



# Taxation of Chargeable Gains Act 1992

## 1992 CHAPTER 12

### PART VI

COMPANIES, OIL, INSURANCE ETC.

### CHAPTER II

OIL AND MINING INDUSTRIES

*Oil exploration and exploitation*

#### <sup>F1</sup>193 Roll-over relief not available for gains on oil licences.

.....

#### Textual Amendments

**F1** S. 193 repealed (with effect in accordance with s. 103(2) of the amending Act) by [Finance Act 1999](#) (c. 16), s. 103(1), [Sch. 20 Pt. IV\(2\)](#)

#### 194 Disposals of oil licences relating to undeveloped areas.

- (1) In this section any reference to a disposal (including a part disposal) is a reference to a disposal made by way of a bargain at arm's length.
- (2) If, at the time of the disposal, the licence relates to an undeveloped area, then, to the extent that the consideration for the disposal consists of—
  - (a) another licence which at that time relates to an undeveloped area or an interest in another such licence, or
  - (b) an obligation to undertake exploration work or appraisal work in an area which is or forms part of the licensed area in relation to the licence disposed of,

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the value of that consideration shall be treated as nil for the purposes of this Act.

- (3) If the disposal of a licence which, at the time of the disposal, relates to an undeveloped area is part of a larger transaction under which one party makes to another disposals of 2 or more licences, each of which at the time of the disposal relates to an undeveloped area, the reference in subsection (2)(b) above to the licensed area in relation to the licence disposed of shall be construed as a reference to the totality of the licensed areas in relation to those 2 or more licences.
- (4) In relation to a disposal of a licence which, at the time of the disposal, relates to an undeveloped area, being a disposal—
- (a) which is a part disposal of the licence in question, and
  - (b) part but not the whole of the consideration for which falls within paragraph (a) or paragraph (b) of subsection (2) above,
- section 42 shall not apply unless the amount or value of the part of the consideration which does not fall within one of those paragraphs is less than the aggregate of the amounts which, if the disposal were a disposal of the whole of the licence rather than a part disposal, would be—
- (i) the relevant allowable expenditure, as defined in section 53; and
  - (ii) the indexation allowance on the disposal.
- (5) Where section 42 has effect in relation to such a disposal as is referred to in subsection (4) above, it shall have effect as if, for subsection (2) thereof, there were substituted the following subsection—

“(2) The apportionment shall be made by reference to—

- (a) the amount or value of the consideration for the disposal on the one hand (call that amount or value A), and
- (b) the aggregate referred to in section 194(4) on the other hand (call that aggregate C),

and the fraction of the said sums allowable as a deduction in computing the amount of the gain (if any) accruing on the disposal shall be—

$$\frac{A}{C}$$

and the remainder shall be attributed to the part of the property which remains undisposed of.”

## **195 Allowance of certain drilling expenditure etc.**

- (1) On the disposal of a licence, relevant qualifying expenditure incurred by the person making the disposal—
- (a) in searching for oil anywhere in the licensed area, or
  - (b) in ascertaining the extent or characteristics of any oil-bearing area the whole or part of which lies in the licensed area or what the reserves of oil of any such oil-bearing area are,
- shall be treated as expenditure falling within section 38(1)(b).

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- (2) Expenditure incurred as mentioned in subsection (1) above is relevant expenditure if, and only if—
- (a) it is expenditure of a capital nature on [<sup>F2</sup>research and development]; and
  - [<sup>F3</sup>(b) either it is expenditure in respect of which the person was entitled to an allowance under section 441 of the Capital Allowances Act (research and development allowances) for a relevant chargeable period which began before the date of the disposal or it would have been such expenditure if the trading condition had been fulfilled, and
  - (c) on the disposal, section 443 of that Act (disposal values) applies in relation to the expenditure or would apply if the trading condition had been fulfilled (and the expenditure had accordingly been qualifying expenditure under Part 6 of that Act).]
- (3) In subsection (2) above and subsection (4) below, the expression “if the trading condition had been fulfilled” means, in relation to expenditure of a capital nature on [<sup>F2</sup>research and development], if, after the expenditure was incurred but before the disposal concerned was made, the person incurring the expenditure had set up and commenced a trade connected with that research [<sup>F4</sup>and development]; and in subsection (2)(b) above—
- “relevant chargeable period” has the same meaning as in [<sup>F5</sup>section 441 of the Capital Allowances Act]; <sup>F6</sup> ...
- <sup>F6</sup> .....
- (4) Relevant expenditure is qualifying expenditure only to the extent that it does not exceed the [<sup>F7</sup>disposal value] which, by reason of the disposal—
- [<sup>F8</sup>(a) is required to be brought into account under section 443 of the Capital Allowances Act; or
  - (b) would be required to be so brought into account if the trading condition had been fulfilled (and the expenditure had accordingly been qualifying expenditure under Part 6 of that Act).]
- <sup>F9</sup>(5) .....
- (6) Where, on the disposal of a licence, subsection (1) above has effect in relation to any relevant qualifying expenditure [<sup>F10</sup>in respect of which the person had not in fact been entitled to an allowance] as mentioned in subsection (2)(b) above—
- (a) no allowance shall be made in respect of that expenditure under [<sup>F11</sup>section 441 of the Capital Allowances Act]; <sup>F12</sup> ...
  - <sup>F12</sup>(b) .....
- (7) Where, on the disposal of a licence which is a part disposal, subsection (1) above has effect in relation to any relevant qualifying expenditure, then, for the purposes of section 42, that expenditure shall be treated as wholly attributable to what is disposed of (and, accordingly, shall not be apportioned as mentioned in that section).
- [<sup>F13</sup>(8) In this section “research and development” has the same meaning as in [<sup>F14</sup>Part 6 of the Capital Allowances Act (research and development allowances)].]

