



# Finance Act 2013

## 2013 CHAPTER 29

### PART 2

#### OIL

##### *Capital allowances*

#### **90 Expenditure on decommissioning onshore installations**

(1) Section 163 of CAA 2001 (meaning of “general decommissioning expenditure”) is amended as follows.

(2) In subsection (1)—

- (a) the words after “if” become paragraph (a) of that subsection,
- (b) in that paragraph, for “subsections (3) to (4)” substitute “subsections (3), (3A) and (4)”, and
- (c) at the end of that paragraph insert “, or  
(b) the conditions in subsections (3B) and (4) are met.”

(3) After subsection (3A) insert—

“(3B) The expenditure must have been incurred on decommissioning plant or machinery—

- (a) which has been brought into use wholly or partly for the purposes of a ring fence trade, and
- (b) which—
  - (i) is, or forms part of, a relevant onshore installation, or
  - (ii) when last in use for the purposes of a ring fence trade, was, or formed part of, such an installation.

(3C) In subsection (3B) “relevant onshore installation” means any building or structure which—

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- (a) falls within any of sub-paragraphs (ii) to (iv) of section 3(4)(c) of OTA 1975,
  - (b) is not an offshore installation, and
  - (c) is or has been used for purposes connected with the winning of oil from an oil field any part of which lies within—
    - (i) the boundaries of the territorial sea of the United Kingdom, or
    - (ii) an area designated under section 1(7) of the Continental Shelf Act 1964.”
- (4) In subsection (5)(a), for ““oil field” has” substitute ““oil” and “oil field” have”.
- (5) The amendments made by this section have effect in relation to expenditure incurred on decommissioning carried out on or after the day on which this Act is passed.

## **91 Expenditure on decommissioning certain redundant plant or machinery**

- (1) In section 164 of CAA 2001 (general decommissioning expenditure incurred before cessation of ring fence trade), after subsection (1B) insert—

“(1C) If the plant or machinery concerned is incidentally-acquired redundant plant or machinery (see subsection (1D)), it is to be regarded for the purposes of this section as having been brought into use for the purposes of the ring fence trade.

(1D) Plant or machinery is “incidentally-acquired redundant plant or machinery” if—

- (a) it has not been brought into use for the purposes of the ring fence trade,
- (b) it forms part of a relevant installation (see subsection (1E)) which has been brought into use for the purposes of the ring fence trade,
- (c) at the time R acquired an interest in the relevant installation, the plant or machinery was not being used for any purposes, and
- (d) the acquisition of the interest in the plant or machinery was merely incidental to the acquisition of the interest in the relevant installation.

(1E) For the purposes of subsection (1D)—

“relevant installation” means—

- (a) an offshore installation,
- (b) a submarine pipeline, or
- (c) a relevant onshore installation;

“offshore installation” and “submarine pipeline” have the same meaning as in Part 4 of the Petroleum Act 1998;

“relevant onshore installation” has the meaning given by section 163(3C).”

- (2) The amendment made by this section has effect in relation to expenditure incurred on decommissioning carried out on or after the day on which this Act is passed.

## **92 Expenditure on site restoration**

- (1) Part 5 of CAA 2001 (mineral extraction allowances) is amended as follows.

- (2) In section 395 (qualifying expenditure), in subsection (1)(d), omit “post-trading”.
- (3) In section 403 (qualifying expenditure on acquiring a mineral asset), after subsection (2) insert—
- “(2A) For the purposes of this section the reference to expenditure on acquiring a mineral asset does not include expenditure incurred on the restoration of a relevant site (within the meaning of section 416 or 416ZA).”
- (4) In section 416 (expenditure on restoration within 3 years of ceasing to trade)—
- (a) in subsections (1)(a) and (6)(a), before “mineral extraction trade” insert “relevant”;
- (b) in subsection (5), at the end insert—
- “But it does not include decommissioning any plant or machinery (within the meaning of section 163).”;
- (c) after subsection (7) insert—
- “(7A) Relevant mineral extraction trade” means a mineral extraction trade that is not a ring fence trade within the meaning of Part 8 of CTA 2010 (see section 277 of that Act).”;
- (d) the heading of section 416 becomes “**Non-ring fence trades: expenditure on restoration within 3 years of ceasing to trade**”.
- (5) In Chapter 5, after section 416 insert—

**“416ZA Ring fence trades: expenditure on site restoration**

- (1) If—
- (a) a person who is carrying on, or has ceased to carry on, a ring fence trade incurs expenditure on the restoration of a relevant site,
- (b) that part of the restoration work to which the expenditure relates has been carried out, and
- (c) the expenditure has not been deducted in calculating for tax purposes the profits of any trade carried on by the person,
- the net cost of the restoration is qualifying expenditure for the relevant period in which that part of the work to which the expenditure relates was carried out.
- (2) “Relevant period” means—
- (a) in the case of restoration work carried out while the person is carrying on the trade, a chargeable period, and
- (b) in the case of restoration work carried out after the person has ceased to carry on the trade, a notional accounting period.
- For the meaning of “notional accounting period”, see section 416ZB.
- (3) The qualifying expenditure for a notional accounting period is treated as incurred on the last day of trading.
- (4) If the amount of expenditure incurred on any part of the restoration work carried out in a relevant period is disproportionate to that part of the restoration work, only so much of the net cost of the restoration as is proportionate to that part of the restoration work (the “allowable expenditure for the period”) is to be treated as qualifying expenditure for that period.

