

SCHEDULES

SCHEDULE 2

Sections 6 to 8.

SUPPLEMENTAL PROVISIONS AS TO RECEIPTS FROM QUALIFYING ASSETS

Interpretation

- 1 (1) Any reference in this Schedule to the use of an asset includes a reference to the provision, in connection with that use, of services or other business facilities of whatever kind.
- (2) Any reference in this Schedule to the disposal of an asset includes a reference to the disposal of an interest in it.

Consideration received by connected persons under avoidance schemes

- 2 (1) This paragraph applies if consideration in respect of the use or disposal of an asset which, in relation to a participator or two or more participators in an oil field, is a qualifying asset is received or receivable—
- (a) by a person in relation to whom the asset is not a qualifying asset but who is connected with the participator or, as the case may be, with each of them ; and
 - (b) under or in consequence of a scheme or arrangements the main purpose or one of the main purposes of which is the avoidance of petroleum revenue tax or corporation tax.
- (2) In relation to the participator or, as the case may be, each of the participators referred to in sub-paragraph (1) above, any reference in section 6 or section 7 of this Act or in the following provisions of this Schedule to consideration received or receivable by him in respect of the use or disposal of the asset referred to in that sub-paragraph includes, subject to sub-paragraph (3) below, a reference to the consideration referred to in sub-paragraph (1) above or, if there is more than one participator, such portion of that consideration as it is just and reasonable to apportion to the participator in question.
- (3) In any case where—
- (a) the tariff receipts or disposal receipts of a participator in respect of the use or disposal of a qualifying asset include consideration which is received or receivable from a person who is connected with the participator, and
 - (b) consideration is received or receivable from a person who is not connected with the participator by a person who is so connected (whether the person referred to in paragraph (a) above or not), and
 - (c) apart from this sub-paragraph, the consideration referred to in paragraph (b) above or (where there is more than one connected participator) a portion of that consideration would, by virtue of sub-paragraph (2) above, be included in the tariff receipts or disposal receipts of the participator which are referable to the use or disposal of the qualifying asset concerned,

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only so much of the consideration or, as the case may be, of the portion of it referred to in paragraph (b) above as exceeds the consideration referred to in paragraph (a) above shall be included (by virtue of sub-paragraph (2) above) in the tariff receipts or, as the case may be, the disposal receipts of the participator.

Apportionment of consideration in respect of use or disposal

- 3 In any case where—
- (a) consideration received or receivable by a participator in an oil field in respect of the use or disposal of a qualifying asset includes an element that is unquantified but which does not constitute a tariff receipt or disposal receipt of his, and
 - (b) the consideration does not fall to be apportioned by virtue of section 6(4) or section 7(5) of this Act,
- the portion of the consideration which constitutes a tariff receipt or disposal receipt of the participator shall be determined in such manner as is just and reasonable.

Cases where all the oil is disregarded under section 10 of the principal Act

- 4 (1) This paragraph applies in any case where, in computing under section 2 of the principal Act the gross profit or loss accruing to a participator in any chargeable period from the chargeable field, all the oil which, apart from section 10 of that Act (exempt gas), would be taken into account falls to be disregarded under subsection (1) of that section.
- (2) In any case where this paragraph applies, subsection (1) of section 8 of this Act shall have effect in relation to the participator as if—
- (a) in paragraph (a) the word "either" and the words "or is a mobile asset dedicated to that oil field " were omitted; and
 - (b) in paragraph (b) for the words " is allowable, or has " there were substituted the words " would, apart from section 10(2) of the principal Act, be allowed or have ";
- and, in relation to the participator, tariff receipts and disposal receipts shall be construed accordingly.
- (3) Subsections (6) to (8) of section 7 of this Act shall not apply where the asset is a qualifying asset by reason only of sub-paragraph (2) above.

Acquisition otherwise than at arm's length: limit on tariff and disposal receipts

- 5 (1) In any case where—
- (a) in a transaction to which paragraph 2 of Schedule 4 to the principal Act applies (restriction on allowable expenditure where asset acquired in a transaction not at arm's length) a participator in an oil field makes a disposal of a qualifying asset, and
 - (b) the disposal gives rise to what would, apart from this paragraph, be tariff receipts or disposal receipts of the participator for a chargeable period, and
 - (c) those receipts are received from a person who is also a participator in an oil field (whether the same field or not),

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those receipts shall not be regarded as tariff receipts or disposal receipts if and to the extent that their aggregate in the period beginning with the transaction and ending with the end of that chargeable period exceeds relevant expenditure.

