Income and Corporation Taxes Act 1988

1988 CHAPTER 1

PART XII

SPECIAL CLASSES OF COMPANIES AND BUSINESSES

CHAPTER V

Modifications etc. (not altering text)
C1 Pt. 12 Ch. 5 modified (27.7.1999) by Finance Act 1999 (c. 16), **s. 98**

PETROLEUM EXTRACTION ACTIVITIES

Modifications etc. (not altering text)
C2 Pt. 12 Ch. 5 applied (29.4.1996) by Finance Act 1996 (c. 8), **Sch. 8 para. 1(4)**

492 Treatment of oil extraction activities etc. for tax purposes.

(1) Where a person carries on as part of a trade—

(a) any oil extraction activities; or

(b) any of the following activities, namely, the acquisition, enjoyment or exploitation of oil rights; or

(c) activities of both those descriptions,

those activities shall be treated for all purposes of income tax, and for the purposes of the charge of corporation tax on income, as a separate trade, distinct from all other activities carried on by him as part of the trade.

(2) Relief in respect of a loss incurred by a person shall not be given under section 380 or 381 against income arising from oil extraction activities or from oil rights ("ring fence income") except to the extent that the loss arises from such activities or rights.

(3) Relief in respect of a loss incurred by a person shall not be given under section **[**F1393A(1)**]** against his ring fence profits except to the extent that the loss arises from oil extraction activities or from oil rights.

(4) In any case where—

(a) in any chargeable period a person incurs a loss in activities ("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 ("related activities") which are not part of the separate activities but which, 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 385 or 393(1), against so much of his trading income in any subsequent chargeable period as is derived from the related activities.

(5) Subject to subsection (7) below, a capital allowance which is to be given to any person by discharge or repayment of tax shall not to any extent be given effect under **[**F2section 141 of the 1990 Act**]** by deduction from or set off against his ring fence income.

(6) Subject to subsection (7) below, a capital allowance which is to be given to any person by discharge or repayment of tax shall not to any extent be given effect under **[**F3section 145 of the 1990 Act**]** by deduction from or set off against his ring fence profits.

(7) Subsection (5) or (6) above shall not apply to a capital allowance which falls to be made to a company for any accounting period in respect of an asset used in the relevant accounting period by a company associated with it and so used in carrying on oil extraction activities. For the purposes of this subsection, the relevant accounting period is that in which the allowance in question first falls to be made to the company (whether or not it can to any extent be given effect in that period under **[**F4section 145(1) of the 1990 Act**]**).

(8) On a claim for group relief made by a claimant company in relation to a surrendering company, group relief shall not be allowed against the claimant company's ring fence profits except to the extent that the claim relates to losses incurred by the surrendering company that arose from oil extraction activities or from oil rights.

Textual Amendments

F1 Words in s. 492(3) substituted by Finance Act 1991 (c. 31, SIF 63:1), s. 73(3)(4)(5), **Sch. 15 para. 17**

F2 Words in s. 492(5) substituted (with effect in accordance with s. 164 of the amending Act) by Capital Allowances Act 1990 (c. 1), **Sch. 1 para. 8(22)(a)**

F3 Words in s. 492(6) substituted (with effect in accordance with s. 164 of the amending Act) by Capital Allowances Act 1990 (c. 1), **Sch. 1 para. 8(22)(b)**

F4 Words in s. 492(7) substituted (with effect in accordance with s. 164 of the amending Act) by Capital Allowances Act 1990 (c. 1), **Sch. 1 para. 8(22)(c)**

493 Valuation of oil disposed of or appropriated in certain circumstances.

(1) Where a person disposes of any oil in circumstances such that the market value of that oil in a particular month falls to be taken into account under section 2 of the [M1]Oil Taxation Act 1975 ("the 1975 Act"), otherwise than by virtue of paragraph 6 of Schedule 3 to that Act, in computing for the purposes of petroleum revenue tax the assessable profit or allowable loss accruing to him in any chargeable period from an oil field (or as would so fall but for section 10 of that Act), then—

(a) for all purposes of income tax, and

(b) for the purposes of the charge of corporation tax on income,

the disposal of the oil and its acquisition by the person to whom it was disposed of shall be treated as having been for a consideration equal to the market value of the oil as so taken into account under section 2 of that Act (or as would have been so taken into account under that section but for section 10 of that Act).

(2) Where a person makes a relevant appropriation of any oil without disposing of it and does so in circumstances such that the market value of that oil in a particular month falls to be taken into account under section 2 of the 1975 Act in computing for the purposes of petroleum revenue tax the assessable profit or allowable loss accruing to him in any chargeable period from an oil field (or would so fall but for section 10 of that Act), then for all the purposes of income tax and for the purposes of the charge of corporation tax on income, he shall be treated—

(a) as having, at the time of the appropriation—

(i) sold the oil in the course of the separate trade consisting of activities falling within section 492(1)(a) or (b); and

(ii) bought it in the course of the separate trade consisting of activities not so falling; and

(b) as having so sold and bought it at a price equal to its market value as so taken into account under section 2 of the 1975 Act (or as would have been so taken into account under that section but for section 10 of that Act).