#### Textual Amendments

- F2** Words in s. 195(2)(3) substituted (with effect in accordance with s. 68(2) of the amending Act) by Finance Act 2000 (c. 17), **Sch. 19 para. 12(2)**

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- F3** S. 195(2)(b)(c) substituted (22.3.2001) by [Capital Allowances Act 2001 \(c. 2\), Sch. 2 para. 79\(1\)](#)
- F4** Words in s. 195(3) inserted (with effect in accordance with s. 68(2) of the amending Act) by [Finance Act 2000 \(c. 17\), Sch. 19 para. 12\(3\)](#)
- F5** Words in s. 195(3) substituted (22.3.2001) by [Capital Allowances Act 2001 \(c. 2\), Sch. 2 para. 79\(2\)\(a\)](#)
- F6** Words in s. 195(3) repealed (22.3.2001) by [Capital Allowances Act 2001 \(c. 2\), Sch. 2 para. 79\(2\)\(b\), Sch. 4](#)
- F7** Words in s. 195(4) substituted (22.3.2001) by [Capital Allowances Act 2001 \(c. 2\), Sch. 2 para. 79\(3\)](#)
- F8** S. 195(4)(a)(b) substituted (22.3.2001) by [Capital Allowances Act 2001 \(c. 2\), Sch. 2 para. 79\(3\)](#)
- F9** S. 195(5) repealed (22.3.2001) by [Capital Allowances Act 2001 \(c. 2\), Sch. 2 para. 79\(4\), Sch. 4](#)
- F10** Words in s. 195(6) substituted (22.3.2001) by [Capital Allowances Act 2001 \(c. 2\), Sch. 2 para. 79\(5\)\(a\)](#)
- F11** Words in s. 195(6)(a) substituted (22.3.2001) by [Capital Allowances Act 2001 \(c. 2\), Sch. 2 para. 79\(5\)\(b\)](#)
- F12** S. 195(6)(b) and preceding word omitted (22.3.2001) by virtue of [Capital Allowances Act 2001 \(c. 2\), Sch. 2 para. 79\(5\)\(c\)](#)
- F13** S. 195(8) inserted (with effect in accordance with s. 68(2) of the amending Act) by [Finance Act 2000 \(c. 17\), Sch. 19 para. 12\(4\)](#)
- F14** Words in s. 195(8) substituted (22.3.2001) by [Capital Allowances Act 2001 \(c. 2\), Sch. 2 para. 79\(6\)](#)

## **[<sup>F15</sup>195A] Oil licence swaps**

- (1) Sections 195B to [<sup>F16</sup>195F] apply for the purposes of corporation tax on chargeable gains.
- (2) In those sections—
  - “licence-consideration swap” means a case where conditions A, B, C and D are met;
  - “mixed-consideration swap” means a case where conditions A, B, C and E are met.
- (3) Condition A is that a company (“company A”) disposes of one or more UK licences to another company (“company B”), by way of a bargain at arm's length (“disposal A”).
- (4) Condition B is that company B disposes of one or more UK licences to company A, by way of a bargain at arm's length (“disposal B”).
- (5) Condition C is that either or both of the following paragraphs applies—
  - (a) the licence, or at least one of the licences, comprised in disposal A relates to a developed area;
  - (b) the licence, or at least one of the licences, comprised in disposal B relates to a developed area.
- (6) Condition D is that both—
  - (a) disposal A is the only consideration given for disposal B, and
  - (b) disposal B is the only consideration given for disposal A.
- (7) Condition E is that either—
  - (a) disposal A is the only consideration given for disposal B, or
  - (b) disposal B is the only consideration given for disposal A,
 (and accordingly one of the disposals is part of the consideration given for the other disposal).

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- (8) In this section and sections 195B to 196 a reference to disposal of a UK licence includes—
- (a) a disposal of an interest in a UK licence, and
  - (b) a disposal of a UK licence, or an interest in a UK licence, only so far as the licence relates to part of the licensed area.

#### Textual Amendments

**F15** Ss. 195A-195E inserted (with effect in accordance with Sch. 40 para. 8 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 40 para. 5](#)

**F16** Word in s. 195A(1) substituted (with effect in accordance with Sch. 15 para. 4 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 15 para. 1](#)

### 195B Licence-consideration swap

- (1) This section applies to a licence-consideration swap.
- (2) Each company participating in the swap is to be treated as follows.
- (3) As regards the licence, or each licence, which the company disposes of, the company is to be treated as if it had disposed of that licence for a consideration of such amount as to secure that on the disposal neither a gain nor a loss accrues to the company.
- (4) In a case where the company acquires only one licence, the company is to be treated as if it had acquired the licence for a consideration of the same amount as the deemed disposal consideration.
- (5) In a case where the company acquires two or more licences, as regards each licence acquired, the company is to be treated as if it had acquired that licence for a consideration of—

$$\text{DDC} \times \text{ATA}$$

where—

DDC is the deemed disposal consideration,

A is the value of the licence acquired, and

TA is total value of all the licences acquired.

- (6) In this section “deemed disposal consideration”, in relation to a company participating in the swap, means—
  - (a) the amount of the consideration for which the company is, under subsection (3), treated as having disposed of its licence (if the company disposes of only one licence), or
  - (b) the aggregate of all such amounts (if the company disposes of two or more licences).

#### Textual Amendments

**F15** Ss. 195A-195E inserted (with effect in accordance with Sch. 40 para. 8 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 40 para. 5](#)

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### 195C Company that receives mixed consideration: N exceeds C

- (1) This section applies to a mixed-consideration swap if—
- the no gain/no loss amount (“N”) of the company that receives the mixed consideration (“company R”), exceeds
  - the amount of non-licence consideration (“C”) which company R receives.
- (2) In a case where company R acquires only one licence, company R is to be treated as if it had acquired the licence for a consideration of—

NC

- (3) In a case where company R acquires two or more licences, as regards each licence acquired, company R is to be treated as if it had acquired the licence for a consideration of—

$(NC) \times ATA$

where—

A is the value of the licence acquired, and

TA is total value of all the licences acquired.