- (2) In this paragraph " relevant expenditure " means expenditure (other than expenditure in respect of interest or any other pecuniary obligation incurred in obtaining a loan or any other form of credit) incurred by the participator referred to in sub-paragraph (1) (a) above or by another person in acquiring, bringing into existence, or enhancing the value of the asset in a transaction to which paragraph 2 of Schedule 4 to the principal Act does not apply (or, if there has been more than one such transaction, the later or latest of them).
- (3) In any case where—
- (a) in a transaction to which paragraph 2 of Schedule 4 to the principal Act applies, a participator in an oil field makes a disposal of a qualifying asset, and
 - (b) the disposal is to a person who is not a participator in an oil field, and
 - (c) the disposal either gives rise to tariff receipts or disposal receipts of the participator for a chargeable period or is made for no consideration,
- the disposal shall be treated as giving rise to disposal receipts or tariff receipts (according to the nature of the disposal) equal to the open market consideration for the disposal and any actual receipts falling within paragraph (c) above shall be disregarded.
- (4) Without prejudice to paragraph 1(2) above, in this paragraph " disposal", in relation to a qualifying asset, includes the hiring of it or any similar transaction by which the use of the asset gives rise, or might reasonably be expected to give rise, to receipts (whether in the nature of income or capital).
- (5) The reference in sub-paragraph (3) above to the open market consideration for a disposal is a reference to the consideration which might reasonably have been obtained for the disposal in question (whatever its nature) had it been made in a transaction to which paragraph 2 of Schedule 4 to the principal Act does not apply.

Transfers of interests in fields

- 6 In paragraph 19 of Schedule 17 to the Finance Act 1980 (transfers of interests in oil fields: disposal of long-term assets) at the beginning there shall be inserted the word " Neither " and for the words " shall not" there shall be substituted " nor section 7 of the Oil Taxation Act 1983 shall ".

Insurance and compensation payments

- 7 Any payment by way of insurance or compensation in respect of the loss or destruction of an asset which, in relation to a participator in an oil field, is a qualifying asset, shall be brought into account for the purposes of section 1 of this Act and this Schedule as consideration in respect of a disposal of the asset taking place at the time the payment is received or receivable.

Dedicated mobile assets ceasing to be used in connection with participator's oil field

- 8 (1) This paragraph applies in any case where—

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- (a) a mobile asset which, in relation to a participator in an oil field, is a qualifying asset gives rise to receipts which, apart from the provisions of this paragraph, would be tariff receipts of the participator ; and
 - (b) the asset has ceased to be used in connection with any oil field whatsoever in which the participator or a person connected with him is a participator.
- (2) In any case where this paragraph applies, so much of what would, apart from this paragraph, be tariff receipts of the participator arising from the asset and which are neither—
- (a) received or receivable before the end of the chargeable period in which falls the second anniversary of the date on which the asset ceased to be used as mentioned in sub-paragraph (1)(b) above, nor
 - (b) received or receivable after the end of that chargeable period in respect of the use of the asset before the end of that period,
- shall not form part of the tariff receipts of the participator for any chargeable period in which the asset is not used as mentioned in sub-paragraph (1)(b) above.

Disposal receipts in respect of brought-in assets

- 9 If paragraph 7(4) of Schedule 1 to this Act applies to reduce the allowable expenditure, within the meaning of Part II of that Schedule, in respect of an asset and any disposal receipt is received or receivable in respect of the asset, the amount which, apart from this paragraph, would be the amount of that receipt shall be taken to be reduced by multiplying it by the same fraction as, by virtue of the said paragraph 7(4), was applied to that allowable expenditure.

Disposal receipts: assets used for deballasting

- 10 In any case where—
- (a) section 4(2) of this Act applies to reduce the expenditure allowable as mentioned in section 3(4) of this Act in respect of an asset, and
 - (b) any disposal receipt is received or receivable in respect of the asset,
- the amount which, apart from this paragraph, would be the amount of that receipt shall be taken to be reduced in the proportion in which the expenditure so allowable was reduced by virtue of section 4(2) of this Act.