In this subsection "relevant appropriation" has the meaning given by section 12(1) of the 1975 Act.

(3) Where—

(a) a person disposes otherwise than in a sale at arm's length (as defined in paragraph 1 of Schedule 3 to the 1975 Act) of oil acquired by him in the course of oil extraction activities carried on by him or by virtue of oil rights held by him, and

(b) subsection (1) above does not apply in relation to the disposal,

then, for all purposes of income tax and for the purposes of the charge of corporation tax on income, the disposal of the oil and its acquisition by the person to whom it was disposed of shall be treated as having been for a consideration equal to the market value of the oil in the calendar month in which the disposal was made.

(4) If a person appropriates oil acquired by him in the course of oil extraction activities carried on by him or by virtue of oil rights held by him and the appropriation is to refining or to any use except for production purposes of an oil field, within the meaning of Part I of the 1975 Act, then, unless subsection (2) above applies, for all purposes of income tax and for the purposes of the charge of corporation tax on income—

(a) he shall be treated as having, at the time of the appropriation, sold and bought the oil as mentioned in subsection (2)(a)(i) and (ii) above; and

(b) that sale and purchase shall be deemed to have been at a price equal to the market value of the oil in the calendar month in which it was appropriated.

(5) For the purposes of subsections (3) and (4) above—

(a) "calendar month" means a month of the calendar year; and

(b) paragraph 2 of Schedule 3 to the 1975 Act shall apply as it applies for the purposes of Part I of that Act, but with the following modifications, that is to say—

(i) for sub-paragraph (2)(f) there shall be substituted—

"(f) the contract is for the sale of the whole quantity of oil of which the market value falls to be ascertained for the purposes of section 493(3) or (4) of the Income and Corporation Taxes Act 1988 and of no other oil; and for the avoidance of doubt it is hereby declared that the terms as to payment which are to be implied in the contract shall be those which are customarily contained in contracts for sale at arm's length of oil of the kind in question."; and

(ii) sub-paragraphs (3) and (4) shall be omitted.

Marginal Citations

M1 1975 c. 22

494 Charges on income.

(1) Section 338 shall have effect subject to the following provisions of this section.

(2) Interest paid by a company shall not be allowable under section 338 as a deduction against the company's ring fence profits except—

(a) to the extent that it was payable in respect of money borrowed by the company which is shown to have been used to meet expenditure incurred by the company in carrying on oil extraction activities or in acquiring oil rights otherwise than from a connected person or to have been appropriated to meeting expenditure to be so incurred by the company; and

(b) in the case of interest paid by the company to a company associated with it, to the extent that (subject always to paragraph (a) above) the rate at which it was payable did not exceed what, having regard to all the terms on which the money was borrowed and the standing of the borrower, was a reasonable commercial rate.

Section 839 shall apply for the purposes of this subsection.

(3) Where a company pays to a company associated with it a charge on income not consisting of a payment of interest, the charge shall not be allowable to any extent under section 338 against the first-mentioned company's ring fence profits.

(4) In any case where—

(a) such of the charges on income which are paid by a company and allowable under section 338 as, by virtue of subsections (2) and (3) above, are not allowable against the company's ring fence profits exceed the remaining part of its profits (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, section 403(7) shall have effect as if in that subsection—

(i) the reference 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 to the surrendering company's profits were a reference to its non-oil profits alone.

VALID FROM 27/07/1999

[F5 494AA Sale and lease-back.

(1) This section applies where—

(a) a company ("the seller") carrying on a trade has disposed of an asset which was used for the purposes of that trade, or an interest in such an asset;

(b) the asset is used, under a lease, by the seller or a company associated with the seller ("the lessee") for the purposes of a ring fence trade carried on by the lessee; and

(c) the lessee uses the asset before the end of the period of two years beginning with the disposal.

(2) Subject to subsection (4) below, subsection (3) below applies to so much (if any) of the expenditure incurred by the lessee under the lease as—

(a) falls, in accordance with normal accountancy practice, to be treated in the accounts of the lessee as a finance charge; or

(b) would so fall if the lessee were a company incorporated in the United Kingdom.

(3) The expenditure shall not be allowable in computing for the purposes of Schedule D the profits of the ring fence trade.

(4) Expenditure shall not be disallowed by virtue of subsection (3) above to the extent that the disposal referred to in subsection (1) above is made for a consideration which—

(a) is used to meet expenditure incurred by the seller in carrying on oil extraction activities or in acquiring oil rights otherwise than from a company associated with the seller; or

(b) is appropriated to meeting expenditure to be so incurred by the seller.

(5) Where any expenditure—

(a) would apart from subsection (3) above be allowable in computing for the purposes of Schedule D the profits of the ring fence trade for an accounting period, but

(b) by virtue of that subsection is not so allowable,

that expenditure shall be brought into account for the purposes of Chapter II of Part IV of the [M2]Finance Act 1996 as if it were a non-trading debit in respect of a loan relationship of the lessee for that accounting period.

(6) In this section, "lease", in relation to an asset, has the same meaning as in sections 781 to 784.**]**

Textual Amendments

F5 S. 494AA inserted (with application in accordance with s. 100(2)(3) of the amending Act) by Finance Act 1999 (c. 16), **s. 100(1)**

Marginal Citations

M2 1996 c.8.