- (4) The disposal by company R of a licence under the swap is to be taken to be one on which neither a gain nor a loss accrues.
- (5) But (despite subsection (4)), the disposal by company R is not a no gain/no loss disposal for the purposes of section 56.
- (6) For the purposes of the application of sections 53 and 54, any enactment is to be disregarded insofar as it provides that, if the other company which acquires a licence under the swap (“company G”) subsequently disposes of the licence, company R's acquisition of the licence is to be treated as company G's acquisition of it.
- (7) In this section the reference to the no gain/no loss amount of company R is a reference to—
- in a case where company R disposes of only one licence, company R's no gain/no loss amount in relation to that disposal, or
  - in a case where company R disposes of two or more licences, the aggregate of company R's no gain/no loss amounts in relation to all of those disposals.

#### Textual Amendments

**F15** Ss. 195A-195E inserted (with effect in accordance with Sch. 40 para. 8 of the amending Act) by Finance Act 2009 (c. 10), [Sch. 40 para. 5](#)

### 195D Company that receives mixed consideration: N does not exceed C

- (1) This section applies to a mixed-consideration swap if—
- the no gain/no loss amount (“N”) of the company that receives the mixed consideration (“company R”) does not exceed
  - the amount of non-licence consideration (“C”) which company R receives.

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- (2) As regards the licence, or each licence, which company R acquires, company R is to be treated as if it had acquired the licence for nil consideration.
- (3) In a case where company R disposes of only one licence, company R is to be treated as if, on the disposal of the licence, there had arisen a gain of—

CN

- (4) In a case where company R disposes of two or more licences, as regards each licence disposed of, company R is to be treated as if, on the disposal of the licence, there had arisen a gain of—

$(CN) \times DTD$

where—

D is the value of the licence disposed of, and

TD is total value of all the licences disposed of.

#### Textual Amendments

**F15** Ss. 195A-195E inserted (with effect in accordance with Sch. 40 para. 8 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 40 para. 5](#)

#### **195E Company that gives mixed consideration**

- (1) This section applies to a mixed-consideration swap—
  - (a) whatever the no gain/no loss amount (“N”) of the company that gives the mixed consideration (“company G”), and
  - (b) whatever the amount of the non-licence consideration (“C”) which company G gives.

- (2) In a case where company G acquires only one licence, company G is to be treated as if it had acquired the licence for a consideration of—

N+C

- (3) In a case where company G acquires two or more licences, as regards each licence acquired, company G is to be treated as if it had acquired the licence for a consideration of—

$(N+C) \times ATA$

where—

A is the value of the licence acquired, and

TA is total value of all the licences acquired.

- (4) The disposal by company G of a licence under the swap is to be taken to be one on which neither a gain nor a loss accrues.
- (5) But (despite subsection (4)), the disposal by company G is not a no gain/no loss disposal for the purposes of section 56.

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- (6) For the purposes of the application of sections 53 and 54, any enactment is to be disregarded insofar as it provides that, if the other company which acquires a licence under the swap (“company R”) subsequently disposes of the licence, company G’s acquisition of the licence is to be treated as company R’s acquisition of it.
- (7) In this section the reference to the no gain/no loss amount of company G is a reference to—
- (a) in a case where company G disposes of only one licence, company G’s no gain/no loss amount in relation to that disposal, or
  - (b) in a case where company G disposes of two or more licences, the aggregate of company G’s no gain/no loss amounts in relation to all of those disposals.]

#### Textual Amendments

**F15** Ss. 195A-195E inserted (with effect in accordance with Sch. 40 para. 8 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 40 para. 5](#)

### [<sup>F17</sup>195F Reimbursed expenditure

- (1) This section applies if—
- (a) expenditure is incurred by company A or company B (see section 195A) on a licence disposed of by it under a licence-consideration swap or mixed-consideration swap,
  - (b) the expenditure is incurred before the disposal,
  - (c) the expenditure falls within section 38(1)(b), and
  - (d) the expenditure is reimbursed or effectively reimbursed (whether by way of adjustment of the non-licence consideration (if any) or otherwise) by the company (“the other company”) to whom the disposal is made (whether before, on or after the date of the disposal).
- (2) The expenditure is to be treated for the purposes of this Act as expenditure —
- (a) incurred by the other company on the licence immediately after the disposal, and
  - (b) which falls within section 38(1)(b).]

#### Textual Amendments

**F17** S. 195F inserted (with effect in accordance with Sch. 15 para. 4 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 15 para. 2](#)

### 196 Interpretation of sections 194 [<sup>F18</sup>to [<sup>F19</sup>195F]] .

- (1) For the purposes of section 194 [<sup>F20</sup>and this section], a [<sup>F21</sup>UK licence] relates to an undeveloped area at any time if—
- (a) for no part of the licensed area has consent for development been granted to the licensee by the Secretary of State on or before that time; and
  - (b) for no part of the licensed area has a programme of development been served on the licensee or approved by the Secretary of State on or before that time.



