
Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Paragraph 5. (See end of Document for details)

SCHEDULES

SCHEDULE 37 **U.K.**

OIL TAXATION: TAX-EXEMPT TARIFFING RECEIPTS AND ASSETS PRODUCING THEM

PART 1 **U.K.**

AMENDMENTS OF THE OIL TAXATION ACT 1983 RELATING TO ALLOWABLE EXPENDITURE AND DISPOSAL RECEIPTS

Disposal receipts from assets used in a way that gives rise to tax-exempt tariffing receipts

- 5 (1) Section 7 (chargeable receipts from disposals) is amended as follows.
- (2) In subsection (4) (no account to be taken of disposal more than 2 years after cessation of use in connection with any oil field whatsoever or ceasing to give rise to tariff receipts)—
- (a) at the end of paragraph (b) insert “or
- (c) ceases to give rise to tax-exempt tariffing receipts of that participator.”; and
- (b) in the closing words, for “later” substitute “ latest ”.
- (3) After subsection (8) insert—
- “(9) In determining the amount or value of the disposal receipts of the participator in question in a case where the qualifying asset has been used in a way that gives rise to tax-exempt tariffing receipts, the amount or value (apart from this subsection) of any disposal receipts of his in respect of the disposal shall be reduced in accordance with section 7A below.”.
- (4) After section 7 insert—

“7A Reduction of disposal receipts: use giving rise to tax-exempt tariffing receipts

- (1) Where this section applies, the amount or value (apart from this section) of any disposal receipts of the participator (“the disponent”) in respect of the disposal shall be reduced in accordance with the following provisions of this section.
- (2) The reduction is to be made by multiplying that amount or value by the fraction that is equal to—

$$1 - \frac{T}{A}$$

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(3) In that formula—

T is the aggregate of the tax-exempt tariffing use of the asset in the reference period by—

- (a) the disporor, so far as referable to the interest disposed of, and
- (b) each of the previous owners, so far as referable to that previous owner's represented interest, and

A is the aggregate of all use of the asset in the reference period by—

- (a) the disporor, so far as referable to the interest disposed of, and
- (b) each of the previous owners, so far as referable to that previous owner's represented interest,

but only taking into account for this purpose use of the asset by a person at a time when he is or was a participator in a taxable field.

(4) For the purposes of this section—

“the interest disposed of” means the asset, or the interest in an asset, the disposal of which gives rise to the disposal receipts mentioned in subsection (1) above;

“previous owner” means any person from whom the disporor directly or indirectly derives his title to the whole or any part of the interest disposed of;

“the reference period” means the shorter of the following periods ending with the date of the disposal—

- (a) the period of 6 years; or
- (b) the period beginning with the bringing into existence of the asset;

“represented interest”, in the case of a previous owner, means so much of the interest which that previous owner had in the asset as is represented in the interest disposed of;

“tax-exempt tariffing use”, in relation to an asset, means use of the asset in a way that gives rise to tax-exempt tariffing receipts.

(5) Any apportionment that falls to be made for the purpose of determining a previous owner's represented interest shall be made using a method which is just and reasonable, having regard to—

- (a) the proportion of any person's interest that was acquired from any particular person, and
- (b) the proportion of any person's interest that was transferred to any particular person.

(6) Where—

- (a) the disporor or any previous owner acquired the asset or an interest in the asset from another person, and
- (b) on that other person's corresponding disposal of the asset or interest a reduction was made by virtue of this section,

use of the asset shall not be brought into account in determining T or A in the formula in subsection (2) above to the extent that it was so brought into account in relation to that corresponding disposal.

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- (7) Where paragraph 9 of Schedule 2 to this Act (reduction of disposal receipts in respect of brought-in assets) applies in relation to an asset, no account shall be taken for the purposes of this section of any use of the asset during the initial period.

In this subsection “the initial period”, in relation to an asset, has the same meaning as it has in relation to that asset in paragraph 7 of Schedule 1 to this Act (restriction on allowable expenditure on brought-in asset).

- (8) For the purposes of this section, the amount of use of an asset—
- (a) where the use is in relation to oil, is to be determined by reference to the volume of oil in relation to which the asset is used, and
 - (b) where the use is otherwise than in relation to oil, is to be determined on a just and reasonable basis.
- (9) For the purposes of this section, the extent to which use of an asset is referable to—
- (a) the interest disposed of, or
 - (b) the represented interest of a previous owner,

shall be determined on a just and reasonable basis, having regard to the size of the interest in question and the size from time to time of the whole interest in the asset of the disponent or, as the case may be, that previous owner.”.

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