VALID FROM 31/07/1998

[F6494A Computation of amount available for surrender by way of group relief.

(1) In section 403(3) (availability of charges, Schedule A losses and management expenses for surrender as group relief) the reference to the gross profits of the surrendering company for an accounting period does not include the company's relevant ring fence profits for that period.

(2) If for that period—

(a) there are no charges on income paid by the company that are allowable under section 338, or

(b) the only charges on income so allowable are charges to which section 494(3) above applies,

all the company's ring fence profits are relevant ring fence profits.

(3) In any other case the company's relevant ring fence profits are so much of its ring fence profits as exceeds the amount of the charges on income paid by the company as—

(a) are allowable under section 338 for that period, and

(b) are not charges to which section 494(3) above applies.**]**

Textual Amendments

F6 S. 494A inserted (with effect in accordance with s. 38(2)(3) of the amending Act) by Finance Act 1998 (c. 36), **Sch. 5 para. 30** (with Sch. 5 para. 73)

495 Regional development grants.

(1) Subsection (2) 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 1975 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 **[**F7Part I, II or VII of the 1990 Act (capital allowances relating to industrial buildings, machinery or plant and scientific research).**]**.

(2) 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 paragraph (a) of subsection (1) above which are treated by virtue of section 492(1) as a separate trade for those purposes, the expenditure referred to in that paragraph shall be treated as reduced by the amount of the regional development grant referred to in paragraph (b) of that subsection.

(3) Subsections (4) to (6) below apply where—

(a) expenditure incurred by any person in relation to an asset in any relevant period ("the initial period") has been or is to be met by a regional development grant; and

(b) notwithstanding the provisions of section 137 of the M3Finance Act 1982 and subsections (1) and (2) 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 **[**F8Part I, II or VII of the 1990 Act**]**; and

(c) in a relevant period subsequent to the initial period either expenditure on the asset becomes allowable under section 3 or 4 of the 1975 Act or the proportion of any such expenditure which is allowable is different as compared with the initial period;

and in subsections (4) to (6) below the subsequent relevant period referred to in paragraph (c) above is referred to as "the adjustment period".

(4) Where this subsection applies—

(a) there shall be redetermined for the purposes of subsections (5) and (6) below the amount of the expenditure referred to in subsection (3)(a) above which would have been taken into account as mentioned in subsection (3)(b) if the circumstances referred to in subsection (3)(c) had existed in the initial period; and

(b) according to whether the amount as so redetermined is greater or less than the amount actually taken into account as mentioned in subsection (3)(b), the difference is in subsections (5) and (6) below referred to as the increase or the reduction in the allowance.

(5) If there is an increase in the allowance, then, for the purposes of the provisions referred to in subsection (3)(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 (3)(a) above.

(6) 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 (3)(a) above was incurred, a sum equal to the amount of the reduction in the allowance.

(7) In this section—

"regional development grant" means a grant made under the provisions of Part II of the [M4]Industrial Development Act 1982 or Part I of the [M5]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 **[**[F9]153 of the 1990 Act**]** to correspond to a grant made under those provisions; and

"relevant period" means an accounting period of a company or a year of assessment.

Textual Amendments

F7 Words in s. 495(1)(b) substituted (with effect in accordance with s. 164 of the amending Act) by Capital Allowances Act 1990 (c. 1), **Sch. 1 para. 8(23)(a)**

F8 Words in s. 495(3)(b) substituted (with effect in accordance with s. 164 of the amending Act) by Capital Allowances Act 1990 (c. 1), **Sch. 1 para. 8(23)(b)**

F9 Words in s. 495(7) substituted (with effect in accordance with s. 164 of the amending Act) by Capital Allowances Act 1990 (c. 1), **Sch. 1 para. 8(23)(c)**

Marginal Citations

M3 1982 c. 39

M4 1982 c. 52

M5 1972 c. 63

496 Tariff receipts.

(1) Any sum which—

(a) constitutes a tariff receipt of a person who is a participator in an oil field, and

(b) constitutes consideration in the nature of income rather than capital, and

(c) would not, apart from this subsection, be treated for the purposes of this Chapter as a receipt of the separate trade referred to in section 492(1),

shall be so treated for those purposes.

(2) To the extent that they would not otherwise be so treated, the activities of a participator in an oil field or a person connected with him in making available an asset in a way which gives rise to tariff receipts of the participator shall be treated for the purposes of this Chapter as oil extraction activities.

(3) In determining for the purposes of subsection (1) above whether any sum constitutes a tariff receipt of a person who is a participator, no account shall be taken of any sum which—

(a) is in fact received or receivable by a person connected with the participator, and

(b) constitutes a tariff receipt of the participator,

but in relation to the person by whom such a sum is actually received, subsection (1) above shall have effect as if he were a participator and as if the condition in paragraph (a) of that subsection were fulfilled.

(4) References in this section to a person connected with a participator include references to a person with whom the person is associated within the meaning of paragraph 11 of Schedule 2 to [M6]the Oil Taxation Act 1983.

Marginal Citations
M6 1983 c. 56.

