



Finance Act 1982

1982 CHAPTER 39

PART VI

OIL TAXATION

CHAPTER I

GENERAL

132 Increase of petroleum revenue tax and ending of supplementary petroleum duty

- (1) With respect to chargeable periods ending after 31st December 1982, section 1(2) of the principal Act (rate of petroleum revenue tax) shall be amended by substituting for the words " 70 per cent. " the words " 75 per cent. ".
- (2) At the end of subsection (5) of section 122 of the Finance Act 1981 (the chargeable periods for which supplementary petroleum duty is chargeable) for the words " and 30th June 1982 " there shall be substituted the words " 30th June 1982 and 31st December 1982 and to no other periods ".

133 Export sales of gas

- (1) In section 2 of the principal Act (assessable profits and allowable losses) at the beginning of subsection (5) there shall be inserted the words " Subject to subsection (5A) below " and at the end of that subsection there shall be inserted the following subsection—

“(5A) In any case where oil consisting of gas is disposed of in a sale at arm's length and the terms of the contract are such that the seller is required to transport the gas from a place on land in the United Kingdom for delivery at a place outside the United Kingdom or to meet some or all of the costs of or incidental to its transportation from and to such places then, for the purposes of this Part of this Act—

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- (a) the price received or receivable for the gas shall be deemed to be that for which it would have been sold, and
- (b) the gas shall be deemed to be delivered at the time it would have been delivered,

if the terms of the contract required the gas to be delivered as mentioned in paragraph 2(2)(b) of Schedule 3 to this Act and did not require the seller to meet any such costs as are mentioned above.”

- (2) In section 122(3) of the Finance Act 1981 (gross profit for purposes of supplementary petroleum duty) for " 2(4) and (5) " there shall be substituted " 2(4) to (5A) ".
- (3) This section has effect with respect to chargeable periods ending after 31st December 1981.

134 Alternative valuation of ethane used for petrochemical purposes

- (1) Where an election is made under this section and accepted by the Board, the market value for taxation purposes of any ethane to which the election applies shall be determined, not in accordance with paragraphs 2, 2A and 3 of Schedule 3 to the principal Act (value under a notional contract), but in accordance with a price formula specified in the election; and, in relation to any such ethane, any reference to market value in any other provision of the principal Act shall be construed accordingly.
- (2) Subject to subsection (3) below, an election under this section applies only to ethane—
 - (a) which, during the period covered by the election, is either disposed of otherwise than in sales at arm's length or relevantly appropriated ; and
 - (b) which is used or to be used for petrochemical purposes by or on behalf of the person to whom it is so disposed of or, as the case may be, by or on behalf of the participator by whom it is appropriated ; and
 - (c) which is not subjected to fractionation between the time at which it is disposed of or appropriated as mentioned in paragraph (a) above and the time at which it is used as mentioned in paragraph (b) above.
- (3) In any case where—
 - (a) at a time during the period covered by an election, a market value falls to be determined for ethane to which subsection (4) (b) or subsection (5)(d) of section 2 of the principal Act applies (oil stocks at the end of chargeable periods), and
 - (b) after the expiry of the chargeable period in question, the ethane is disposed of or appropriated and used as mentioned in subsection (2) above,
 the market value of that ethane at the time referred to in paragraph (a) above shall be determined as if it were then ethane to which the election applies.
- (4) Where any ethane is used principally for the petrochemical purposes specified in the election but some of it is used for fuel, as an incident of the principal use, the whole of it shall be regarded as ethane to which the election applies; but, subject thereto, the market value of ethane used otherwise than for those purposes shall be determined as if no election had been made.
- (5) The provisions of Schedule 18 to this Act shall have effect for supplementing this section.
- (6) In the preceding provisions of this section—

