



# Finance Act 2004

## 2004 CHAPTER 12

### PART 5

#### OIL

#### **287 Restrictions on expenditure allowable**

- (1) In Schedule 4 to the Oil Taxation Act 1975 (c. 22), paragraph 2 (restrictions on expenditure allowable where acquisition etc from connected person or otherwise not at arm's length) is amended as follows.
- (2) In sub-paragraph (1), for the words following paragraph (b) (which limit the expenditure allowable to the cost in a transaction to which paragraph 2 does not apply) substitute— “ as having incurred that expenditure only to the extent that it does not exceed the lowest of the amounts described in sub-paragraph (1ZA) below which is applicable in the particular case. ”.
- (3) After sub-paragraph (1) insert—

“(1ZA) Those amounts are—

  - (a) the amount of expenditure (other than loan expenditure) incurred up to the time mentioned in sub-paragraph (1) above in a transaction to which this paragraph does not apply (or, if there has been more than one such transaction, the later or latest of them) in acquiring, bringing into existence, or enhancing the value of, the asset;
  - (b) the amount of the open market consideration for the acquisition, bringing into existence, or enhancement of the value, of the asset;
  - (c) in a case where the other party to the transaction is a participator in a taxable field and in the case of that participator either—
    - (i) an amount is brought into account under section 2 of this Act in accordance with section 7(1) of the Oil Taxation Act 1983 as disposal receipts in respect of the transaction, or

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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Section 287. (See end of Document for details)*

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- (ii) no amount is so brought into account by reason of reductions falling to be made in the amount that would have been so brought into account apart from those reductions,  
the amount so brought into account or, as the case may be, nil;
- (d) in a case where the other party to the transaction is not a participator in a taxable field but—
- (i) the transaction is the latest in a series of transactions in respect of the asset (or in respect of an asset or assets in which the asset was comprised),
  - (ii) those transactions are transactions to which this paragraph applies,
  - (iii) in the case of at least one of those transactions, there is a party who is a participator in an oil field, and
  - (iv) in the case of any such party, an amount either is brought into account as mentioned in paragraph (c)(i) above in respect of the transaction or would have been so brought into account but for such reductions as are mentioned in paragraph (c)(ii) above,  
so much of the amount so brought into account in respect of that transaction (or, where there are two or more such transactions, the later or latest of them) as is justly and reasonably referable to the asset mentioned in sub-paragraph (1) above (taking that amount as being nil in the case of any transaction where no amount is so brought into account by reason of any such reductions).”.
- (4) In sub-paragraph (1B) (meaning of “loan expenditure” in sub-paragraph (1)) for “(1)” substitute “(1ZA)(a) ”.
- (5) After sub-paragraph (1B) insert—
- “(1C) The reference in sub-paragraph (1ZA)(b) above to the open market consideration for the acquisition, bringing into existence, or enhancement of the value, of an asset is a reference to the consideration which might reasonably have been given for the acquisition, bringing into existence, or enhancement of the value, of the asset (whatever the nature of the acquisition, bringing into existence or enhancement of the value) had it been made in a transaction to which this paragraph does not apply.”.
- (6) The amendments made by this section have effect in relation to expenditure incurred on or after 17th March 2004.

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**Changes to legislation:**

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