# Corporation Tax Act 2010

## 2010 CHAPTER 4

### PART 8

OIL ACTIVITIES

### [F1CHAPTER 5A

EXTENDED RING FENCE EXPENDITURE SUPPLEMENT FOR ONSHORE ACTIVITIES

**Textual Amendments**

**F1** Pt. 8 Ch. 5A inserted (with effect in accordance with Sch. 14 para. 4 of the amending Act) by Finance Act 2014 (c. 26), **Sch. 14 para. 1**

*Introduction*

### 329A 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 an additional supplement in respect of—

(a) qualifying pre-commencement onshore expenditure incurred before the date the trade is set up and commenced,

(b) losses incurred in the trade which relate to onshore oil-related activities,

(c) some or all of the supplement allowed in respect of earlier periods under Chapter 5, and

(d) the additional supplement allowed in respect of earlier periods under this Chapter.

(2) Sections 329B to 329H make provision about the application and interpretation of this Chapter.

(3) Sections 329I to 329M make provision about additional 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 329N to 329T make provision about additional supplement in relation to losses incurred in carrying on the ring fence trade.

(5) There is a limit (of 4) on the number of accounting periods in respect of which a company may claim additional supplement.

(6) In determining the amount of additional supplement allowable, reductions fall to be made in respect of—

(a) disposal receipts in respect of any asset representing qualifying pre-commencement onshore expenditure,

(b) onshore 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) onshore 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, and

(d) unrelieved group ring fence profits.

*Application and interpretation*

### 329B 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".

### 329C Onshore and offshore oil-related activities

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

(2) "Onshore oil-related activities" has the same meaning as in Chapter 8 (supplementary charge: onshore allowance) (see section 356BA).

(3) "Offshore oil-related activities" means oil-related activities that are not onshore oil-related activities.

### 329D Accounting periods and straddling 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 ending on or after 5 December 2013—

(a) which is the commencement period, or

(b) which ends after the commencement period, and

"pre-commencement period" means an accounting period ending—

(a) on or after 5 December 2013, and

(b) 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 this Chapter, "straddling period" means an accounting period beginning before and ending on or after 5 December 2013.

### 329E The relevant percentage

(1) For the purposes of this Chapter, the relevant percentage for an accounting period is 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.

### 329F Restrictions on accounting periods for which additional supplement may be claimed

(1) A company may claim additional supplement under this Chapter in respect of no more than 4 accounting periods.

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

(3) The additional supplement under this Chapter—

(a) is additional to any supplement allowed under Chapter 5, but

(b) may only be claimed for accounting periods which fall after 6 accounting periods for which supplement is allowed as a result of claims by the company under Chapter 5.

### 329G Qualifying pre-commencement onshore expenditure

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

(2) Condition A is that the expenditure is incurred on or after 5 December 2013.

(3) Condition B is that the expenditure is incurred in the course of oil extraction activities which are onshore oil-related 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 that 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 onshore 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 onshore 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.

### 329H Unrelieved group ring fence profits

In this Chapter "unrelieved group ring fence profits" has the same meaning as in Chapter 5 (see sections 313 and 314).

*Pre-commencement additional supplement*

### 329I Additional supplement in respect of a pre-commencement accounting period

(1) If—
(a) a qualifying company incurs qualifying pre-commencement onshore expenditure in respect of a ring fence trade, and
(b) the expenditure is incurred before the commencement period,

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

This is subject to section 329F(3)(b).

(2) Any pre-commencement additional 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 additional 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) Sections 329J to 329M have effect for the purpose of determining the reference amount for a pre-commencement period.

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

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

(7) 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 additional supplement as it applies in relation to a claim for group relief.

### 329J The mixed pool of qualifying pre-commencement onshore expenditure and supplement previously allowed

(1) For the purpose of determining the amount of any pre-commencement additional 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) qualifying pre-commencement onshore expenditure,
- (b) pre-commencement supplement under Chapter 5, and
- (c) pre-commencement additional supplement under this Chapter.