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- (a) " ethane" means oil consisting of gas of which the largest component by volume over any chargeable period is ethane and which—
 - (i) before being disposed of or appropriated as mentioned in subsection (2)(a) above either is not subjected to initial treatment or is subjected to initial treatment which does not include fractionation, or
 - (ii) results from the fractionation of gas before it is disposed of or relevantly appropriated ;
 - (b) " taxation purposes" means the purposes of Part I of the principal Act and of Part VIII of the Finance Act 1981 (supplementary petroleum duty).
- (7) In this section " fractionation " means the treatment of gas in order to separate gas of one or more kinds as mentioned in paragraph 2A(3) of Schedule 3 to the principal Act; and for the purposes of subsection (6)(a) above.—
- (a) the proportion of ethane in any gas shall be determined at a temperature of 15 degrees centigrade and at a pressure of one atmosphere ; and
 - (b) " component" means ethane, methane or liquefied petroleum gas.

135 Determination of oil fields

- (1) In any case where a determination of an oil field is made under Schedule 1 to the principal Act and before the date of the determination oil has been won from the oil field so determined.—
- (a) Part I of the principal Act, except Schedule 7, and Part VIII of the Finance Act 1981 (supplementary petroleum duty) shall apply as if the determination had been made immediately before oil was first won from the field;
 - (b) where the actual date of the determination is later than the date which by virtue of paragraph (a) above is the end of a chargeable period for the oil field, then as respects that chargeable period sections 33(1) and 34 of the Taxes Management Act 1970 (in their application by virtue of paragraph 1 of Schedule 2 to the principal Act), paragraphs 2(1), 5(1) and 13 of Schedule 2 to the principal Act and paragraph 9 of Schedule 16 to the Finance Act 1981 shall have effect as if any reference to the end of a chargeable period were a reference to the actual date of the determination ;
 - (c) where the actual date of the determination is later than the date which by virtue of paragraph (a) above is the end of a claim period in relation to the oil field, then as respects that claim period paragraph 2(1) of Schedule 5. to the principal Act and paragraph 1(2) of Schedule 6. to that Act shall have effect as if any reference to the end of the claim period in which the expenditure is incurred were a reference to that actual date; and
 - (d) where the actual date of the determination is later than the date which by virtue of paragraph (a) above is the end of the transfer period, within the meaning of Schedule 17 to the Finance Act 1980, in relation to the oil field, then as respects that transfer period paragraph 3(1) of that Schedule shall have effect as if the reference to the end of the transfer period were a reference to that actual date.
- (2) In any case where—
- (a) a determination is made under paragraph 5 of Schedule 1 to the principal Act (variation of fields) varying an earlier determination; and
 - (b) in consequence of that variation an existing oil field is altered to any extent;

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then Part I of the principal Act and Part VIII of the Finance Act 1981 shall apply in relation to the oil field subject only to the modifications provided by subsection (3) below.

- (3) Where subsection (2) above applies—
- (a) the time allowed—
 - (i) by paragraph 2 or paragraph 5 of Schedule 2 to the principal Act for making returns, or
 - (ii) by paragraph 3 of Schedule 17 to the Finance Act 1980 for delivering notices,

shall as respects returns or notices containing such particulars as may be required in consequence of the later determination be extended to a period ending, in the case of a return under paragraph 2 or a notice under paragraph 3, two months and, in the case of a return under paragraph 5, one month after the actual date of that determination;
 - (b) any claim falling to be made in accordance with Schedule 5 or 6 to the principal Act in respect of any expenditure incurred before the actual date of the later determination which could not have been made before that determination may be made at any time before the expiry of the period of six years beginning with that date;
 - (c) section 1 of the Petroleum Revenue Tax Act 1980 (payments of tax on account), section 105 of the Finance Act 1980 (advance payments of tax) and paragraph 10 of Schedule 16 to the Finance Act 1981 (payments on account of supplementary petroleum duty) shall not apply in relation to any return made under paragraph 2 of Schedule 2 to the principal Act in so far as it is made by virtue of paragraph (a) above ; and
 - (d) section 139 below (advance petroleum revenue tax) shall not apply in relation to so much of the gross profit as accrues to any person in a chargeable period ending before the actual date of the later determination by virtue only of that later determination.
- (4) In subsection (3) of section 12 of the principal Act (references to things done etc. before determination of field) the words from " as regards " to " any oil field " shall cease to have effect.
- (5) This section has effect in relation to determinations made after 31st December 1981.

