



Finance Act 1999

1999 CHAPTER 16

PART IV

OIL TAXATION

95 Sale and lease-back

- (1) This section applies to a lease (“the lease in question”) of an asset (“the relevant asset”) where—
 - (a) a person (“the seller”) who is a participator in an oil field (“the seller’s oil field”) has made a disposal in a chargeable period of the relevant asset or an interest in it;
 - (b) the relevant asset was a qualifying asset in relation to the seller and the seller’s oil field is the chargeable field in relation to it;
 - (c) the relevant asset is used in connection with an oil field (“the lessee’s oil field”) by a participator in that field (“the lessee”) under the lease in question;
 - (d) the seller, or a person connected with him at any time in the relevant period, is the lessee; and
 - (e) the lessee uses the relevant asset before the end of the period of two years beginning with the disposal.
- (2) Subject to subsection (8) below, to the extent that the expenditure falling within subsection (3) below exceeds the amount of the cap, that expenditure shall not be allowable under section 3 or 4 of the principal Act or section 3 of the Oil Taxation Act 1983 for the lessee’s oil field.
- (3) That expenditure is the aggregate of the following—
 - (a) the total expenditure, excluding operating expenditure, incurred by the lessee under the lease in question; and
 - (b) if at any time after the disposal he acquires the relevant asset or an interest in it, the total expenditure (not falling within paragraph (a) above) incurred by him in acquiring the asset or interest.
- (4) Subject to subsections (5) to (7) below—

Status: This is the original version (as it was originally enacted).

- (a) if the period in which the disposal was made is one in which the seller has benefitted from safeguard relief, the amount of the cap is the smaller of—
- (i) the amount given by dividing the marginal tax on the disposal receipts by the applicable rate of tax; and
 - (ii) the amount of the disposal receipts; and
- (b) in any other case the amount of the cap is the amount of the disposal receipts.
- (5) Subject to subsection (7) below, where at the relevant time there are, in relation to the relevant asset, two or more leases to which this section applies, the amount of the cap for the lease in question shall be the appropriate proportion of the cap found by applying subsection (4) above.
- (6) For the purposes of subsection (5) above the appropriate proportion is the proportion given by the formula—
- $$\frac{A}{B}$$
- where—
- A is the proportion of the total use of the relevant asset during the term of the lease in question that is expected to be use under the lease; and
- B is—
- (a) in a case where the seller disposed of the whole of the relevant asset, one; and
 - (b) in any other case, the proportion that the value of the interest disposed of by him bore to the total value of the relevant asset.
- (7) Where at the relevant time the relevant asset is used, or is expected to be used, by the lessee under the lease in question in connection with two or more oil fields, the amount of the cap for each of the fields shall be so much of the cap found by applying subsections (4) to (6) above as accords with the proportion of the use of the asset under the lease that is expected, at that time, to be—
- (a) use in connection with that field; or
 - (b) use giving rise to tariff receipts of the lessee attributable to that field.
- (8) Where—
- (a) expenditure falling within subsection (3) above has been allowed for the lessee's oil field, on a claim under Schedule 5 or 6 to the principal Act, on the basis that the cap was of a particular amount;
 - (b) information later becomes available to the Board which establishes that the cap is not of that amount; and
 - (c) the amount that was allowed exceeds the amount (if any) of the expenditure falling within that subsection that would have been allowed on the claim if the information had been available when the expenditure was allowed,
- the excess shall continue to be allowable.
- (9) Subject to subsection (10) below, this section and sections 96 and 97 below apply to assets, or interests in assets, disposed of on or after 9th March 1999.
- (10) This section and those sections do not apply to assets, or interests in assets, disposed of pursuant to an agreement made before that date if—
- (a) the agreement is not conditional; or
 - (b) the agreement is conditional and the condition is satisfied before that date.