VALID FROM 22/07/2004

[F10 496A Exploration expenditure supplement

Schedule 19B to this Act (exploration expenditure supplement) shall have effect.**]**

Textual Amendments
F10 S. 496A inserted (22.7.2004) by Finance Act 2004 (c. 12), **s. 286(2)**

VALID FROM 19/07/2006

[F11 496B Ring fence expenditure supplement

Schedule 19C to this Act (ring fence expenditure supplement) shall have effect.**]**

Textual Amendments
F11 S. 496B inserted (19.7.2006) by Finance Act 2006 (c. 25), **s. 154(2)**

497 Restriction on setting ACT against income from oil extraction activities etc.

(1) Section 239 shall have effect subject to the following provisions of this section; and in those provisions any reference to a company's ring fence income shall be construed, except in relation to relief under section 380 of this Act and section 71 of the 1968 Act, as a reference to the company's ring fence profits.

(2) Where advance corporation tax is paid by a company ("the distributing company") in respect of any distribution made by it to a company associated with it and resident in the United Kingdom **[**[F12]or in respect of any distribution which, in accordance with subsections (2A) and (2B) below, is made pursuant to a substitution scheme**]**or, where subsection (3) below applies, in respect of any distribution consisting of a dividend on a redeemable preference share—

(a) that advance corporation tax shall not be set against the distributing company's liability to corporation tax on any ring fence income of the distributing company; and

(b) if the benefit of any amount of that advance corporation tax is surrendered under section 240 to a subsidiary of the distributing company, the

corresponding amount of advance corporation tax which under that section the subsidiary is treated for the purposes of section 239 as having paid shall not be set against the subsidiary's liability to corporation tax on any ring fence income of the subsidiary.

[F13(2A) For the purposes of subsection (2) above, a distribution ("the relevant distribution") is made pursuant to a substitution scheme if—

(a) it is made on or after 2nd May 1991 in respect of shares or securities issued or transferred pursuant to or otherwise for the purposes of a scheme or arrangements; and

(b) by virtue of the scheme or arrangements a person's entitlement to, or to any rights in, the relevant distribution arises, directly or indirectly, by way of substitution for or addition to any entitlement of his to, or any prospect of his of, a distribution in respect of shares in or securities of another company; and

(c) at the time of the relevant distribution that other company is associated with the distributing company and is resident in the United Kingdom.

(2B) Where a distribution is made in respect of shares the issue or transfer of which constituted or formed part of an exempt distribution, within the meaning of section 213 (demergers), the distribution in respect of the shares shall not be regarded for the purposes of subsection (2) above as made pursuant to a substitution scheme by reason only that the transfer or issue of the shares was carried out as part of a transaction falling within subsection (1) of that section.**]**

(3) Subject to subsection (4) below, this subsection applies in relation to the payment of a dividend on redeemable preference shares if the dividend is paid on or after 17th March 1987 and—

(a) at the time the shares are issued, or

(b) at the time the dividend is paid,

the company paying the dividend is under the control of a company resident in the United Kingdom, and in this subsection "control" shall be construed in accordance with section 416.

(4) Subsection (3) above does not apply if or to the extent that it is shown that the proceeds of the issue of the redeemable preference shares—

(a) were used to meet expenditure incurred by the company issuing them in carrying on oil extraction activities or in acquiring oil rights otherwise than from a connected person; or

(b) were appropriated to meeting expenditure to be so incurred by that company;

and section 839 applies for the purposes of this subsection.

(5) Where in the case of any accounting period of a company there is an amount of advance corporation tax which because of subsection (2) above is not available to be set against the company's liability to corporation tax for that period on ring fence income of the company, section 239(2) shall as regards that period have effect as if the reference to the company's profits charged to corporation tax for that period were a reference to the company's profits so charged exclusive of any ring fence income.

(6) For the purposes of subsections (2) to (4) above, shares in a company are redeemable preference shares either if they are so described in the terms of their issue or if, however they are described, they fulfil the condition in paragraph (a) below and either or both of the conditions in paragraphs (b) and (c) below—

(a) that, as against other shares in the company, they carry a preferential entitlement to a dividend or to any assets in a winding up or both;

(b) that, by virtue of the terms of their issue, the exercise of a right by any person or the existence of any arrangements, they are liable to be redeemed, cancelled or repaid, in whole or in part;

(c) that, by virtue of any material arrangements, the holder has a right to require another person to acquire the shares or is obliged in any circumstances to dispose of them or another person has a right or is in any circumstances obliged to acquire them.

(7) For the purposes of paragraph (a) of subsection (6) above, shares are to be treated as carrying a preferential entitlement to a dividend as against other shares if, by virtue of any arrangements, there are circumstances in which a minimum dividend will be payable on those shares but not on others; and for the purposes of paragraph (c) of that subsection arrangements relating to shares are material arrangements if the company which issued the shares or a company associated with that company is a party to the arrangements.