136 Treatment of losses and charges on income

- (1) In section 13 of the principal Act (treatment of oil extraction activities etc. for purposes of income tax and corporation tax) after subsection (2) there shall be inserted the following subsection—
- “(2A) In any case where—
- (a) in any chargeable period a person incurs a loss in activities (in this subsection referred to as " separate activities ") which, for that or any subsequent chargeable period, are treated by virtue of subsection (1) above as a separate trade for the purposes specified in that subsection, and
 - (b) in any subsequent chargeable period any of his trading income is derived from activities (in this subsection referred to as " related activities") which are not part of the separate activities but which,

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apart from subsection (1) above, would together with those activities constitute a single trade,

then, notwithstanding anything in that subsection, the amount of the loss may be set off, in accordance with section 171 or section 177(1) of the Taxes Act, against so much of his trading income in any subsequent chargeable period as is derived from the related activities.”

(2) At the end of section 15 of the principal Act (oil extraction activities: charges on income) there shall be added the following subsection—

“(5) In any case where—

- (a) such of the charges on income which are paid by a company and allowable under section 248 of the Taxes Act as, by virtue of the preceding provisions of this section, are not allowable against that part of the company's profits referred to in subsection (2) above exceed the remaining part of its profits (in this subsection referred to as the company's " non-oil profits "), and
- (b) the amount of that excess is greater than the amount (if any) by which the total of the charges on income which are allowable to the company under that section exceeds the total of the company's profits,

then, for the purpose of enabling the company to surrender the excess referred to in paragraph (a) above by way of group relief, subsection (6) of section 259 of the Taxes Act shall have effect as if—

- (i) the reference therein to the amount paid by the surrendering company by way of charges on income were a reference to so much of that amount as is allowable only against the company's non-oil profits; and
- (ii) the reference therein to the surrendering company's profits were a reference to its non-oil profits alone.”

(3) The amendments made by subsections (1) and (2) above.—

- (a) so far as they relate to corporation tax, shall be deemed to have had effect for accounting periods beginning before the passing of this Act and on or after 1st January 1980 and shall have effect for subsequent accounting periods; and
- (b) so far as they relate to income tax, shall be deemed to have had effect for the years 1980-81 and 1981-82 and shall have effect for subsequent years of assessment ;

and accordingly subsection (1) above applies to losses incurred in any such accounting period or year of assessment and subsection (2) above applies to charges on income paid in any such accounting period.

137 Expenditure met by regional development grants to be disregarded for certain purposes

- (1) In paragraph 8 of Schedule 3 to the principal Act (certain subsidised expenditure to be disregarded) in sub-paragraph (1) the words from " unless it is so met by a grant" onwards shall be omitted.
- (2) Subject to subsection (3) below, in any case where, by virtue of the said paragraph 8 as amended by subsection (1) above, expenditure which has been or is to be met by a regional development grant is not to be regarded for any of the purposes of Part I of the principal Act as having been incurred by any person, that particular grant shall be regarded as not falling within the reference to a regional development grant in—