(2) The pool is to be taken to have consisted of—
- (a) the company's qualifying pre-commencement onshore expenditure, allocated to the pool for each pre-commencement period in accordance with subsection (3),
- (b) the company's pre-commencement supplement allowed under Chapter 5, allocated to the pool in accordance with subsections (4) to (7), and
- (c) the company's pre-commencement additional supplement allowed under this Chapter, allocated to the pool in accordance with subsection (8).

(3) To allocate qualifying pre-commencement onshore 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 onshore expenditure mentioned in section 329I(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 329K (reduction in respect of disposal receipts under CAA 2001) applies, reduce amount E in accordance with that section.

*Step 4* If section 329L (reduction in respect of unrelieved group ring fence profits) 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 under Chapter 5 in respect of a pre-commencement period, the appropriate proportion of that supplement is to be taken to have been added to the pool in that period.

(5) "The appropriate proportion" means—

(a) if, before the end of the pre-commencement period, the company has incurred qualifying pre-commencement expenditure (within the meaning of section 312) on offshore oil-related activities, such proportion of the pre-commencement supplement under Chapter 5 as it is just and reasonable to attribute (directly or indirectly) to the company's qualifying pre-commencement onshore expenditure, and

(b) in any other case, 100%.

(6) In the case of a straddling period—

(a) the appropriate proportion of the pre-commencement supplement allowed on a claim under Chapter 5 in respect of the period is apportioned between so much of that period as falls before 5 December 2013 and so much of it as falls on or after that date, on the basis of the number of days in each part, and

(b) only so much of the appropriate proportion of the supplement as is apportioned to the later period is taken to have been added to the pool under subsection (4).

(7) But if the basis of the apportionment in subsection (6)(a) would work unjustly or unreasonably in the company's case, the company may elect for the apportionment to be made on another basis that is just and reasonable and specified in the election.

(8) If any pre-commencement additional supplement is allowed on a claim under this Chapter 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.

### 329K 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 onshore 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 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 onshore 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.

(4) Where the asset represented by the qualifying pre-commencement onshore expenditure is a mixed-activities asset, subsection (3) applies as if the disposal value required to be brought into account as mentioned in subsection (1)(d) were such

proportion of the actual disposal value as is just and reasonable having regard to that expenditure.

(5) The asset is a "mixed-activities asset" if it also represents expenditure on offshore oil-related activities which is incurred by the company in a pre-commencement period and in respect of which the company would, on the relevant assumption, be entitled to an allowance under any provision of CAA 2001.

### 329L 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 onshore 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 329K ("the amount of the net onshore expenditure"), and

(b) reduce the amount of the net onshore expenditure (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 the pre-commencement period is a straddling period, the unrelieved group ring fence profits for that period are to be determined as if the period began on 5 December 2013 and ended at the same time as the straddling period.

(4) Subsection (5) applies where in the pre-commencement period the company carries on both onshore oil-related activities and offshore oil related activities.

(5) The sum to be set against the net onshore expenditure under subsection (2)(b) is first to be reduced (but not below nil) by the amount of the company's net offshore expenditure for the period.

(6) "The net offshore expenditure" of the company for the period is determined as follows—

*Step 1* Determine the amount of the company's total pre-commencement offshore expenditure incurred in the period.

*Step 2* Make any reduction in that amount required by subsection (9).

So much as remains is the net offshore expenditure of the company for the period.

(7) "Pre-commencement offshore expenditure" means expenditure which—

(a) is incurred in the course of oil extraction activities which are offshore oil-related activities, and

(b) meets Conditions A, C and D in section 329G.

(8) Subsection (9) applies if—

(a) the qualifying company incurs pre-commencement offshore expenditure in respect of a ring fence trade in any pre-commencement period,

(b) it would, on the relevant assumption in section 329K, 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 that assumption, require a disposal value to be brought into account under any provision of CAA 2001 for any pre-commencement period.