Textual Amendments

F12 Words in s. 497(2) inserted by Finance Act 1991 (c. 31, SIF 63:1), **s. 66(1)**

F13 S. 497(2A)(2B) inserted by Finance Act 1991 (c. 31, SIF 63:1), **s. 66(2)**

498 Limited right to carry back surrendered ACT.

(1) In any case where,—

(a) on a date not earlier than 17th March 1987, a company which is the surrendering company for the purposes of section 240 paid a dividend; and

(b) at no time in the accounting period of the surrendering company in which that dividend was paid was the surrendering company under the control of a company resident in the United Kingdom (construing "control" in accordance with section 416); and

(c) under section 240(1) the benefit of the advance corporation tax paid in respect of that dividend was surrendered to a subsidiary of the surrendering company; and

(d) that advance corporation tax is not such that the restriction in paragraph (a) or paragraph (b) of section 497(2) applies with respect to it; and

(e) in one or more of the accounting periods of the subsidiary beginning in the six years preceding the accounting period in which falls the date referred to in paragraph (a) above, the subsidiary has a liability to corporation tax in respect of profits which consist of or include ring fence profits,

sections 239 and 240 shall have effect subject to subsections (3) to (7) below.

(2) Where the conditions in subsection (1) above are fulfilled, the subsidiary to which the benefit of the advance corporation tax is surrendered is in the following provisions of this section referred to as a "qualifying subsidiary"; and in those provisions—

(a) "the surrendering company" has the same meaning as in section 240;

(b) "surrendered advance corporation tax" means advance corporation tax which, by virtue of section 240(2), a qualifying subsidiary is treated as having paid in respect of a distribution made on a particular date; and

(c) "the principal accounting period" means the accounting period of the qualifying subsidiary in which that date falls.

(3) So much of section 240(4) as would prevent surrendered advance corporation tax being set against a qualifying subsidiary's liability to corporation tax under section 239(3) shall not apply, but section 239(3) shall instead have effect subject to the following provisions of this section.

(4) Surrendered advance corporation tax may not under section 239(3) be set against a qualifying subsidiary's liability to corporation tax for an accounting period earlier than the principal accounting period unless throughout—

(a) that period,

(b) the principal accounting period, and

(c) any intervening accounting period,

the qualifying subsidiary was carrying on activities which, under and for the purposes specified in section 492, constitute a separate trade.

(5) Subject to subsection (6) below, for each accounting period of the surrendering company in which is paid a dividend the advance corporation tax on which gives rise, under section 240, to surrendered advance corporation tax, the total amount of that surrendered advance corporation tax in respect of which claims may be made under section 239(3) (whether by one qualifying subsidiary of the surrendering company or by two or more taken together) shall not exceed whichever of the following limits is appropriate to the accounting period of the surrendering company—

(a) for periods ending on or after 17th March 1987 and before 1 st April 1989, £10 million;

(b) for periods ending on or after 1st April 1989 and before 1st April 1991, £15 million;

(c) for later periods, £20 million.

(6) In any case where an accounting period of the surrendering company is less than 12 months, the amount which is appropriate to it under subsection (5)(a) to (c) above shall be proportionately reduced.

(7) The amount of surrendered advance corporation tax of the principal accounting period which, on a claim under section 239(3), may be treated as if it were advance corporation tax paid in respect of distributions made by the qualifying subsidiary concerned in any earlier accounting period shall not exceed the amount of advance corporation tax that would have been payable in respect of a distribution made at the end of that earlier period of an amount which, together with the advance corporation tax so payable in respect of it, would equal the qualifying subsidiary's ring fence profits of that period.

(8) In determining the amount (if any) of advance corporation tax which may be repayable—

(a) under section 17(3) of the 1975 Act, or

(b) under section 127(5) of the [M7]Finance Act 1981,

any advance corporation tax in respect of a distribution actually made on or after 17th March 1987 shall be left out of account.

Marginal Citations

M7 1981 c. 35.

499 Surrender of ACT where oil extraction company etc. owned by a consortium.

(1) In any case where—

(a) a company (in this section referred to as "the consortium company") is owned by a consortium consisting of two members only, each of which owns 50 per cent. of the issued share capital of the company; and

(b) the consortium company carries on a trade consisting of or including activities falling within section 492(1)(a) to (c); and

(c) all of the issued share capital of the consortium company is of the same class and carries the same rights as to voting, dividends and distribution of assets on a winding up,

section 240 shall have effect, subject to the following provisions of this section, as if the company were a subsidiary of each member of the consortium.

(2) This section has effect with respect to advance corporation tax paid by either member of the consortium in respect of a dividend paid by it on or after 17th March 1987; and, in relation to a surrender under section 240 of the benefit of the advance corporation tax paid in respect of such a dividend—

(a) "surrendered advance corporation tax" means advance corporation tax which, by virtue of section 240(2), the consortium company is treated as having paid; and

(b) "the notional distribution date" means the date of the distribution in respect of which the surrendered advance corporation tax is treated as paid.

(3) No surrender under section 240 of the benefit of advance corporation tax may be made by virtue of this section—

(a) unless the conditions in paragraphs (a) to (c) of subsection (1) above are fulfilled throughout that accounting period of the consortium company in which falls the notional distribution date; or

(b) if arrangements are in existence by virtue of which any person could cause one or more of those conditions to cease to be fulfilled at some time during that or any later accounting period.