Use by connected or associated person: avoidance devices

- 11 (1) This paragraph applies in any case where—
- (a) any consideration in respect of the use of an asset is received or receivable by a person (in this paragraph referred to as " the recipient") in relation to whom the asset is not a qualifying asset; and
 - (b) the asset is at any time used in connection with an oil field by a person (in this paragraph referred to as " the user ") who is connected or associated with the recipient and who is a participator in that or any other oil field ; and
 - (c) the consideration is so received or receivable under or in consequence of a scheme or arrangements the main purpose or one of the main purposes of which is the avoidance of petroleum revenue tax or corporation tax.
- (2) Subject to sub-paragraphs (5) and (6) below, the user shall be treated for the purposes of this Act and Part I and section 17 of the principal Act as if—

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- (a) any consideration arising from the use of the asset and received or receivable at any time by the recipient or a person connected or associated with him, other than consideration received or receivable from the user himself, had been received or receivable at that time by the user ; and
 - (b) such proportion of any expenditure incurred by the recipient at any time in connection with the asset as it is just and reasonable to apportion to the use which gives rise to the consideration had been incurred at that time by the user for the purpose for which it was in fact incurred by the recipient.
- (3) For the purposes of this paragraph, a participator in an oil field is associated with another person if the participator, by acting together with a person who is, or two or more persons each of whom is, a participator in that oil field or in any other relevant field, would be able to secure or exercise control of that other person, and for this purpose—
- (a) " control" shall be construed in accordance with section 302 of the Taxes Act; and
 - (b) " relevant field " means an oil field in connection with which the asset referred to in sub-paragraph (1)(a) above has been, is, or is expected to be, used.
- (4) For the purposes of sub-paragraph (3) above—
- (a) a foreign field, within the meaning of section 12 of this Act, shall be treated as an oil field, and
 - (b) an asset is used in connection with a relevant field which is a foreign field if it is used in a way which, on the assumptions set out in subsection (5) of that section, would be use in connection with the foreign field,
- and, in relation to a relevant field which is a foreign field, the reference in sub-paragraph (3) above to a participator shall be construed in accordance with section 12(2)(b) of this Act.
- (5) If, in relation to the recipient, there is more than one person who is the user, any consideration or expenditure falling within paragraph (a) or paragraph (b) of sub-paragraph (2) above shall be apportioned between those persons in such manner as is just and reasonable.
- (6) Sub-paragraph (2)(b) above does not apply if the asset is a mobile asset which is not dedicated to an oil field.

Purchase at place of extraction

- 12 (1) Subject to sub-paragraphs (4) and (5) below, in any case where—
- (a) a participator in an oil field or any person connected with him purchases any oil, otherwise than in pursuance of such an agreement as is mentioned in paragraph 6A of Schedule 3 to the principal Act (transactions between participators), and takes delivery of that oil at the place of extraction, and
 - (b) any of that oil is transported, initially treated or initially stored (or subjected to any two or more of those operations) by means of any asset which is a qualifying asset in relation to that field, and
 - (c) when the oil is disposed of or relevantly appropriated by the participator or the person connected with him, the selling price of the oil exceeds the price paid for it on the purchase referred to in paragraph (a) above,

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the participator shall be treated for the purposes of this Act and Part I and section 17 of the principal Act as having received an amount equal to that excess as tariff receipts which arise in the chargeable period in which the selling price falls to be determined and are attributable to the use of the asset for carrying out the operation or operations referred to in paragraph (b) above.

- (2) In this paragraph " selling price ", in relation to any oil, means the aggregate of the amounts determined in relation to that oil in accordance with paragraphs (a) to (c) of subsection (5) of section 2 of the principal Act; and for the purpose of the application of those paragraphs and of determining whether any oil falling within sub-paragraph (1) above is relevantly appropriated.—
- (a) a person who is connected with the participator and who purchases oil as mentioned in sub-paragraph (1)(a) above shall be deemed to be a participator ; and
 - (b) oil falling within sub-paragraph (1) above shall be treated, for the purposes of section 2(5) of the principal Act and the definition of " relevantly appropriated" in section 12 of that Act as if it were oil won from the field referred to in paragraph (a) of that sub-paragraph.
- (3) A person who takes delivery of oil—
- (a) before it has been transported to the place at which it is first landed in the United Kingdom, or
 - (b) which is not in fact landed in the United Kingdom,
- shall be treated for the purposes of sub-paragraph (1)(a) above as having taken delivery of the oil at the place of extraction.
- (4) Sub-paragraph (1) above does not apply to oil if, at a time before the participator's selling price for that oil falls to be determined as mentioned in sub-paragraph (2) above, the oil is either—
- (a) stored in the field referred to in paragraphs (a) and (b) of sub-paragraph (1) above ; or
 - (b) used for the purpose of assisting the extraction of oil from that field.
- (5) Sub-paragraph (1) above does not apply to oil if, by virtue of section 2(5)(b) of the principal Act (oil disposed of crude, otherwise than in sales at arm's length), the market value of the oil is taken into account in calculating the gross profit and loss (if any) accruing to a participator from an oil field in any chargeable period.