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## SCHEDULES

### SCHEDULE 17 **U.K.**

#### TRANSFERS OF INTERESTS IN OIL FIELDS

##### **Modifications etc. (not altering text)**

- C1** Definitions applied for purposes of [Capital Allowances Act 1990 \(c. 1, SIF 63:1\)](#), [s. 64](#)—transfers of interests in oil fields.  
[Sch. 17](#) applied (27.7.1999) by [1999 c. 16, s. 97\(3\)](#)
- C1** See also [Finance Act 1981 \(c. 35\)](#), [s. 112](#) for application of s. 111 of that Act ([restriction of expenditure supplement](#)) and [Oil Taxation Act 1975 \(c. 22\)](#), [s. 9](#) (limit on amount of tax payable) in case of a transfer.

### **PART III U.K.**

#### OTHER RULES

##### *Provisional relief for expenditure*

- 11 Where at the end of the transfer period the old participator has no interest in the field—
- (a) the assessable profit or allowable loss accruing to him from the field in the transfer period shall be computed as if—
- (i) the amount referred to in section 2(8)(b) were increased by any amount taken into account under section 2(9)(a) in computing the assessable profit or allowable loss accruing to him from the field in the preceding chargeable period; and
- (ii) the amount referred to in section 2(9)(a) were nil; and
- (b) the assessable profit or allowable loss accruing to him from the field in any later chargeable period in which he has no such interest shall be computed as if the amount referred to in section 2(8)(b) and (9)(a) were nil.

##### *Royalty payments*

- 12 (1) Where at the end of the transfer period the old participator has no interest in the field—
- (a) any licence debit or credit which, apart from this paragraph, would fall to be taken into account under subsection (6) of section 2 in computing the assessable profit or allowable loss accruing to him from the field in any later chargeable period in which he has no such interest shall not be so taken into account; but
- (b) that subsection shall have effect in relation to the transfer period as if the amount of—

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- (i) any such licence debit or credit as is mentioned in paragraph (a) above; and
  - (ii) any licence debit or credit that would have fallen to be taken into account as there mentioned for a later chargeable period if the old participator were still a participator,
- were an amount to be included in the sum referred to in paragraph (a) or, as the case may be, paragraph (b) of that subsection.
- (2) Sub-paragraph (1) above does not affect the amount of any loss transferred under paragraph 7 above.
- (3) Notwithstanding anything in section 34 of the Taxes Management Act 1970 (ordinary time limit for assessments) any further assessment or determination or amendment of an assessment or determination required in consequence of sub-paragraph (1) above may be made at any time not later than six years after the end of the later chargeable period referred to in sub-paragraph (1)(a) or (b)(ii) above.

*Payments on account and advance payments*

- 13 (1) For the purpose of computing under the Schedule to the Petroleum Revenue Tax Act 1980 (computation of payment on account) whether any, and if so what, amount of tax is payable under that Act by the old participator and the new participator for the transfer period or any later chargeable period—
- (a) it shall be assumed that any application or proposal made in relation to the transfer under paragraph 4 or 5(1) above and in respect of which the Board have not notified their decision will be accepted by the Board; and
  - (b) the computation under that Schedule shall be made as if paragraph 6 above applied in relation to expenditure which under paragraph 2(4) of that Schedule is treated as having been allowed under Schedule 5 or 6 as well as to expenditure which has been so allowed.
- (2) Where at the end of the transfer period the old participator has no interest in the field he shall not be liable under section 105 of this Act to pay any amount as an advance payment of tax in respect of the field for any subsequent chargeable period in which he has no such interest.
- (3) The old participator shall not be entitled to interest under subsection (7) of that section by reason of any such excess as is there mentioned for the transfer period or either of the next two chargeable periods if he and the new participator are connected within the meaning of section [F1839 of the Taxes Act 1988].