(4) In the application of section 239 in relation to surrendered advance corporation tax resulting from a surrender by either one of the consortium members under section 240, the reference in section 239(2) to the consortium company's profits charged to corporation tax shall be construed as a reference to one half of so much of those profits as consists of ring fence profits.

(5) So much of any surplus advance corporation tax as consists of or includes surrendered advance corporation tax shall not be treated under section 239(4) as if it were advance corporation tax paid in respect of distributions made by the consortium company in a later accounting period unless the conditions in paragraphs (a) to (c) of subsection (1) above are fulfilled throughout that later period.

(6) In any case where—

(a) as a result of a surrender by one of the consortium members, the consortium company is treated as paying an amount of surrendered advance corporation

tax which exceeds the limit applicable under section 239(2) (as modified by subsection (4) above), and

(b) that excess falls to be treated under section 239(4) as advance corporation tax paid by the consortium company in respect of distributions made in a later accounting period,

then, for the purposes of the application of section 239(2) (as modified by subsection (4) above) in relation to that later accounting period, the excess of the surrendered advance corporation tax shall be treated as resulting from a surrender by that one of the consortium members referred to in paragraph (a) above.

(7) Where section 240 has effect as mentioned in subsection (2) above, subsection (11) of that section shall have effect with the omission of paragraph (b) (and the word "and" immediately preceding it).

(8) Notwithstanding the provisions of subsection (1) above the consortium company shall not be regarded as a subsidiary for the purposes of section 498.

500 Deduction of PRT in computing income for corporation tax purposes.

(1) Where a participator in an oil field has paid any petroleum revenue tax with which he was chargeable for a chargeable period, then, in computing for corporation tax the amount of his income arising in the relevant accounting period from oil extraction activities or oil rights, there shall be deducted an amount equal to that petroleum revenue tax.

(2) There shall be made all such adjustments of assessments to corporation tax as are required in order to give effect to subsection (1) above.

(3) For the purposes of subsection (1) above, the relevant accounting period, in relation to any petroleum revenue tax paid by a company, is—

(a) the accounting period of the company in or at the end of which the chargeable period for which that tax was charged ends; or

(b) if that chargeable period ends after the accounting period of the company in or at the end of which the trade giving rise to the income referred to above is permanently discontinued, that accounting period.

(4) **[**F14Subject to the following provisions of this section**]** if some or all of the petroleum revenue tax in respect of which a deduction has been made under subsection (1) above is subsequently repaid, that deduction shall be reduced or extinguished accordingly; and any additional assessment to corporation tax required in order to give effect to this subsection may be made at any time not later than six years after the end of the **[**F15calendar year**]** in which the first-mentioned tax was repaid.

[F16(5) If, in a case where paragraph 17 of Schedule 2 to the 1975 Act applies, an amount of petroleum revenue tax in respect of which a deduction has been made under subsection (1) above is repaid by virtue of an assessment under that Schedule or an amendment of such an assessment, then, so far as concerns so much of that repayment as constitutes the appropriate repayment,—

(a) subsection (4) above shall not apply; and

(b) the following provisions of this section shall apply in relation to the company which is entitled to the repayment.

(6) In subsection (5) above and the following provisions of this section—

(a) "the appropriate repayment" has the meaning assigned by sub-paragraph (2) of paragraph 17 of Schedule 2 to the 1975 Act;

(b) in relation to the appropriate repayment, a "carried back loss" means an allowable loss which falls within sub-paragraph (1)(a) of that paragraph and which (alone or together with one or more other carried back losses) gives rise to the appropriate repayment;

(c) in relation to a carried back loss, "the operative chargeable period" means the chargeable period in which the loss accrued; and

(d) in relation to the company which is entitled to the appropriate repayment, "the relevant accounting period" means the accounting period in or at the end of which ends the operative chargeable period or, if the company's ring fence trade is permanently discontinued before the end of the operative chargeable period, the last accounting period of that trade.

(7) In computing for corporation tax the amount of the company's income arising in the relevant accounting period from oil extraction activities or oil rights there shall be added an amount equal to the appropriate repayment; but this subsection has effect subject to subsection (8) below in any case where—

(a) two or more carried back losses give rise to the appropriate repayment; and

(b) the operative chargeable period in relation to each of the carried back losses is not the same; and

(c) if subsection (6)(d) above were applied separately in relation to each of the carried back losses there would be more than one relevant accounting period.

(8) Where paragraphs (a) to (c) of subsection (7) above apply, the appropriate repayment shall be treated as apportioned between each of the relevant accounting periods referred to in paragraph (c) of that subsection in such manner as to secure that the amount added by virtue of that subsection in relation to each of those relevant accounting periods is what it would have been if—

(a) relief for each of the carried back losses for which there is a different operative chargeable period had been given by a separate assessment or amendment of an assessment under Schedule 2 to the 1975 Act; and

(b) relief for a carried back loss accruing in an earlier chargeable period had been so given before relief for a carried back loss accruing in a later chargeable period.

(9) Any additional assessment to corporation tax required in order to give effect to the addition of an amount by virtue of subsection (7) above may be made at any time not later than six years after the end of the calendar year in which is made the repayment of petroleum revenue tax comprising the appropriate repayment.