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- (a) section 84(1) of the Capital Allowances Act 1968 (treatment of subsidised expenditure for the purposes of the main reliefs for capital expenditure); or
 - (b) section 95(6) of that Act (treatment of subsidised expenditure for the purposes of allowances relevant to scientific research).
- (3) If, in a case falling within subsection (2) above, only a proportion of the expenditure which has been or is to be met by a regional development grant is expenditure which, if it were not so met, would be allowable under section 3 or section 4 of the principal Act, only a corresponding proportion of the grant shall be regarded as not falling within the reference to regional development grant in the provisions referred to in subsection (2) above.
- (4) Subsection (5) below applies in any case where—
- (a) 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 the principal Act applies (transactions between connected persons and otherwise than at arm's length), and
 - (b) the expenditure incurred by the other person referred to in that paragraph in acquiring, bringing into existence or enhancing the value of the asset as mentioned in that paragraph has been or is to be met by a regional development grant and, in whole or in part, falls to be taken into account under Chapter I of Part I, or under Part II, of the Capital Allowances Act 1968 (industrial buildings and structures and scientific research) or Chapter I of Part III of the Finance Act 1971 (machinery and plant).
- (5) Where this subsection applies, for the purposes of the charge of income tax or corporation tax on the income arising from those activities of the person referred to in subsection (4) (a) above which are treated by virtue of subsection (1) of section 13 of the principal Act as a separate trade for those purposes, the expenditure referred to in subsection (4)(a) above shall be treated as reduced by the amount of the regional development grant referred to in subsection (4)(b) above.
- (6) In this section " regional development grant" means a grant made under Part I of the Industry Act 1972 or such grant made under an enactment of the Parliament of Northern Ireland or Measure of the Northern Ireland Assembly as has been or may be declared by the Treasury under section 84 or section 95 of the Capital Allowances Act 1968 to correspond to a grant made under the said Part I.
- (7) This section applies in any case where—
- (a) the expenditure to which the regional development grant relates is incurred after 9th March 1982 ; and
 - (b) the regional development grant concerned is paid after that date.

138 Provisions supplementary to section 137

- (1) The provisions of this section apply where—
- (a) expenditure incurred by any person in relation to an asset in any relevant period (in this section referred to as " the initial period ") has been or is to be met by a regional development grant; and
 - (b) notwithstanding the provisions of section 137 above, in determining that person's liability to income tax or corporation tax for the initial period the whole or some part of that expenditure falls to be taken into account under Chapter I of Part I, or under Part II, of the Capital Allowances Act 1968

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(allowances in respect of industrial buildings and structures and scientific research) or Chapter I of Part III of the Finance Act 1971 (allowances in respect of machinery and plant); and

- (c) in a relevant period subsequent to the initial period, either expenditure on the asset becomes allowable under section 3 or section 4 of the principal Act or the proportion of any such expenditure which is so allowable is different as compared with the initial period;

and in the following provisions of this section, the subsequent relevant period referred to in paragraph (c) above is referred to as " the adjustment period ".

- (2) Where this section applies, there shall be redetermined for the purposes of this section the amount of the expenditure referred to in paragraph (a) of subsection (1) above which would have been taken into account as mentioned in paragraph (b) of that subsection if the circumstances referred to in paragraph (c) of that subsection had existed in the initial period; and according to whether the amount as so redetermined is greater or less than the amount actually taken into account as mentioned in subsection (1)(b) above, the difference is in the following provisions of this section referred to as the increase or the reduction in the allowance.
- (3) If there is an increase in the allowance, then, for the purposes of the provisions referred to in subsection (1)(b) above, an amount of capital expenditure equal to the increase shall be deemed to have been incurred by the person concerned in the adjustment period on an extension of or addition to the asset referred to in subsection (1)(a) above.
- (4) If there is a reduction in the allowance, then, for the purpose of determining the liability to income tax or corporation tax of the person concerned, he shall be treated as having received in the adjustment period, as income of the trade in connection with which the expenditure referred to in subsection (1)(a) above was incurred, a sum equal to the amount of the reduction in the allowance.
- (5) In this section " relevant period " means an accounting period of a company or a year of assessment.

CHAPTER II

ADVANCE PETROLEUM REVENUE TAX

139 Liability for APRT and credit against liability for petroleum revenue tax

- (1) For each of the following chargeable periods, namely—
- (a) the first chargeable period ending after 31st December 1982 in which, subject to sections 140 and 141 below, a gross profit accrues to a participator from an oil field, and
- (b) every one out of the nine immediately succeeding chargeable periods in which, subject to those sections, a gross profit accrues to him from that field, the participator shall be liable to pay an amount of petroleum revenue tax (to be known as " advance petroleum revenue tax " and in this Chapter referred to as " APRT ") in accordance with this section.
- (2) Subject to sections 140 and 141 below, APRT shall be payable on the gross profit accruing to the participator in the chargeable period in question and shall be payable at the rate of 20 per cent.

