

Status: Point in time view as at 01/04/2010.

Changes to legislation: There are currently no known outstanding effects for the Oil Taxation Act 1975, SCHEDULE 4. (See end of Document for details)

SCHEDULES

SCHEDULE 4

Sections 3 and 4.

PROVISIONS SUPPLEMENTARY TO SECTIONS 3 AND 4

Modifications etc. (not altering text)

C1 See Oil Taxation Act 1983 (c. 56), s. 3(6)

Restrictions on expenditure allowable under section 3 or 4

- 1 (1) Expenditure incurred by any person in the acquisition of an asset is not allowable under section 3 or 4 of this Act for an oil field if expenditure previously incurred by another person in acquiring, bringing into existence, or enhancing the value of that asset is allowable under that section for that field.

Section 4(13) of this Act applies to the preceding provisions of this sub-paragraph.

- (2) Sub-paragraph (1) above shall, with any necessary modifications, have effect in relation to expenditure incurred by a person—
- (a) in renting or hiring an asset or any interest in an asset; or
 - (b) for the provision of services or other business facilities of whatever kind; or
 - (c) for the grant or transfer to him of any right, licence or interest (other than an interest in an asset),

as it has effect in relation to expenditure incurred in the acquisition of, or of an interest in, an asset.

Modifications etc. (not altering text)

C2 See Oil Taxation Act 1983 (c. 56), s. 5(4)

- 2 ^{F1}(1) Where, in a transaction to which this paragraph applies, a person has incurred expenditure in acquiring, bringing into existence or enhancing the value of an asset, he shall at any time be treated for the purposes of—

- (a) sections 3 and 4 of this Act, and
- (b) sections 3 and 4 of and Schedule 1 to the ^{M1}Oil Taxation Act 1983,

^{F2}as having incurred that expenditure only to the extent that it does not exceed the lowest of the amounts described in sub-paragraph (1ZA) below which is applicable in the particular case.]

[Those amounts are—

- ^{F3}(1ZA) (a) the amount of expenditure (other than loan expenditure) incurred up to the time mentioned in sub-paragraph (1) above in a transaction to which this paragraph does not apply (or, if there has been more than one such

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transaction, the later or latest of them) in acquiring, bringing into existence, or enhancing the value of, the asset;

- (b) the amount of the open market consideration for the acquisition, bringing into existence, or enhancement of the value, of the asset;
- (c) in a case where the other party to the transaction is a participator in a taxable field and in the case of that participator either—
 - (i) an amount is brought into account under section 2 of this Act in accordance with section 7(1) of the Oil Taxation Act 1983 as disposal receipts in respect of the transaction, or
 - (ii) no amount is so brought into account by reason of reductions falling to be made in the amount that would have been so brought into account apart from those reductions,

the amount so brought into account or, as the case may be, nil;

- (d) in a case where the other party to the transaction is not a participator in a taxable field but—
 - (i) the transaction is the latest in a series of transactions in respect of the asset (or in respect of an asset or assets in which the asset was comprised),
 - (ii) those transactions are transactions to which this paragraph applies,
 - (iii) in the case of at least one of those transactions, there is a party who is a participator in an oil field, and
 - (iv) in the case of any such party, an amount either is brought into account as mentioned in paragraph (c)(i) above in respect of the transaction or would have been so brought into account but for such reductions as are mentioned in paragraph (c)(ii) above,

so much of the amount so brought into account in respect of that transaction (or, where there are two or more such transactions, the later or latest of them) as is justly and reasonably referable to the asset mentioned in sub-paragraph (1) above (taking that amount as being nil in the case of any transaction where no amount is so brought into account by reason of any such reductions).]

(1A) Subsections (1) to (3) of section 191 of the Finance Act 1993 apply to determine for the purposes of this paragraph what expenditure has at any time been incurred under a transaction to which this paragraph does not apply, as they apply in relation to expenditure for the allowance of which a claim is received by the Board after 16th March 1993.

(1B) In sub-paragraph [F⁴(1ZA)(a)] above “loan expenditure” means expenditure in respect of interest or any other pecuniary obligation incurred in obtaining a loan or any other form of credit.]

[F⁵(1C) The reference in sub-paragraph (1ZA)(b) above to the open market consideration for the acquisition, bringing into existence, or enhancement of the value, of an asset is a reference to the consideration which might reasonably have been given for the acquisition, bringing into existence, or enhancement of the value, of the asset (whatever the nature of the acquisition, bringing into existence or enhancement of the value) had it been made in a transaction to which this paragraph does not apply.]

(2) This paragraph applies to any transaction between connected persons and to any transaction made otherwise than at arm’s length; and for the purposes of this

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paragraph a person is connected with another person if [^{F6}they are connected within the meaning of [^{F7}section 1122 of CTA 2010]].