(10) In this section "allowable loss" and "chargeable period" have the same meaning as in Part I of the 1975 Act and "calendar year" means a period of twelve months beginning on 1st January.**]**

Textual Amendments

F14 Words in s. 500(4) inserted by Finance Act 1990 (c. 29), **s. 62(1)(a)**

F15 Words in s. 500(4) substituted by Finance Act 1990 (c. 29), **s. 62(1)(b)**

F16 S. 500(5)-(10) substituted for s. 500(5) by Finance Act 1990 (c. 29), **s. 62(2)**

501 Interest on repayment of PRT.

Where any amount of petroleum revenue tax paid by a participator in an oil field is, under any provision of Part I of the 1975 Act, repaid to him with interest, the amount of the interest paid to him shall be disregarded in computing the amount of his income for the purposes of corporation tax.

VALID FROM 24/07/2002

[F17 501A Supplementary charge in respect of ring fence trades

(1) Where in any accounting period beginning on or after 17th April 2002 a company carries on a ring fence trade, a sum equal to 10 per cent of its adjusted ring fence profits for that period shall be charged on the company as if it were an amount of corporation tax chargeable on the company.

(2) A company's adjusted ring fence profits for an accounting period are the amount which, on the assumption mentioned in subsection (3) below, would be determined for that period (in accordance with this Chapter) as the profits of the company's ring fence trade chargeable to corporation tax.

(3) The assumption is that financing costs are left out of account in computing—

(a) the amount of the profits or loss of any ring fence trade of the company's for each accounting period beginning on or after 17th April 2002; and

(b) where for any such period the whole or part of any loss relief is surrendered to the company in accordance with section 492(8), the amount of that relief or, as the case may be, that part.

(4) For the purposes of this section, "financing costs" means the costs of debt finance.

(5) In calculating the costs of debt finance for an accounting period the matters to be taken into account include—

(a) any costs giving rise to debits in respect of debtor relationships of the company under Chapter 2 of Part 4 of the Finance Act 1996 (loan relationships);

(b) any exchange gain or loss, within the meaning of Chapter 2 of Part 2 of the Finance Act 1993, in relation to debt finance;

(c) any trading profit or loss, under Chapter 2 of Part 4 of the Finance Act 1994 (interest rate and currency contracts), in relation to debt finance;

(d) the financing cost implicit in a payment under a finance lease; and

(e) any other costs arising from what would be considered in accordance with generally accepted accounting practice to be a financing transaction.

(6) Where an amount representing the whole or part of a payment falling to be made by a company—

(a) falls (or would fall) to be treated as a finance charge under a finance lease for the purposes of accounts relating to that company and one or more other companies and prepared in accordance with generally accepted accounting practice, but

(b) is not so treated in the accounts of the company,

the amount shall be treated for the purposes of this section as financing costs falling within subsection (5)(d) above.

(7) If—

(a) in computing the adjusted ring fence profits of a company for an accounting period, an amount falls to be left out of account by virtue of subsection (5)(d) above, but

(b) the whole or any part of that amount is repaid,

the repayment shall also be left out of account in computing the adjusted ring fence profits of the company for any accounting period.

(8) In this section "finance lease" means any arrangements—

(a) which provide for an asset to be leased or otherwise made available by a person to another person ("the lessee"), and

(b) which, under generally accepted accounting practice,—

(i) fall (or would fall) to be treated, in the accounts of the lessee or a person connected with the lessee, as a finance lease or a loan, or

(ii) are comprised in arrangements which fall (or would fall) to be so treated.

(9) For the purposes of applying subsection (8)(b) above, the lessee and any person connected with the lessee are to be treated as being companies which are incorporated in a part of the United Kingdom.

(10) In this section "accounts", in relation to a company, includes any accounts which—

(a) relate to two or more companies of which that company is one, and

(b) are drawn up in accordance with—

(i) section 227 of the Companies Act 1985, or

(ii) Article 235 of the Companies (Northern Ireland) Order 1986.**]**

Textual Amendments

F17 S. 501A inserted (24.7.2002) by Finance Act 2002 (c. 23), **ss. 91**, 93

VALID FROM 24/07/2002

[F18 501B Assessment, recovery and postponement of supplementary charge

(1) Subject to subsection (3) below, the provisions of section 501A(1) relating to the charging of a sum as if it were an amount of corporation tax shall be taken as applying, subject to the provisions of the Taxes Acts, and to any necessary modifications, all enactments applying generally to corporation tax, including—

(a) those relating to returns of information and the supply of accounts, statements and reports;

(b) those relating to the assessing, collecting and receiving of corporation tax;

(c) those conferring or regulating a right of appeal; and

(d) those concerning administration, penalties, interest on unpaid tax and priority of tax in cases of insolvency under the law of any part of the United Kingdom.

(2) Accordingly (but without prejudice to subsection (1) above) the Management Act shall have effect as if any reference to corporation tax included a reference to a sum chargeable under section 501A(1) as if it were an amount of corporation tax.