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- [<sup>F22</sup>(1A) For the purposes of section 194 a licence other than a UK licence relates to an undeveloped area at any time if, at that time—
- (a) no development has actually taken place in any part of the licensed area; and
  - (b) no condition for the carrying out of development anywhere in that area has been satisfied—
    - (i) by the grant of any consent by the authorities of a country or territory exercising jurisdiction in relation to the area; or
    - (ii) by the approval or service on the licensee, by any such authorities, of any programme of development.]
- [<sup>F23</sup>(1B) In sections 195A to [<sup>F24</sup>195F], a reference to a UK licence that relates to a developed area is a reference to any UK licence apart from one that relates to an undeveloped area.]
- (2) Subsections (4) and (5) of section 36 of the <sup>M1</sup>Finance Act 1983 (meaning of “development”) shall have effect in relation to [<sup>F25</sup>subsections (1) [<sup>F26</sup>to (1B)] above] as they have effect in relation to subsection (2) of that section.
  - (3) In relation to a licence under the <sup>M2</sup>Petroleum (Production) Act (Northern Ireland) 1964 any reference in subsection (1) [<sup>F27</sup>or (1B)] above to the Secretary of State shall be construed as a reference to the Department of Economic Development.
  - (4) In relation to a disposal to which section 194 applies of a licence under which the buyer acquires an interest in the licence only so far as it relates to part of the licensed area, any reference in subsection (1) or subsection (3) of that section or subsection (1) above to the licensed area shall be construed as a reference only to that part of the licensed area to which the buyer’s acquisition relates.
- [<sup>F28</sup>(5) In sections 194 [<sup>F29</sup>to [<sup>F30</sup>195F]] and this section—
- “foreign oil concession” means any right to search for or win overseas petroleum, being a right conferred or exercisable (whether or not by virtue of a licence) in relation to a particular area;
- “interest” in relation to a licence, includes, where there is an agreement which—
- (a) relates to oil from the whole or any part of the licensed area, and
  - (b) was made before the extraction of the oil to which it relates,
- any entitlement under that agreement to, or to a share of, either that oil or the proceeds of its sale;
- “licence” means any UK licence or foreign oil concession;
- [<sup>F31</sup>“licence-consideration swap” has the meaning given in section 195A(2);]
- “licensed area” (subject to subsection (4) above)—
- (a) in relation to a UK licence, has the same meaning as in Part I of the <sup>M3</sup>Oil Taxation Act 1975; and
  - (b) in relation to a foreign oil concession, means the area to which the concession applies;
- “licensee”—
- (a) in relation to a UK licence, has the same meaning as in Part I of the Oil Taxation Act 1975; and

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(b) in relation to a foreign oil concession, means the person with the concession or any person having an interest in it;

[<sup>F32</sup>“mixed consideration” means consideration that consists partly of disposal of a UK licence;]

[<sup>F32</sup>“mixed-consideration swap” has the meaning given in section 195A(2);]

[<sup>F32</sup>“no gain/no loss amount”, in relation to a company that disposes of a UK licence, means the amount that would be taken to be the consideration for the disposal if section 56(2) applied to the disposal;]

[<sup>F32</sup>“non-licence consideration” means consideration that does not consist of disposal of a UK licence, <sup>F33</sup> ... ;]

“oil” —

(a) except in relation to a UK licence, means any petroleum (within the meaning of [<sup>F34</sup>Part I of the Petroleum Act 1998]); and

(b) in relation to such a licence, has the same meaning as in Part I of the Oil Taxation Act 1975;

“overseas petroleum” means any oil that exists in its natural condition at a place to which neither [<sup>F34</sup>Part I of the Petroleum Act 1998] nor the <sup>M4</sup>Petroleum (Production) Act (Northern Ireland) 1964 applies; and

[<sup>F32</sup>“swap arrangements”, in relation to a licence-consideration swap or a mixed-consideration swap, means the arrangements under which the swap takes place;]

“UK licence” means a licence within the meaning of Part I of the <sup>M5</sup>Oil Taxation Act 1975.

(5A) References in sections 194 and 195 to a part disposal of a licence shall include references to the disposal of any interest in a licence.]

[<sup>F35</sup>(5B) Subsections (5C) to (5F) apply for the purposes of sections 195A to 195F.

(5C) Any determination—

- (a) of the consideration given for disposal A or disposal B,
- (b) of the non-licence consideration, or
- (c) of the value of a licence comprised in disposal A or disposal B,

is to be made as at the time the swap arrangements are entered into.

But this is subject to subsections (5D) to (5F).

(5D) Subsections (5E) and (5F) apply if, under the swap arrangements, economic benefits and liabilities under the licences concerned are treated as passing at a time (“the effective time”) which falls before or after the day on which the arrangements are entered into.

(5E) Any determination—

- (a) of the consideration given for disposal A or disposal B,
- (b) of the non-licence consideration, or
- (c) of the value of a licence comprised in disposal A or disposal B,

is to be made as at the effective time.

(5F) But if the swap arrangements make provision for an increase in the non-licence consideration to reflect the period between the effective time and the time it is payable,

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the non-licence consideration is to be treated as if it were the amount found by making a corresponding increase in the amount determined under subsection (5E).]

(6) In section 194—

- (a) “exploration work”, in relation to any area, means work carried out for the purpose of searching for oil anywhere in that area;
- (b) “appraisal work”, in relation to any area, means work carried out for the purpose of ascertaining the extent or characteristics of any oil-bearing area the whole or part of which lies in the area concerned or what the reserves of oil of any such oil-bearing area are.

