of the oil at 15.56 degrees celsius.

355 "Ultra high pressure/high temperature oil field"

In this Chapter "ultra high pressure/high temperature oil field" means an oil field with oil at—

(a) a pressure of more than [F13 862] bar in the reservoir formation, and

(b) a temperature of more than [F14 166] degrees celsius in the reservoir formation.

Textual Amendments

F13 Figure in s. 355(a) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by The Qualifying Oil Fields Order 2010 (S.I. 2010/1899), arts. 1(2), **3(a)**

F14 Figure in s. 355(b) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by The Qualifying Oil Fields Order 2010 (S.I. 2010/1899), arts. 1(2), **3(b)**

356 "Total field allowance for a new oil field"

(1) For the purposes of this Chapter, the total field allowance for a new oil field is—

(a) in the case of a small oil field, the amount determined in accordance with subsection (2),

(b) in the case of an ultra heavy oil field, £800,000,000, and

(c) in the cases of an ultra high pressure/high temperature oil field, **[**[F15]the amount determined in accordance with subsection (3)**]**.

(2) The total field allowance for a small oil field is—

(a) if the oil field has reserves of oil of 2,750,000 tonnes or less, £75,000,000, and

(b) in any other case (where the oil field has reserves of more than 2,750,000 tonnes but not more than 3,500,000 tonnes), the following amount—

$$£75{,}000{,}000 \times \frac{3{,}500{,}000 - X}{3{,}500{,}000 - 2{,}750{,}000}$$

where X is the amount of the reserves of oil (in tonnes) which the oil field has.

[[F16](3) The total field allowance for an ultra high pressure/high temperature oil field is—

(a) £800,000,000, if the temperature of oil in the reservoir formation is more than 176.67 degrees celsius, and

(b) if the temperature of oil in the reservoir formation is more than 166 degrees celsius but not more than 176.67 degrees celsius, the sum of £500,000,000 and an amount calculated as follows—

X1067×£300,000,000

where X is the number of complete hundredths of a degree celsius by which the temperature of oil in the reservoir formation exceeds 166 degrees celsius.**]**

Textual Amendments

F15 Words in s. 356(1)(c) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by The Qualifying Oil Fields Order 2010 (S.I. 2010/1899), arts. 1(2), **4(2)**

F16 S. 356(3) inserted (with effect in accordance with art. 1(2) of the amending S.I.) by The Qualifying Oil Fields Order 2010 (S.I. 2010/1899), arts. 1(2), **4(3)**

357 Other definitions

In this Chapter—

"adjusted ring fence profits", in relation to a company and an accounting period, means the adjusted ring fence profits that would (if this Chapter were ignored) be taken into account in calculating the supplementary charge on the company under section 330(1) for the accounting period,

"authorisation day", in relation to a new oil field, means the day when development of the field is authorised **[**[F17]as mentioned in section 350(1)(b)**]**,

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[F18“eligible oil field” means an oil field which is an additionally-developed oil field or a new oil field,**]**

“initial licensee”, in relation to a new oil field, means a company that is licensee in the field on the authorisation day,

“licensee” has the same meaning as in Part 1 of OTA 1975, and

“relevant income”, in relation to a new oil field and an accounting period of a company, means production income of the company from any oil extraction activities carried on in the field that is taken into account in calculating the company's adjusted ring fence profits for the accounting period.

Textual Amendments

F17 Words in s. 357 inserted (with effect in accordance with s. 63(4) of the amending Act) by Finance Act 2011 (c. 11), **s. 63(3)**

F18 Words in s. 357 inserted (17.7.2012) by Finance Act 2012 (c. 14), **Sch. 22 paras. 16(3)**, 21(2)

Status:
Point in time view as at 17/07/2012.

Changes to legislation:
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