(3) In any regulations made under section 32 of the Finance Act 1998 (as at 17th April 2002, the Corporation Tax (Treatment of Unrelieved Surplus Advance Corporation Tax) Regulations 1999)—

(a) references to corporation tax do not include a reference to a sum chargeable on a company under section 501A(1) as if it were corporation tax; and

(b) references to profits charged to corporation tax do not include a reference to adjusted ring fence profits, within the meaning of section 501A(1).

(4) In this section "the Taxes Acts" has the same meaning as in the Management Act.**]**

Textual Amendments

F18 S. 501B inserted (24.7.2002) by Finance Act 2002 (c. 23), **ss. 92(1)**, 93

502 Interpretation of Chapter V.

(1) In this Chapter—

"the 1975 Act" means the Oil Taxation Act 1975 [M8];

"oil" means any substance won or capable of being won under the authority of a licence granted under either the Petroleum (Production) Act 1934 or the [M9]Petroleum (Production) Act (Northern Ireland) 1964, other than methane gas won in the course of operations for making and keeping mines safe;

"oil extraction activities" means any activities of a person—

(a) in searching for oil in the United Kingdom or a designated area or causing such searching to be carried out for him; or

(b) in extracting or causing to be extracted for him oil at any place in the United Kingdom or a designated area under rights authorising the extraction and held by him or, if the person in question is a company, by the company or a company associated with it; or

(c) in transporting or causing to be transported for him [F19] . . . oil extracted at any such place not on dry land under rights authorising the extraction and so held **[**[F20]where the transportation is—

(i) to the place where the oil is first landed in the United Kingdom, or

(ii) to the place in the United Kingdom or, in the case of oil first landed in another country, the place in that or any other country (other than the United Kingdom) at which the seller in a sale at arm's length could reasonably be expected to deliver it or, if there is more than one such place, the one nearest to the place of extraction**]**; or

(d) in effecting or causing to be effected for him the initial treatment or initial storage of oil won from any oil field under rights authorising its extraction and so held;

"oil field" has the same meaning as in Part I of the 1975 Act;

"oil rights" means rights to oil to be extracted at any place in the United Kingdom or a designated area, or to interests in or to the benefit of such oil;

"participator" has the same meaning as in Part I of the 1975 Act; and

"ring fence income" means income arising from oil extraction activities or oil rights; and

"ring fence profits" has the **[**[F21] meaning given by subsection (1A) below**]** or, in any case where that subsection does not apply, means ring fence income; **[**[F22] and

"ring fence trade" means activities which—

(a) fall within any of paragraphs (a) to (c) of subsection (1) of section 492; and

(b) constitute a separate trade (whether by virtue of that subsection or otherwise)**]**.

[[F23](1A) Where in accordance with section 197(3) of the 1992 Act a person has an aggregate gain for any chargeable period, that gain and his ring fence income (if any) for that period together constitute his ring fence profits for the purposes of this Chapter.**]**

(2) For the purposes of subsection (1) above—

(a) "designated area" means an area designated by Order in Council under section 1(7) of the [M10]Continental Shelf Act 1964;

(b) "initial treatment" has the same meaning as in Part I of the 1975 Act; and

(c) the definition of "initial storage" in section 12(1) of the 1975 Act shall apply but, in its application for those purposes in relation to the person mentioned in subsection (1)(d) above and to oil won from any one oil field shall have effect as if the reference to the maximum daily production rate of oil for the field as there mentioned were a reference to that person's share of that maximum daily production rate, that is to say, a share thereof proportionate to his share of the oil won from that field.

(3) For the purposes of this Chapter two companies are associated with one another if—

(a) one is a 51 per cent. subsidiary of the other;

(b) each is a 51 per cent. subsidiary of a third company; or

(c) one is owned by a consortium of which the other is a member.

Section 413(6) shall apply for the purposes of paragraph (c) above.

(4) Without prejudice to subsection (3) above, for the purposes of this Chapter, two companies are also associated with one another if one has control of the other or both are under the control of the same person or persons; and in this subsection "control" shall be construed in accordance with section 416.

Textual Amendments

F19 S. 502(1): words in definition of "oil extraction activities" repealed (16.7.1992) by Finance (No. 2) Act 1992 (c. 48), ss. 55(1)(a)(2), 82, **Sch. 18 Pt.VII**

F20 S. 502(1): words in definition of "oil extraction activities" inserted (16.7.1992) by Finance (No. 2) Act 1992 (c. 48), **s. 55(1)(b)(2)**

F21 S. 502(1): words in definition of "ring fence profits" substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290(1), **Sch. 10 para. 14(30)** (with ss. 60, 101(1), 171(1), 201(3))

F22 S. 502(1): definition of "ring fence trade" added by Finance Act 1990 (c. 29), **s. 62(3)**

F23 S. 502(1A) inserted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 300(1), **Sch. 10 para. 14(30)** (with ss. 60, 101(1), 171, 201(3))

Marginal Citations

M8 1975 c. 22.
M9 1964 c. 28 (N.I.)
M10 1964 c. 29.

Status:
Point in time view as at 01/05/1995. This version of this chapter contains provisions that are not valid for this point in time.

Changes to legislation:
Income and Corporation Taxes Act 1988, CHAPTER V is up to date with all changes known to be in force on or before 10 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.