### Textual Amendments

- F18** Words in s. 196 heading substituted (with effect in accordance with Sch. 40 para. 8 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), **Sch. 40 para. 6(2)**
- F19** Word in s. 196 heading substituted (with effect in accordance with Sch. 15 para. 4 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), **Sch. 15 para. 3(2)**
- F20** Words in s. 196(1) inserted (with effect in accordance with Sch. 40 para. 8 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), **Sch. 40 para. 6(3)**
- F21** Words in s. 196(1) substituted (with effect in accordance with s. 181(4) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), **s. 181(1)**
- F22** S. 196(1A) inserted (with effect in accordance with s. 181(4) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), **s. 181(2)**
- F23** S. 196(1B) inserted (with effect in accordance with Sch. 40 para. 8 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), **Sch. 40 para. 6(4)**
- F24** Word in s. 196(1B) substituted (with effect in accordance with Sch. 15 para. 4 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), **Sch. 15 para. 3(3)**
- F25** Words in s. 196(2) substituted (with effect in accordance with s. 181(4) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), **s. 181(2)**
- F26** Words in s. 196(2) substituted (with effect in accordance with Sch. 40 para. 8 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), **Sch. 40 para. 6(5)**
- F27** Words in s. 196(3) substituted (with effect in accordance with Sch. 40 para. 8 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), **Sch. 40 para. 6(6)**
- F28** S. 196(5)(5A) substituted for s. 196(5) (retrospectively and with effect in accordance with s. 181(4)(5) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), **s. 181(3)**
- F29** Words in s. 196(5) substituted (with effect in accordance with Sch. 40 para. 8 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), **Sch. 40 para. 6(7)(a)**
- F30** Word in s. 196(5) substituted (with effect in accordance with Sch. 15 para. 4 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), **Sch. 15 para. 3(4)(a)**
- F31** Words in s. 196(5) inserted (with effect in accordance with Sch. 40 para. 8 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), **Sch. 40 para. 6(7)(b)**
- F32** Words in s. 196(5) inserted (with effect in accordance with Sch. 40 para. 8 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), **Sch. 40 para. 6(7)(c)**
- F33** Words in s. 196(5) omitted (with effect in accordance with Sch. 15 para. 4 of the amending Act) by virtue of [Finance Act 2011 \(c. 11\)](#), **Sch. 15 para. 3(4)(b)**
- F34** Words in s. 196(5) substituted (15.2.1999) by [Petroleum Act 1998 \(c. 17\)](#), s. 52(4), **Sch. 4 para. 32(3)** (with [Sch. 3](#)); [S.I. 1999/161](#), art. 2(1)
- F35** S. 196(5B)-(5F) substituted for s. 196(5B) (with effect in accordance with Sch. 15 para. 4 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), **Sch. 15 para. 3(5)**

### Marginal Citations

- M1** 1983 c. 28.

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<b>M2</b>	1964 c. 28 (N.I.).
<b>M3</b>	1975 c. 22.
<b>M4</b>	1964 c. 28 (N.I.).
<b>M5</b>	1975 c. 22.

## **197 Disposals of interests in oil fields etc: ring fence provisions.**

- (1) This section applies where in pursuance of a transfer by a participator in an oil field of the whole or part of his interest in the field, there is—
- (a) a disposal of an interest in oil to be won from the oil field; or
  - (b) a disposal of an asset used in connection with the field;
- and section 12 of the <sup>M6</sup>Oil Taxation Act 1975 (interpretation of Part I of that Act) applies for the interpretation of this subsection and the reference to the transfer by a participator in an oil field of the whole or part of his interest in the field shall be construed in accordance with paragraph 1 of Schedule 17 to the <sup>M7</sup>Finance Act 1980.
- (2) In this section “material disposal” means—
- (a) a disposal falling within paragraph (a) or paragraph (b) of subsection (1) above; or
  - (b) the sale of an asset referred to in section <sup>F36</sup>... 179(3) where the asset was acquired by the chargeable company (within the meaning of that section) on a disposal falling within one of those paragraphs.
- (3) For any chargeable period in which a chargeable gain or allowable loss accrues to any person (“the chargeable person”) on a material disposal (whether taking place in that period or not), subject to subsection (6) below there shall be aggregated—
- (a) the chargeable gains accruing to him in that period on such disposals, and
  - (b) the allowable losses accruing to him in that period on such disposals,
- and the lesser of the 2 aggregates shall be deducted from the other to give an aggregate gain or, as the case may be, an aggregate loss for that chargeable period.
- (4) For the purposes of tax in respect of chargeable gains—
- (a) the several chargeable gains and allowable losses falling within paragraphs (a) and (b) of subsection (3) above shall be left out of account; and
  - (b) the aggregate gain or aggregate loss referred to in that subsection shall be treated as a single chargeable gain or allowable loss accruing to the chargeable person in the chargeable period concerned on the notional disposal of an asset; and
  - (c) if in any chargeable period there is an aggregate loss, then, except as provided by subsection (5) below, it shall not be allowable as a deduction against any chargeable gain arising in that or any later period, other than an aggregate gain treated as accruing in a later period by virtue of paragraph (b) above (so that the aggregate gain of that later period shall be reduced or extinguished accordingly); and
  - (d) if in any chargeable period there is an aggregate gain, no loss shall be deducted from it except in accordance with paragraph (c) above; and
  - (e) without prejudice to any indexation allowance which was taken into account in determining an aggregate gain or aggregate loss under subsection (3) above, no further indexation allowance shall be allowed on a notional disposal referred to in paragraph (b) above.

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- (5) In any case where—
- (a) by virtue of subsection (4)(b) above, an aggregate loss is treated as accruing to the chargeable person in any chargeable period, and
  - (b) before the expiry of the period of 2 years beginning at the end of the chargeable period concerned, the chargeable person makes a claim under this subsection, the whole, or such portion as is specified in the claim, of the aggregate loss shall be treated for the purposes of this Act as an allowable loss arising in that chargeable period otherwise than on a material disposal.
- (6) In any case where a loss accrues to the chargeable person on a material disposal made to a person who is connected with him—
- (a) the loss shall be excluded from those referred to in paragraph (b) of subsection (3) above and, accordingly, shall not be aggregated under that subsection; and
  - (b) except as provided by subsection (7) below, section 18 shall apply in relation to the loss as if, in subsection (3) of that section, any reference to a disposal were a reference to a disposal which is a material disposal; and
  - (c) to the extent that the loss is set against a chargeable gain by virtue of paragraph (b) above, the gain shall be excluded from those referred to in paragraph (a) of subsection (3) above and, accordingly, shall not be aggregated under that subsection.
- (7) In any case where—
- (a) the losses accruing to the chargeable person in any chargeable period on material disposals to a connected person exceed the gains accruing to him in that chargeable period on material disposals made to that person at a time when they are connected persons, and
  - (b) before the expiry of the period of 2 years beginning at the end of the chargeable period concerned, the chargeable person makes a claim under this subsection, the whole, or such part as is specified in the claim, of the excess referred to in paragraph (a) above shall be treated for the purposes of section 18 as if it were a loss accruing on a disposal in that chargeable period, being a disposal which is not a material disposal and which is made by the chargeable person to the connected person referred to in paragraph (a) above.
- (8) Where a claim is made under subsection (5) or subsection (7) above, all such adjustments shall be made whether by way of discharge or repayment of tax or otherwise, as may be required in consequence of the operation of that subsection.