^{F8}[(3) The preceding provisions of this section shall, with any necessary modification, apply in relation to expenditure incurred by any person in acquiring an interest in an asset or in bringing into existence an asset in which he is to have an interest, or in enhancing the value of an asset in which he has an interest, as those provisions apply in relation to expenditure incurred by a person in acquiring, bringing into existence, or enhancing the value of an asset, as the case may be.

(4) The provisions of sub-paragraphs (1) to (2) above shall, with any necessary modification, apply in relation to expenditure incurred by any person in respect of—
(a) the use of an asset (including expenditure on renting or hiring), or
(b) the provision of services or other business facilities of whatever kind in connection with the use, otherwise than by that person, of an asset,
as they have effect in relation to expenditure incurred in the acquisition of, or of an interest in, an asset.]

Textual Amendments

- F1** Sch. 4 para. 2(1)-(1B) substituted for Sch. 4 para. 2(1) (27.7.1993 with effect as mentioned in s. 191(6)) for para. 2(1) by [1993 c. 34, ss. 191\(4\)\(6\)](#)
- F2** Words in Sch. 4 para. 2(1) substituted (with effect in accordance with s. 287(6) of the amending Act) by [Finance Act 2004 \(c. 12\), s. 287\(2\)](#)
- F3** Sch. 4 para. 2(1ZA) inserted (with effect in accordance with s. 287(6) of the amending Act) by [Finance Act 2004 \(c. 12\), s. 287\(3\)](#)
- F4** Word in Sch. 4 para. 2(1B) substituted (with effect in accordance with s. 287(6) of the amending Act) by [Finance Act 2004 \(c. 12\), s. 287\(4\)](#)
- F5** Sch. 4 para. 2(1C) inserted (with effect in accordance with s. 287(6) of the amending Act) by [Finance Act 2004 \(c. 12\), s. 287\(5\)](#)
- F6** Words substituted for Sch. 4 para. 2(2)(a)–(c) by [Finance \(No. 2\) Act 1979 \(c. 47\), s. 20\(2\)](#) in relation to expenditure claimed after 31 December 1978
- F7** Words in Sch. 4 para. 2(2) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\), s. 1184\(1\), Sch. 1 para. 166\(2\)](#) (with [Sch. 2](#))
- F8** Sch. 4 para. 2(3)(4) substituted for Sch. 4 para. 2(3) (27.7.1993 with effect as mentioned in s. 191(6)) by virtue of [1993 c. 34, ss. 191\(5\)\(6\)](#)

Modifications etc. (not altering text)

- C3** See [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\), s. 495](#)
- C4** See [Oil Taxation Act 1983 \(c. 56\), Sch. 2 para. 5](#) in relation to transactions to which Sch. 4 para. 2 applies

Marginal Citations

- M1** [1983 c. 56.](#)

^{F9}

Textual Amendments

- F9** [Sch. 4 para. 3](#) omitted (with effect in accordance with [Sch. 45 para. 1\(5\)](#) of the amending Act) by virtue of [Finance Act 2009 \(c. 10\), Sch. 45 para. 1\(4\)](#)

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Disposal of long-term asset formerly used in connection with an oil field

- 4 (1) Where an asset is used in connection with an oil field in circumstances such that section 4 of this Act applies to any expenditure incurred in acquiring, bringing into existence, or enhancing the value of that asset, then if—
- (a) the asset is disposed of for valuable consideration while in use in that connection or not more than two years after its use in that connection permanently ceases;
 - (b) the person making the disposal is either a participator in the field or a person connected with a participator;
 - (c) the person to whom the disposal is made is not a person connected with a participator; and
 - (d) the amount or value of the consideration received or receivable for the disposal is not less than the price which the asset might reasonably have been expected to fetch if sold in the open market at the time of the disposal,
- sub-paragraphs (2) to (4) below shall have effect.
- (2) If the disposal occurs without the asset permanently ceasing to be used in connection with the field, its use in that connection shall for the purposes of section 4 of this Act and the following provisions of this paragraph be deemed to have permanently ceased at the time of the disposal.
- (3) If the disposal takes place not later than the end of the claim period in which the use of the asset in connection with the field permanently ceases, the proportion of the expenditure allowable under section 4 of this Act for the relevant period (that is to say the period which, in relation to that claim period, is the relevant period for the purposes of subsection (7) of that section) or, if the claim period in question is the first relevant claim period (as defined in that section), the proportion of the expenditure so allowable for that claim period shall be computed under that section subject to the provisions of sub-paragraph (5) below.
- (4) If the disposal takes place after the end of the claim period in which the use of the asset in connection with the field permanently ceases, then, as regards the claim period in which the disposal takes place—
- (a) subsection (7) of section 4 of this Act shall have effect in relation to the asset as if its use in that connection had permanently ceased in that claim period (but so that for the purposes of subsections (5) and (6) of that section as applied by the said subsection (7) the asset shall not be treated as having been used in that connection at any time when it was not so used); and
 - (b) the proportion of the expenditure allowable under that section for the relevant period (that is to say the period which, in relation to that claim period is the relevant period for the purposes of the said subsection (7)) shall be computed under that section subject to the provisions of sub-paragraph (5) below.
- (5) For the purposes of the computation mentioned in sub-paragraph (3) or (4) above, as the case may be—
- (a) the amount of the expenditure incurred in acquiring, bringing into existence, or enhancing the value of the asset which would otherwise fall to be taken into account shall be treated as reduced by the amount or value of the consideration received or receivable for the disposal (or, if equal to or smaller than the amount or value of that consideration, as reduced to nil); and

