Finance Act 2006

2006 CHAPTER 25

PART 3

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER 9

MISCELLANEOUS PROVISIONS

Nuclear decommissioning

99 Amendment of section 29 of the Energy Act 2004

(1) Section 29 of the Energy Act 2004 (c. 20) (disregard for tax purposes of cancellation etc of decommissioning provisions) is amended as follows.

(2) In subsection (1)—

(a) in paragraph (a), for "relevant company" substitute " BNFL company ";

(b) for paragraphs (b) and (c) substitute—

"(b) that provision—

(i) relates to decommissioning or cleaning-up which the NDA acquires or has acquired responsibility for securing by virtue of a direction under section 3, but

(ii) is not provision recognised in order to reflect the terms or effect of a management contract between the company and the NDA;

and

(c) the responsibility referred to in paragraph (b)(i)—

(i) includes the financial responsibility under section 21, or

(ii) would do so but for the fact that the amount of the financial responsibility is for the time being subject to a limit imposed by a capping agreement."

(3) For subsections (3) and (4) substitute—

"(3) This subsection applies to a credit or debit if it arises from—

(a) the recognition in the accounts of the company for a relevant period beginning on or after 1st April 2005 of—

(i) the relevant provision, or

(ii) an asset that, in accordance with generally accepted accounting practice, is recognised in connection with the relevant provision in order to reflect the acquisition of financial responsibility referred to in subsection (1) (a "matching asset");

(b) an adjustment made in the accounts of the company for such a period of—

(i) the relevant provision, or

(ii) a matching asset;

or

(c) the removal from the accounts of the company for such a period of—

(i) the relevant provision,

(ii) a matching asset, or

(iii) an asset or liability recognised in order to reflect the terms or effect of a contract falling within subsection (3A).

(3A) A contract falls within this subsection if—

(a) it is a contract made before 1st April 2005 and having effect between two or more BNFL companies under which a party to the contract assumed responsibility for securing decommissioning or cleaning-up; and

(b) the rights and obligations under the contract are extinguished by reason of a transfer made under a nuclear transfer scheme."

(4) In subsection (5)—

(a) for the definition of "BNFL company" substitute—

""BNFL company" means—

(a) BNFL,

(b) a company that immediately before 1st April 2005 was a wholly-owned subsidiary of BNFL, or

(c) a wholly-owned subsidiary of a company falling within paragraph (b);";

(b) after that definition insert—

""capping agreement" means an agreement under subsection (9) of section 21, entered into on 1st April 2005, the sole or main effect of which is to impose a limit on the NDA's financial responsibility under that section;

"management contract" has the same meaning as in section 27;";

(c) for the definition of "relevant company" substitute—

""relevant period", in relation to a company, means an accounting period during the whole of which the company is publicly owned;".

(5) After that subsection insert—

"(5A) Where a company ceases to be publicly owned otherwise than at the end of an accounting period—

(a) the accounting period during which it ceases to be publicly owned is treated for the purposes of corporation tax as ending when it so ceases; and

(b) its profits and losses are to be computed accordingly for those purposes."

(6) The amendments made by this section have effect in relation to accounting periods of a BNFL company ending on or after 22nd March 2006.

"BNFL company" has the same meaning as in section 29 of the Energy Act 2004 (c. 20) as amended by this section.

Status:
Point in time view as at 19/07/2006.

Changes to legislation:
There are currently no known outstanding effects for the Finance Act 2006, Section 99.