#### Textual Amendments

**F36** Words in s. 197(2)(b) repealed (28.7.2000) by [Finance Act 2000 \(c. 17\)](#), [Sch. 40 Pt. II\(12\)](#)

#### Marginal Citations

**M6** 1975 c. 22.

**M7** 1980 c. 48.

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## 198 Replacement of business assets used in connection with oil fields.

(1) If the consideration which a person obtains on a material disposal is applied, in whole or in part, as mentioned in subsection (1) of section 152 or 153, that section shall not apply unless the new assets are taken into use, and used only, for the purposes of the ring fence trade.

(2) Subsection (1) above has effect notwithstanding subsection (8) of section 152.

[<sup>F37</sup>(2A) But subsection (1) is subject to section 198A(3)(a).]

[<sup>F38</sup>(3) Where—

- (a) section 152 or 153 applies in relation to any of the consideration on a material disposal, and
- (b) the asset which constitutes the new assets for the purposes of that section is a depreciating asset,

section 154(2)(b) is to have effect as if the reference to a trade carried on by the claimant were a reference solely to the claimant's ring fence trade.]

(4) In any case where sections 152 to 154 have effect in accordance with subsections (1) to (3) above, the operation of section 175 shall be modified as follows—

- (a) only those members of a group which actually carry on a ring fence trade shall be treated for the purposes of those sections as carrying on a single trade which is a ring fence trade; and
- (b) only those activities which, in relation to each individual member of the group, constitute its ring fence trade shall be treated as forming part of that single trade.

(5) In this section—

- (a) “material disposal” has the meaning assigned to it by section 197; and
- (b) “ring fence trade” means a trade consisting of [<sup>F39</sup>activities falling within the definition of “oil-related activities” in section 16(2) of ITTOIA 2005 or section 274 of CTA 2010].

### Textual Amendments

**F37** S. 198(2A) inserted (with effect in accordance with Sch. 40 para. 13 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 40 para. 11](#)

**F38** S. 198(3) substituted (with effect in accordance with Sch. 40 para. 13 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 40 para. 10](#)

**F39** Words in s. 198(5)(b) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 1 para. 248](#) (with [Sch. 2](#))

## [<sup>F40</sup>198A Ring fence reinvestment: whole consideration reinvested

(1) This section applies if a person (“P”) makes a disposal and acquisition which—

- (a) is a ring fence reinvestment, and
- (b) qualifies for roll-over relief.

(2) P may make a claim under this section in relation to the disposal and acquisition.

(3) If P makes a claim under this section—

- (a) section 152 does not apply to any of the disposal consideration, and

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(b) any gain accruing to P on the disposal is not a chargeable gain.

(4) In this section “disposal consideration” means the whole of the consideration obtained on the disposal made by P.

#### Textual Amendments

**F40** Ss. 198A-198G inserted (with effect in accordance with Sch. 40 para. 13 of the amending Act) by Finance Act 2009 (c. 10), [Sch. 40 para. 12](#)

### 198B Ring fence reinvestment: part of consideration reinvested

(1) This section applies if a person (“P”) makes a disposal and acquisition which—

- (a) is a ring fence reinvestment, and
- (b) qualifies for section 153 relief.

(2) P may make a claim under this section in relation to the disposal and acquisition.

(3) If P makes a claim under this section—

- (a) section 153(1)(a) applies in relation to P and the disposal, but
- (b) section 153(1)(b) does not apply to P and the acquisition.

#### Textual Amendments

**F40** Ss. 198A-198G inserted (with effect in accordance with Sch. 40 para. 13 of the amending Act) by Finance Act 2009 (c. 10), [Sch. 40 para. 12](#)

### 198C Provisional application of sections 198A and 198B

(1) This section applies where a person (“P”) carrying on a ring fence trade who for a consideration disposes of, or of an interest in, any assets (“the old assets”) declares, in P’s return for the chargeable period in which the disposal takes place—

- (a) that the whole or any specified part of the consideration will be applied in the acquisition of, or of an interest in, other assets (“the new assets”),
- (b) that the acquisition will take place as mentioned in section 152(3),
- (c) that the disposal and acquisition will be a ring fence reinvestment,
- (d) that P intends to make a claim under section 198A or 198B in relation to the disposal and acquisition, and
- (e) that P has not made, and will not make, a declaration under section 153A in relation to the disposal and acquisition.

(2) Until the declaration ceases to have effect, section 198A or 198B applies as if the acquisition had taken place and the person had made a claim under that section.

(3) The declaration ceases to have effect as follows—

- (a) if and to the extent that it is withdrawn before the relevant day, or is superseded before that day by a valid claim made under section 198A or 198B, on the day on which it is so withdrawn or superseded, and
- (b) if and to the extent that it is not so withdrawn or superseded, on the relevant day.