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- (b) the asset's useful life shall be treated as having ended at the time of the disposal or, if the asset permanently ceased to be used in connection with the field before that time and was neither used nor available for use by anyone in the interval between its permanently ceasing to be so used and the time of the disposal, at the time when it permanently ceased to be so used.
- (6) In any case where, for different parts of the expenditure incurred in the case of an asset as mentioned in sub-paragraph (1) above, different proportions thereof would be allowable under section 4 of this Act apart from sub-paragraph (5)(a) above (including a case where, for some but not all of that expenditure, the proportion thereof so allowable would be 100 per cent.), the amount or value of the consideration received or receivable for the disposition shall for the purposes of this paragraph be treated as referable to those different parts in such proportions as may be just and reasonable.
- (7) Section 4(13) of this Act applies to the preceding provisions of this paragraph; and those provisions shall, with any necessary modifications, apply in relation to a disposal of an interest in an asset as they apply in relation to a disposal of an asset.
- (8) [^{F10}Section 1122 of CTA 2010] (connected persons) shall apply for the purposes of this paragraph.

Textual Amendments

F10 Words in [Sch. 4 para. 4\(8\)](#) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 1 para. 166\(3\)](#) (with [Sch. 2](#))

Modifications etc. (not altering text)

C5 See [Oil Taxation Act 1983 \(c. 56\)](#), s. [1\(4\)](#)
C6 See [Oil Taxation Act 1983 \(c. 56\)](#), s. [5\(7\)](#)

5 **F11**

Textual Amendments

F11 [Sch. 4 para. 5](#) repealed by [Oil Taxation Act 1983 \(c. 56\)](#), s. [15\(6\)](#) and [Sch. 6](#)

Provisions supplementary to section 4(9) of this Act and paragraph 5(2) above

- 6 (1) Where in the case of an oil field, the total amount of the expenditure allowable under sections 3 and 4 of this Act on a claim for a claim period—
 - (a) is, under one or more of the relevant provisions, reduced to nil; and
 - (b) would, under one or more of those provisions, have fallen to be reduced by a further amount if the total amount of that expenditure had been sufficient to enable the maximum reduction thereunder to be made,that further amount shall be apportioned between the participators in proportions corresponding to what for that claim period would be their respective shares of any expenditure falling within section 2(9)(b)(i) of this Act; and in computing the assessable profit or allowable loss accruing to any participator in the earliest chargeable period which ends after the end of that claim period, the aggregate mentioned in section 2(4)(a) of this Act shall be increased by an amount equal to the amount apportioned to him under this paragraph.

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- (2) In this paragraph “the relevant provisions” means section 4(9) of this Act and paragraph 5(2) above.

Modifications etc. (not altering text)

C7 See Oil Taxation Act 1983 (c. 56), s. 3(6)

*Insurance or compensation in respect of loss or destruction
 of long-term asset formerly used in connection with oil field*

- 7 (1) Where, in consequence of the loss or destruction at any time within the period mentioned in sub-paragraph (1) of paragraph 4 above of such an asset as is mentioned in that sub-paragraph, any insurance or compensation in respect of the loss or destruction is receivable by a participator in the field or a person connected with a participator, paragraphs 4 and 6 above shall apply as if at that time the person by whom the insurance or compensation is receivable had disposed of the asset or his interest in it for an amount equal to the insurance or compensation.
- (2) [^{F12}Section 1122 of CTA 2010] (connected persons) shall apply for the purposes of this paragraph.

Textual Amendments

F12 Words in Sch. 4 para. 7(2) substituted (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), Sch. 1 para. 166(4) (with Sch. 2)

Assets acquired jointly by participators in different oil fields

- 8 Where an asset was acquired jointly by persons who are participators in two or more different oil fields (whether or not any one of those persons is a participator in more than one of those fields), then in determining for the purposes of section 4 of this Act, in the case of any one of those fields, the use which has been, or which it is reasonable to assume will be, made of the asset otherwise than in connection with that field, no regard shall be had to its use or possible use in connection with any other of those fields.

Modifications etc. (not altering text)

C8 See Oil Taxation Act 1983 (c. 56), s. 3(6)

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