(9) For the purposes of Step 2 in subsection (6)—

(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) the amount of pre-commencement offshore expenditure for any pre-commencement period by setting against it so much of amount D as does not fall to be set against that total for a later pre-commencement period.

(10) Where the asset represented by the pre-commencement offshore expenditure is a mixed-activities asset, subsection (9) applies as if the disposal value required to be brought into account as mentioned in subsection (8)(d) were such proportion of the actual disposal value as is just and reasonable having regard to that expenditure.

(11) The asset is a "mixed-activities asset" if it also represents expenditure on onshore oil-related activities which is incurred by the company in a pre-commencement period and in respect of which the company would, on the relevant assumption in section 329K, be entitled to an allowance under any provision of CAA 2001.

### 329M The reference amount for a pre-commencement period

For the purposes of section 329I, 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 onshore expenditure allocated to the pool for that period in accordance with section 329J(3), but

(b) before determining, and adding to the pool, the amount of any pre-commencement additional supplement claimed in respect of the period under this Chapter.

*Post-commencement additional supplement*

### 329N Supplement in respect of post-commencement period

(1) A qualifying company which incurs an onshore ring fence loss (see section 329P) in any post-commencement period may claim supplement under this section ("post-commencement additional 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 additional 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 additional supplement provisions) 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 additional supplement as it applies in relation to a claim for group relief.

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

### 329O Amount of post-commencement additional supplement for a post-commencement period

(1) The amount of the post-commencement additional supplement for any post-commencement period in respect of which a claim under section 329N is made is the relevant percentage for that period of the reference amount for that period.

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

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

### 329P Onshore ring fence losses

(1) If—

(a) in a post-commencement period ("the period of the loss") a qualifying company carrying on a ring fence trade consisting solely of onshore oil-related activities 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 profits) to reduce trading income from the trade in succeeding accounting periods,

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

This is subject to subsection (4).

(2) If—

(a) in a post-commencement period ("the period of the loss") a qualifying company carrying on a ring fence trade consisting of both onshore oil-related activities and offshore oil-related activities 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 profits) to reduce trading income from the trade in succeeding accounting periods,

the appropriate proportion of so much of the loss as falls to be so used is an "onshore ring fence loss" of the company.

This is subject to subsection (4).

(3) "The appropriate proportion" means such proportion as it is just and reasonable to attribute to the company's onshore oil-related activities carried out in the course of its ring fence trade.

(4) In the case of a straddling period—

(a) the amount of the onshore ring fence loss determined under subsection (1) or (2) in respect of the period is apportioned between so much of that period as falls before 5 December 2013 and so much of it as falls on or after that date, on the basis of the number of days in each part, and

(b) only so much of the loss as is apportioned to the later part of the period is an onshore ring fence loss of the company for the straddling period.

(5) But if the basis of the apportionment in subsection (4)(a) would work unjustly or unreasonably in the company's case, the company may elect for the apportionment to be made on another basis that is just and reasonable and specified in the election.

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

(7) 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 post-commencement periods which are earlier than the period of the loss.

(8) 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.

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

## 329Q The onshore ring fence pool

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

(a) the company's onshore ring fence losses,

(b) post-commencement supplement under Chapter 5,

(c) post-commencement additional supplement under this Chapter.

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

(3) The onshore ring fence pool consists of—

(a) the company's onshore ring fence losses, allocated to the pool in accordance with subsection (4)(a),

(b) the company's post-commencement supplement allowed under Chapter 5, allocated to the pool in accordance with subsections (4)(b) and (5) to (7), and

(c) the company's post-commencement additional supplement allowed under this Chapter, allocated to the pool in accordance with subsection (4)(c).