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- (4) On the declaration ceasing to have effect in whole or in part, all necessary adjustments—
- (a) are to be made by making or amending assessments or by repayment or discharge of tax, and
  - (b) are to be so made despite any limitation on the time within which assessments or amendments may be made.
- (5) If—
- (a) P makes a declaration under this section, and
  - (b) the disposal and acquisition is not a ring fence reinvestment, but qualifies for roll-over relief or section 153 relief,
- on P making a claim, the declaration is to have effect as also a declaration under section 153A.
- (6) In this section “the relevant day” means—
- (a) in relation to capital gains tax, the third anniversary of the 31st January next following the year of assessment in which the disposal of, or of the interest in, the old assets took place, and
  - (b) in relation to corporation tax, the fourth anniversary of the last day of the accounting period in which that disposal took place.
- (7) Section 152(6), (10) and (11) apply for the purposes of this section as they apply for the purposes of section 152.

#### Textual Amendments

**F40** Ss. 198A-198G inserted (with effect in accordance with Sch. 40 para. 13 of the amending Act) by Finance Act 2009 (c. 10), **Sch. 40 para. 12**

### 198D No double claims

- (1) If P makes a claim under section 198A or 198B, no other relevant claim may be made in respect of the relevant acquisition.
- (2) P may make a claim under section 198A or 198B (“the new claim”), if P has previously made a claim under section 152 or 153 (“the previous claim”) in respect of the relevant acquisition.
- (3) But P may make the new claim only if the previous claim is withdrawn at or before the time the new claim is made.
- (4) If the new claim is made in accordance with subsections (2) and (3), all necessary adjustments—
  - (a) are to be made by making or amending assessments or by repayment or discharge of tax, and
  - (b) are to be so made despite any limitation on the time within which assessments or amendments may be made.
- (5) In this section—
 

“relevant acquisition” means the acquisition of the new assets that is comprised in the disposal and acquisition to which a claim under section 198A or 198B or declaration under section 198C relates;



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“relevant claim” means a claim under section 152, 153, 198A or 198B.

#### Textual Amendments

**F40** Ss. 198A-198G inserted (with effect in accordance with Sch. 40 para. 13 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 40 para. 12](#)

### 198E Ring fence reinvestments and disposal consideration

- (1) This section applies for the purposes of sections 198A to 198G.
- (2) A disposal and acquisition is a ring fence reinvestment if—
  - (a) the disposal was—
    - (i) a material disposal, or
    - (ii) a disposal of a UK licence which relates to an undeveloped area,
  - (b) the old assets were used only for the purposes of P's ring fence trade,
  - (c) the new assets are taken into use, and used only, for the purposes of one or more of the following trades—
    - (i) P's ring fence trade;
    - (ii) if P is a member of a group of companies (within the meaning given in section 170), a ring fence trade of another member of that group, and
  - (d) the new assets are oil assets.
- (3) If the disposal consists of—
  - (a) disposal of a licence to which section 195D(3) applies, or
  - (b) disposal of two or more licences to which section 195D(4) applies,the consideration for the disposal is to be taken to be the whole of the non-licence consideration obtained on the disposal (which is referred to as “C” in section 195D).
- (4) Accordingly, in sections 198A to 198G (including section 198A(4)), any reference to the consideration obtained on the disposal has effect subject to subsection (3).
- (5) Each of the following is an “oil asset” for the purposes of this section—
  - (a) an interest in oil to be won from an oil field,
  - (b) an asset used in connection with an oil field,
  - (c) a structure which is to be placed on the seabed of the United Kingdom continental shelf,
  - (d) an asset used wholly in the winning of oil, or in the measuring of oil won, in the United Kingdom otherwise than from an oil field,
  - (e) an asset used for the initial treatment or storage of oil in the United Kingdom,
  - (f) an asset used for the transportation of oil from an oil field to the United Kingdom, and
  - (g) a UK licence which relates to an undeveloped area.
- (6) Section 12 of the Oil Taxation Act 1975 (interpretation of Part 1 of that Act) applies for the interpretation of subsection (5)(a) to (f).
- (7) Expressions used in this section and in section 152 have the same meanings in this section as in section 152.

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- (8) In this section a reference to a UK licence which relates to an undeveloped area has the same meaning as in section 194 (see section 196).
- (9) In this section—  
     “material disposal” has the meaning given in section 197;  
     “ring fence trade” has the meaning given in section 198.

#### **Textual Amendments**

**F40** Ss. 198A-198G inserted (with effect in accordance with Sch. 40 para. 13 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 40 para. 12](#)

### **198F Qualification for roll-over relief**

- (1) This section applies for the purposes of sections 198A and 198B and section 198G.
- (2) A disposal and acquisition qualifies for roll-over relief if—  
     (a) the consideration for the disposal is applied in an acquisition as mentioned in section 152(1), and  
     (b) section 152(1)(a) and (b) would apply to the disposal and acquisition if the appropriate claim were made.
- (3) Subsections (4) to (6) apply in deciding whether a disposal and acquisition is one that qualifies for roll-over relief.
- (4) Section 152(8) is to be disregarded.
- (5) Section 198A is to be disregarded.
- (6) Subject to subsections (4) to (5), all the circumstances are to be taken into account, including section 153(1) and section 198(1) and (2).

#### **Textual Amendments**

**F40** Ss. 198A-198G inserted (with effect in accordance with Sch. 40 para. 13 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 40 para. 12](#)

### **198G Qualification for section 153 relief**

- (1) This section applies for the purposes of sections 198B and 198C.
- (2) A disposal and acquisition qualifies for section 153 relief if—  
     (a) section 153(1) applies to part of the amount or value of the consideration for the disposal,  
     (b) section 153(1)(a) and (b) would apply to the disposal and acquisition if the appropriate claim were made, and  
     (c) the disposal and acquisition would qualify for roll-over relief but for the disapplication of section 152(1) by section 153(1).
- (3) Subsections (4) to (6) apply in deciding whether a disposal and acquisition is one that qualifies for section 153 relief.