**Textual Amendments**

**F1** [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), **Sch. 29 para. 32**

*Losses of new participator*

- 14 (1) Where the Board have determined under Schedule 2 that an allowable loss has accrued to the new participator from the field in the transfer period or a later chargeable period, then, if—
- (a) the loss has been computed by reference to an amount taken into account by virtue of paragraph 6 above; and

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- (b) the old participator has no interest in the field at the end of the transfer period, the old and new participators may jointly elect that the loss shall be surrendered to the old participator to the extent that it does not exceed whichever is the lesser of the amount referred to in paragraph (a) above and the total assessable profits as reduced under section 7 that accrued to the old participator from the field in chargeable periods up to and including the chargeable period after the transfer period.
- (2) Where any amount of a loss is surrendered under this paragraph it shall be treated—
- (a) in relation to the old participator, as an allowable loss accruing to him in the chargeable period next but one after the transfer period; and
  - (b) in relation to the new participator, as if it has been relieved against assessable profits accruing to him from the field in chargeable periods before that in which it accrued.

#### *Terminal losses*

- 15 (1) So much of an allowable loss accruing to the new participator from the field as falls to be relieved under section 7(3) but cannot be so relieved against assessable profits accruing to him from the field—
- (a) shall be treated as an allowable loss which falls to be relieved under section 7(3) against assessable profits accruing to the old participator from the field; and
  - (b) shall not be regarded as an allowable unrelievable field loss in relation to the new participator except to the extent to which it cannot be relieved as mentioned in paragraph (a) above.
- (2) Relief by virtue of sub-paragraph (1)(a) above shall be given against the assessable profit accruing to the old participator in an earlier chargeable period only to the extent to which it cannot be given against the assessable profit accruing to him in a later chargeable period.
- (3) Where a person is the new participator in relation to two or more old participators—
- (a) sub-paragraph (2) above shall have effect as if the reference to the assessable profit accruing to the old participator in a later chargeable period were a reference to the assessable profit accruing to him or any other of the old participators in a later chargeable period; and
  - (b) the amount to be relieved against the assessable profits of the old participators for any chargeable period shall (if it is less than the aggregate of those profits) be divided in such manner as is just and reasonable having regard to the interests respectively transferred by them to the new participator.
- (4) Where a person is the old participator in relation to two or more new participators and amounts in respect of which relief can be given under this paragraph are derived from two or more of them, the relief shall be given in such manner as is just and reasonable having regard to the interests respectively transferred by him to those new participators.

#### *Abortive exploration expenditure*

- 16 (1) Subject to sub-paragraph (2) below, there shall be allowed under section 5 in the case of the new participator, in connection with any field in which an interest is transferred to him by the old participator, any expenditure incurred—

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- (a) by the old participator; or
- (b) if the old participator is a company, by a company which is within the meaning of that section associated with the old participator in respect of the expenditure,

if no claim in respect of it has been made under Schedule 7 by the old participator or any such company and the expenditure would be allowable under that section in the case of the new participator if he had himself incurred it.

- (2) Sub-paragraph (1) above—
- (a) does not apply so long as the old participator or, if the old participator is a company, any company associated with the old participator has an interest in a licence; and
  - (b) applies to the new participator only if the transfer to him was the last transfer made by the old participator.
- (3) For the purposes of sub-paragraph (2) above a company is associated with the old participator if—
- (a) one is a 51 per cent. subsidiary of the other and the other is not a 51 per cent. subsidiary of any company; or
  - (b) each of them is a 51 per cent. subsidiary of a third company which is not itself a 51 per cent. subsidiary of any company;

and section [<sup>F2</sup>838 of the Taxes Act 1988] (subsidiaries) shall apply for the purposes of this sub-paragraph.

- (4) This paragraph is without prejudice to the application of section 5 in cases where the old participator is a company and the new participator is within the meaning of that section a company associated with the old participator in respect of the expenditure in question.

**Textual Amendments**

**F2** [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), **Sch. 29 para. 32**

*[<sup>F3</sup> Exploration and appraisal expenditure*

**Textual Amendments**

**F3** [Finance Act 1983 \(c. 28\)](#), **s. 37(2)** and Sch. 8 Part II para. 8.

- 16A In relation to exploration and appraisal expenditure to which section 5A applies, paragraph 16 above has effect as if any reference therein to section 5 were a reference to section 5A.]