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- (3) The aggregate of—
- (a) the APRT which is paid by a participator in respect of any chargeable period and not repaid, and
 - (b) any APRT which is carried forward from the previous chargeable period by virtue of subsection (4) below,
- shall be set against the participator's liability for petroleum revenue tax charged in any assessment made on him in respect of the assessable profit accruing to him in the period referred to in paragraph (a) above from the oil field in question (which liability is in this Chapter referred to as his liability for petroleum revenue tax for a chargeable period) and shall, accordingly, discharge a corresponding amount of that liability.
- (4) If, for any chargeable period, the aggregate of—
- (a) the APRT which is paid by a participator for that period and not repaid, and
 - (b) any APRT carried forward from the previous chargeable period by virtue of this subsection,
- exceeds the participator's liability for petroleum revenue tax for that period, the excess shall be carried forward as an accretion to the APRT paid (and not repaid) for the next chargeable period; and any reference in this Chapter to a participator's APRT credit for a chargeable period is a reference to the aggregate of the APRT paid for that period and not repaid and any APRT carried forward from the previous chargeable period by virtue of this subsection.
- (5) The references in section 1 of the Provisional Collection of Taxes Act 1968 to petroleum revenue tax include a reference to APRT.
- (6) The provisions of Schedule 19 to this Act shall have effect for supplementing this section and, accordingly, section 105 of the Finance Act 1980 (advance payments of petroleum revenue tax) shall cease to have effect with respect to chargeable periods ending after 30th June 1983.
- (7) This Chapter shall be included in the Oil Taxation Acts for the purposes of sections 107 and 108 of the Finance Act 1980 (transmedian fields and gas banking schemes).

140 Increase of gross profit by reference to royalties in kind

- (1) This section applies where part of a participator's share of the oil won and saved from an oil field is delivered by him in a chargeable period to the Secretary of State pursuant to a requirement imposed under the terms of a licence granted under the Petroleum (Production) Act 1934.
- (2) In determining for the purposes of APRT the gross profit accruing to the participator from the field in the chargeable period the aggregate of the amounts mentioned in paragraphs (a), (b) and (c) of subsection (5) of section 2 of the principal Act shall be increased by multiplying it by a fraction of which—
- (a) the numerator is the total of the quantity of oil won from the field which is delivered or relevantly appropriated by him in the period including the oil delivered to the Secretary of State ; and
 - (b) the denominator is that total excluding the oil delivered to the Secretary of State.
- (3) Where oil is delivered pursuant to a requirement which relates to oil of one or more kinds but not to others, subsection (2) above shall apply only in relation to oil of the

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kind or kinds to which the requirement relates; and where oil is delivered pursuant to a requirement which specifies different proportions in relation to different kinds of oil, that subsection shall apply separately in relation to each of those kinds.

- (4) For the purposes of subsection (5) of section 2 of the principal Act as it applies in determining for the purposes of APRT the gross profit accruing to a participator, the exclusion by paragraph 4 of Schedule 3 to that Act of oil delivered to the Secretary of State under the terms of a licence granted under the said Act of 1934 shall be deemed to extend to oil which is inadvertently delivered to him in excess of the amount required; and oil so delivered shall be treated for the purposes of this section as delivered pursuant to a requirement imposed under the terms of such a licence.
- (5) Any reference in this section or in section 141 below to the purposes of APRT includes a reference to the purpose of determining whether APRT is payable for a chargeable period by virtue of section 139(1) above.