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- (5) But subsection (4) does not prevent that part of the expenditure that is not allowable expenditure for the period from being treated as qualifying expenditure for a subsequent relevant period.
- (6) If any expenditure incurred by a person is qualifying expenditure under this section—
- (a) the whole of the expenditure on the restoration (not just the net cost) is not deductible in calculating the person's income for any tax purposes, and
  - (b) none of the amounts subtracted to produce the net cost is to be treated as the person's income for any tax purposes.
- (7) "Restoration" includes—
- (a) landscaping,
  - (b) in relation to land in the United Kingdom, the carrying out of any works required as a condition of granting planning permission for development relating to the winning of oil from an oil field,
  - (c) in relation to land in the UK marine area, the carrying out of any works required in order to comply with—
    - (i) an approved abandonment programme,
    - (ii) a condition to which the approval of an abandonment programme is subject, or
    - (iii) a requirement imposed by the Secretary of State, or an agreement made with the Secretary of State, in relation to a relevant site, and
  - (d) in relation to land in a foreign sector of the continental shelf, the carrying out of any works required in order to comply with anything corresponding to a matter within paragraph (c)(i), (ii) or (iii) under the law of a territory outside the United Kingdom.
- But it does not include decommissioning any plant or machinery (within the meaning of section 163).
- (8) A "relevant site" means—
- (a) the site of a source to the working of which the ring fence trade relates (or related), or
  - (b) land used in connection with working such a source.
- (9) "The net cost of the restoration" means the expenditure incurred on the restoration less any amounts that—
- (a) are received, or are to be received, by the person, and
  - (b) are attributable to the restoration of the relevant site.
- (10) All such adjustments are to be made, by way of discharge or repayment of tax or otherwise, as are necessary to give effect to this section.
- (11) In this section—
- "abandonment programme", "approval" and "approved" (in relation to an abandonment programme) have the same meaning as in Part 4 of the Petroleum Act 1998,

“foreign sector of the continental shelf” means an area within which rights are exercisable with respect to the sea bed and subsoil and their natural resources by a territory outside the United Kingdom,

“oil” and “oil field” have the same meaning as in Part 1 of OTA 1975,

“ring fence trade” has the same meaning as in Part 8 of CTA 2010 (see section 277 of that Act), and

“UK marine area” has the meaning given by section 42 of the Marine and Coastal Access Act 2009.

#### **416ZB “Notional accounting period”**

- (1) For the purposes of section 416ZA “notional accounting period”, in relation to a person (“the former trader”) who has ceased to carry on a ring fence trade, means each of the following periods—
  - (a) the period that—
    - (i) begins with the day following the last day on which the former trader carried on the ring fence trade, and
    - (ii) ends with the day on which the first termination event subsequently occurs, and
  - (b) each period that—
    - (i) begins with the day following the last day of a period determined under paragraph (a) or this paragraph, and
    - (ii) ends with the day on which the first termination event subsequently occurs.
- (2) But there are to be no notional accounting periods after the end of the post-cessation period (see subsection (4)).
- (3) “Termination event”, in relation to a notional accounting period, means each of the following—
  - (a) the end of the period of 12 months beginning with the first day of the notional accounting period,
  - (b) the occurrence of an accounting date of the former trader or, if there is a period for which the former trader does not make up accounts, the end of that period (but see subsections (6) and (7)), and
  - (c) the end of the post-cessation period.
- (4) “The post-cessation period” means the period that—
  - (a) begins with the day following the last day on which the former trader carried on the ring fence trade, and
  - (b) ends with the day on which the appropriate authority is satisfied that the restoration of the relevant site has been completed.
- (5) In subsection (4) “the appropriate authority” means—
  - (a) in the case of restoration falling within section 416ZA(7)(c), the Secretary of State, and
  - (b) in any other case, such person or body as the Commissioners for Her Majesty’s Revenue and Customs may specify.
- (6) If the former trader—

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- (a) carries on more than one trade,
- (b) makes up accounts of any of them to different dates, and
- (c) does not make up general accounts for the whole of the former trader's activities,

subsection (3)(b) applies with reference to the accounting date of such one of the trades as the former trader may determine.

- (7) If the Commissioners for Her Majesty's Revenue and Customs are of the opinion, on reasonable grounds, that a date determined by the former trader for the purposes of subsection (6) is inappropriate, the Commissioners may by notice direct that the accounting date of such other of the trades referred to in that subsection as appears to the Commissioners to be appropriate is to be used instead.

- (8) Expressions used in this section and in section 416ZA have the same meaning in this section as they do in that section."

- (6) In section 416B (first-year qualifying expenditure), in subsection (2), at the end insert "(within the meaning of section 403)".

- (7) Part 4 of CTA 2010 (loss relief) is amended as follows.

- (8) In section 40 (ring fence trades: extension of periods for which relief may be given), in subsection (1)(b), for "403" substitute "by virtue of section 416ZA".

- (9) In section 43 (claim period in case of ring fence or mineral extraction trades), in subsection (1)(b)—

- (a) after "416" insert "or 416ZA", and
- (b) for the words from "restoration" to "trade" substitute "site restoration".

- (10) The amendments made by this section have effect in relation to expenditure incurred on restoration carried out on or after the day on which this Act is passed.

### **93 Restrictions on allowances for certain oil-related expenditure**

Schedule 32 contains provision in connection with restrictions on allowances for certain oil-related expenditure.