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- (4) Section 153(2) has effect subject to section 198F(4) and (5).
- (5) Section 198B is to be disregarded.
- (6) Subject to subsections (4) and (5), all the circumstances are to be taken into account, including section 198(1).]

#### Textual Amendments

**F40** Ss. 198A-198G inserted (with effect in accordance with Sch. 40 para. 13 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 40 para. 12](#)

#### [<sup>F41</sup>198H Acquisition by member of same group

Section 198A or 198B is to apply where—

- (a) the disposal is by a company which, at the time of the disposal, is a member of a group of companies (within the meaning given in section 170),
- (b) the acquisition is by another company which, at the time of the acquisition, is a member of the same group, and
- (c) the claim under that section is made by both companies, as if both companies were the same person.]

#### Textual Amendments

**F41** S. 198H inserted (with effect in accordance with s. 17(2) of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), [s. 17\(1\)](#)

#### [<sup>F42</sup>198I Exploration, appraisal and development expenditure

- (1) The incurring of exploration, appraisal and development expenditure in the course of a ring fence trade is to be treated for the purposes of sections 198A to 198H as the acquisition of assets—
  - (a) which are the new assets mentioned in section 152,
  - (b) which are taken into use, and used only, for the purposes of the ring fence trade,
  - (c) which are oil assets, and
  - (d) which fall within the classes of assets listed in section 155.
- (2) The reference in subsection (1) to sections 198A to 198H includes sections 152, 153, 175 and 198(1) so far as they apply for the purpose of determining whether a disposal and acquisition qualifies for roll-over relief or section 153 relief (within the meaning given in section 198F or 198G).
- (3) Section 198C has effect in relation to expenditure within subsection (1) of this section as if subsection (5) of that section were omitted.
- (4) References in this section to exploration, appraisal and development expenditure are to expenditure on oil and gas exploration, appraisal and development activities which is treated as such under generally accepted accounting practice.

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- (5) Nothing in this section affects sections 152, 153, 175 and 198(1) so far as they apply otherwise than for the purposes of sections 198A to 198H.
- (6) In this section—  
     “oil asset” has the meaning given in section 198E(5);  
     “ring fence trade” has the meaning given in section 198.]

#### Textual Amendments

**F42** S. 198I inserted (with effect in accordance with Sch. 15 para. 6 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 15 para. 5](#)

### 199 Exploration or exploitation assets: deemed disposals

- (1) Where an exploration or exploitation asset which is a mobile asset ceases to be chargeable in relation to a person by virtue of ceasing to be dedicated to an oil field in which he, or a person connected with him, is or has been a participator, he shall be deemed for all purposes of this Act—
- (a) to have disposed of the asset immediately before the time when it ceased to be so dedicated, and
  - (b) immediately to have reacquired it,  
at its market value at that time.
- (2) Where a person [<sup>F43</sup>in respect of whom the residence condition (see section 2(1A)) is not met] ceases to carry on a trade in the United Kingdom through a branch or agency, he shall be deemed for all purposes of this Act—
- (a) to have disposed immediately before the time when he ceased to carry on the trade in the United Kingdom through a branch or agency of every asset to which subsection (3) below applies, and
  - (b) immediately to have reacquired every such asset,  
at its market value at that time.
- (3) This subsection applies to any exploration or exploitation asset, other than a mobile asset, used in or for the purposes of the trade at or before the time of the deemed disposal.
- (4) A person shall not be deemed by subsection (2) above to have disposed of an asset if, immediately after the time when he ceases to carry on the trade in the United Kingdom through a branch or agency, the asset is used in or for the purposes of exploration or exploitation activities carried on by him in the United Kingdom or a designated area.
- (5) Where in a case to which subsection (4) above applies the person ceases to use the asset in or for the purposes of exploration or exploitation activities carried on by him in the United Kingdom or a designated area, he shall be deemed for all purposes of this Act—
- (a) to have disposed of the asset immediately before the time when he ceased to use it in or for the purposes of such activities, and
  - (b) immediately to have reacquired it,  
at its market value at that time.

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- (6) For the purposes of this section an asset is at any time a chargeable asset in relation to a person if, were it to be disposed of at that time, any chargeable gains accruing to him on the disposal—
- (a) would be gains in respect of which he would be chargeable to capital gains tax under section 10(1), or
  - (b) would form part of his chargeable profits for corporation tax purposes by virtue of section [F44 10B].
- (7) In this section—
- (a) “exploration or exploitation asset” means an asset used in connection with exploration or exploitation activities carried on in the United Kingdom or a designated area;
  - (b) “designated area” and “exploration or exploitation activities” have the same meanings as in section 276; and
  - (c) the expressions “dedicated to an oil field” and “participator” shall be construed as if this section were included in Part I of the <sup>M8</sup>Oil Taxation Act 1975.

#### Textual Amendments

**F43** Words in s. 199(2) substituted (with effect in accordance with Sch. 46 para. 112 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), **Sch. 46 para. 103**

**F44** Word in s. 199(6)(b) substituted (with effect in accordance with s. 155(2) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), **Sch. 27 para. 2(3)**

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

**C1** S. 199(2)(4) modified (with effect in accordance with s. 153(4) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), **s. 153(2)(b)**

#### Marginal Citations

**M8** 1975 c. 22.

### <sup>F45</sup>**200** Limitation of losses on disposal of oil industry assets held on 31st March 1982.

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#### Textual Amendments

**F45** S. 200 repealed (with effect in accordance with s. 93(11) of the amending Act) by [Finance Act 1994 \(c. 9\)](#), s. 93(7), **Sch. 26 Pt. V(8)** (with [Sch. 12](#))

**Status:**

Point in time view as at 06/04/2014.

**Changes to legislation:**

Taxation of Chargeable Gains Act 1992, Cross Heading: Oil exploration and exploitation is up to date with all changes known to be in force on or before 04 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.