141 Reduction of gross profit by reference to exempt allowance

- (1) For the purposes of APRT there shall be for each oil field in each chargeable period an exempt allowance of 500,000 metric tonnes of oil divided between the participators in shares proportionate to their shares of the oil won and saved from the field during the period.
- (2) If the gross profit accruing to a participator in a chargeable period from a field exceeds the cash equivalent of his share of the exempt allowance, the gross profit shall be reduced to an amount equal to the excess.
- (3) If the gross profit accruing to a participator in a chargeable period from a field does not exceed the cash equivalent of his share of the exempt allowance, the gross profit shall be reduced to nil.
- (4) Subject to subsection (5) below, the cash equivalent of a participator's share of the exempt allowance for an oil field for a chargeable period shall be equal to such proportion of the gross profit accruing to him from the field in that period (before any reduction under this section) as his share of the exempt allowance bears to his share, exclusive of excluded oil within the meaning of section 10 of the principal Act, of the oil won and saved from the field during the period.
- (5) If a participator in an oil field so elects by notice in writing given to the Board at the time when he makes his return under paragraph 2 of Schedule 2 to the principal Act for a chargeable period, the cash equivalent of his share of the exempt allowance for the field for that period shall be determined under subsection (4) above—
 - (a) to the extent that his share of that exempt allowance does not exceed his share of the oil (other than gas) won and saved from the field in the period, as if in computing the gross profit accruing to him in the period all amounts relating to gas fell to be disregarded; and
 - (b) to the extent, if any, that his share of that allowance exceeds his share of the oil (other than gas) so won and saved, as if in computing the gross profit so accruing all amounts relating to oil other than gas fell to be disregarded.
- (6) In this section references to a participator's share of the oil won and saved from a field are to his share as expressed in metric tonnes and for that purpose 1,100 cubic metres of oil consisting of gas at a temperature of 15 degrees centigrade and pressure of one atmosphere shall be counted as equivalent to one metric tonne of oil other than gas.

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142 Consequences of crediting APRT against liability for petroleum revenue tax

(1) If it appears to the Board—

- (a) that any amount of APRT credit which has been set off against a participator's assessed liability to petroleum revenue tax for any chargeable period ought not to have been so set off, or that the amount so set off has become excessive, or
- (b) that, disregarding any liability to or credit for APRT, a participator is entitled to a repayment of petroleum revenue tax for any chargeable period,

then, for the purpose of securing that the liabilities of the participator to petroleum revenue tax and APRT (including interest on unpaid tax) for the chargeable period in question are what they ought to have been, the Board may make such assessments to, and shall make such repayments of, petroleum revenue tax and APRT as in their judgment are necessary in the circumstances.

(2) In a case falling within paragraph (a) of subsection (1) above, any necessary assessment to petroleum revenue tax may, where the revised amount of set off is ascertained as a result of an appeal, be made at any time before the expiry of the period of six years beginning at the end of the chargeable period in which the appeal is finally determined; and in a case falling within paragraph (b) of that subsection any necessary assessment to APRT may be made at any time before the expiry of the period of six years beginning at the end of the chargeable period in which the participator became entitled as mentioned in that paragraph.

(3) In subsection (1) of section 17 of the principal Act (corporation tax: deduction of petroleum revenue tax in computing income)—

- (a) after the words " has paid " there shall be inserted the words " or is treated by virtue of subsection (1A) below as having paid ";
- (b) after the words " chargeable period ", in the first place where they occur, there shall be inserted the words " not being advance petroleum revenue tax "; and
- (c) after the words " petroleum revenue tax paid " there shall be inserted the words " or treated as having been paid ".

(4) After that subsection there shall be inserted the following subsection: —

“(1A) If and so far as any liability to an amount of petroleum revenue tax for any chargeable period is satisfied by an amount of advance petroleum revenue tax paid for that or any earlier chargeable period, that amount of petroleum revenue tax shall be treated for the purposes of this section as having been paid on the date on which it became due.”

(5) Paragraphs 13, 14 and 15 of Schedule 2 to the principal Act (payment of tax, appeals and interest on tax) apply in relation to an assessment to petroleum revenue tax under subsection (1) above as they apply to an assessment under that Schedule.