*[<sup>F4</sup> Research expenditure*

**Textual Amendments**

**F4** [Finance Act 1987 \(c. 16, SIF 114\)](#), **s. 64(2)** and Sch. 13 Part II para. 7.

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- 16B In relation to research expenditure to which section 5B applies, paragraph 16 above has effect as if any reference therein to section 5 were a reference to section 5B.]

*Oil allowance*

- 17 If the transfer period is one of the first three chargeable periods of the field section 8 shall not apply to the old participator for that period or any earlier period.

*Limit on tax payable in transfer year*

- 18 (1) For the purposes of section 9 in its application to the transfer [F<sup>5</sup>period], the accumulated capital expenditure at the end of that [F<sup>5</sup>period] of the old participator and the new participator respectively shall be treated as equal to the aggregate of—
- (a) the pre-transfer fraction of what (apart from this paragraph) would be the amount of his accumulated capital expenditure for the purposes of that section at the end of that [F<sup>5</sup>period] if any transfer from or to him under paragraph 6 or 8 above were disregarded; and
  - (b) the post-transfer fraction of what (apart from this paragraph) would be that amount having regard to any transfer from or to him in that [F<sup>5</sup>period] under those paragraphs.
- (2) For the purposes of this paragraph the pre-transfer and post-transfer fractions are respectively the fractions of the [F<sup>5</sup>period] (reckoned in days) which elapse before and begin with the date of the transfer; and if there are two or more transfers in the [F<sup>5</sup>period] those fractions shall be determined—
- (a) for a participator who is the old participator as respects any of the transfers, by reference to the first transfer as respects which he is the old participator;
  - (b) for a participator who is the new participator as respects any of the transfers, by reference to the last transfer as respects which he is the new participator;
  - (c) for a participator who is the old participator as respects one or more of the transfers and the new participator as respects another or others, by reference to whichever results in the smallest amount of accumulated capital expenditure under this paragraph.

**Textual Amendments**

- F5** Finance Act 1981 (c. 35), s. 114(2)(d) with effect whether the participator's net profit period ends before or after the passing of that Act.

*Disposal of long-term assets*

- 19 (1) [F<sup>6</sup>Neither] paragraph 4 of Schedule 4 [F<sup>7</sup>nor section 7 of the Oil Taxation Act 1983 shall] apply to the disposal of an asset used in connection with an oil field if the disposal is by the old participator (or a person connected with him) to the new participator (or a person connected with him) and the disposal is in pursuance of the transfer by the old participator to the new participator of an interest in the field.
- (2) Section [F<sup>8</sup>839 of the Taxes Act 1988] (connected persons) shall apply for the purposes of this paragraph.

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#### Textual Amendments

- F6** Oil Taxation Act 1983 (c. 56), **Sch. 2 para. 6.**
- F7** Oil Taxation Act 1983 (c. 56), **Sch. 2 para. 6.**
- F8** Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1), **Sch. 29 para. 32**

#### *Transfers of oil*

- 20 Where in pursuance of the transfer of the whole or part of his interest in the field the old participator transfers his right to any oil already won from the field to the new participator, that oil—
- (a) shall not be taken into account under section 2(5) in computing the old participator's assessable profit or allowable loss in the transfer period; but
  - (b) shall be taken into account under section 2(5) in computing the new participator's assessable profit or allowable loss as if it were included in his share of the oil won from the field.

#### *Retention of share of oil*

- 21 Where the old participator retains a share of the oil won from the field in pursuance of an agreement between him and the new participator under which the latter undertakes to be responsible for carrying out the old participator's obligations in connection with the field so far as they relate to that share—
- (a) that share shall be taken to belong to the new participator; and
  - (b) any oil comprised in that share shall be treated as oil acquired by the old participator under an agreement to which paragraph 6 of Schedule 3 applies.

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