(4) The allocation to the pool is made as follows—

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

(b) if any post-commencement supplement is allowed on a claim under Chapter 5 in respect of a post-commencement period, the appropriate proportion of the amount of that supplement is added to the pool in that period, and

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

(5) "The appropriate proportion" is—

(a) if the ring fence trade carried on by the company includes, or has at any time included, offshore oil-related activities, such proportion of the supplement as it is just and reasonable to attribute (directly or indirectly) to the company's onshore oil-related activities carried on in the period for which the supplement is allowed or an earlier post-commencement period, and

(b) in any other case, 100%.

(6) In the case of a straddling period—

(a) the appropriate proportion of the post-commencement supplement allowed on a claim under Chapter 5 in respect of the period is apportioned between so much of that period as falls before 5 December 2013 and so much of it as falls on or after that date, on the basis of the number of days in each part, and

(b) only so much of the appropriate proportion of the supplement as is apportioned to the later period is added to the pool under subsection (4)(b).

(7) But if the basis of the apportionment in subsection (6)(a) would work unjustly or unreasonably in the company's case, the company may elect for the apportionment to be made on another basis that is just and reasonable and specified in the election

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

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

(a) after the addition to the pool of—

(i) the amount of any onshore ring fence losses allocated to the pool in that period in accordance with subsection (4)(a), and

(ii) any amount of post-commencement supplement under Chapter 5 claimed in respect of the period and allocated to the pool in accordance with subsection (4)(b), but

(b) before determining and adding to the pool under subsection (4)(c) the amount of any post-commencement additional supplement under this Chapter claimed in respect of the period,

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

### 329R Reductions in respect of utilised onshore ring fence losses

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

(2) To the extent that the losses used as mentioned in subsection (1) are onshore ring fence losses, the amount in the onshore ring fence pool is to be reduced (but not below nil) by setting against it a sum equal to such amount of those onshore ring fence losses as is so used.

(3) For the purposes of determining the extent to which losses used as mentioned in subsection (1) are onshore ring fence losses, relevant offshore losses are to be treated as so used in priority to onshore ring fence losses.

(4) For this purpose "relevant offshore loss" means so much (if any) of a loss used as mentioned in subsection (1) as is given by—

$$X - Y$$

where—

X is the amount of the loss so used, and

Y is so much of that loss as (ignoring section 329P(4)) is an onshore ring fence loss.

(5) In the case of a loss incurred in a straddling period—
   (a) the amount of the relevant offshore loss is apportioned between so much of that period as falls before 5 December 2013 and so much of it as falls on or after that date, on the basis of the number of days in each part, and
   (b) only so much of the loss as is apportioned to the later part of the period is a relevant offshore loss of the company for the straddling period.

(6) But if the basis of the apportionment in subsection (5)(a) would work unjustly or unreasonably in the company's case, the company may elect for the apportionment to be made on another basis that is just and reasonable and specified in the election.

### 329S 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) After making any reductions that fall to be made in accordance with section 329R, the remaining amount in the onshore 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.

This is subject to subsection (4).

(3) If the post-commencement period is a straddling period, the unrelieved group ring fence profits for that period are to be determined as if the period began on 5 December 2013 and ended at the same time as the straddling period.

(4) If the ring fence trade carried on by the company includes, or has at any time included, offshore oil-related activities, the sum to be set against the onshore ring fence pool under subsection (2) is first to be reduced by the notional offshore loss pool.

(5) "The notional offshore loss pool" means—
   (a) the sum of the relevant offshore losses (see section 329R(4)) for the post-commencement period mentioned in subsection (1) and earlier post-commencement periods, less
   (b) the sum of—
      (i) so much of those losses as is to be treated (see section 329R(3)) as used as mentioned in section 329R, and
      (ii) any reductions previously made under subsection (2) of this section.

### 329T The reference amount for a post-commencement period

For the purposes of section 329O the reference amount for a post-commencement period is so much of the amount in the onshore ring fence pool as remains after making any reductions required by sections 329R and 329S.**]**

**Status:**
Point in time view as at 17/07/2014.

**Changes to legislation:**
Corporation Tax Act 2010, CHAPTER 5A is up to date with all changes known to be in force on or before 22 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.