# Finance Act 2008

## 2008 CHAPTER 9

## PART 6

## OIL

### *Corporation tax*

### 108 Capital allowances: plant and machinery for use in ring fence trade

(1) In section 52(3) of CAA 2001 (amount of first-year allowances), for the two entries in the table relating to section 45F substitute—

| | |
|---|---|
| "Expenditure qualifying under section 45F (expenditure for use wholly in a ring fence trade) | 100%". |

(2) The amendment made by subsection (1) has effect in relation to expenditure incurred on or after 12 March 2008.

### 109 Capital allowances: decommissioning expenditure

(1) Section 163 of CAA 2001 (meaning of "abandonment expenditure") is amended as follows.

(2) For the heading substitute " **Meaning of "general decommissioning expenditure"**.

(3) For subsections (1) to (3) substitute—

"(1) Expenditure is "general decommissioning expenditure" for the purposes of sections 164 and 165 if the conditions in subsections (3) and (4) are met.

(2) But that is subject to subsections (4ZA) to (4ZC).

(3) The expenditure must have been incurred on decommissioning plant or machinery—

(a) which has been brought into use for the purposes of a ring fence trade, and
(b) which—
(i) is, or forms part of, an offshore installation or a submarine pipeline, or
(ii) when last in use for the purposes of a ring fence trade, was, or formed part of, such an installation or pipeline."

(4) After subsection (4) insert—

"(4ZA) An amount of general decommissioning expenditure determined in accordance with subsection (1) is to be reduced under subsection (4ZB) if it appears that the decommissioned plant and machinery—
(a) was brought into use partly for the purposes of the ring fence trade and partly for the purposes of another trade, or
(b) was brought into use wholly for the purposes of the ring fence trade, but has, at any time since, not been used wholly for those purposes.

(4ZB) The amount determined in accordance with subsection (1) is to be reduced to an amount which is just and reasonable having regard to the relevant circumstances.

(4ZC) The relevant circumstances include, in particular, the extent to which the decommissioned plant and machinery has not been used for the purposes of the ring fence trade."

(5) In subsection (5)(b), omit " "abandonment programme",".

(6) Schedule 34 contains amendments consequential on this section.

(7) The amendments made by this section and that Schedule have effect in relation to expenditure incurred on or after 12 March 2008.

### 110 Capital allowances: abandonment expenditure after ceasing ring fence trade

(1) Section 165 of CAA 2001 (abandonment expenditure within 3 years of ceasing ring fence trade) is amended as follows.

(2) In the heading, for "**within 3 years of**" substitute " **after** ".

(3) For subsection (2) substitute—

"(2) "The post-cessation period" means the period that—
(a) begins with the day following the last day on which the former trader carried on the ring fence trade, and
(b) ends with the day on which condition A and condition B are both met (or, if they are met on different days, the later of those days).

(2A) Condition A is met if each approved abandonment programme that relates wholly or partly to relevant plant and machinery has ceased to have effect.

(2B) Condition B is met if the Secretary of State is satisfied that no other abandonment programmes that relate wholly or partly to relevant plant and machinery will be approved.

(2C) For the purposes of condition A, an approved abandonment programme ceases to have effect if and when—

(a) the programme has been carried out to the satisfaction of the Secretary of State, or

(b) approval of the programme has been withdrawn."

(4) After subsection (4) insert—

"(4A) Abandonment expenditure is to be disregarded for the purposes of this section if the expenditure is incurred in decommissioning plant and machinery at a time—

(a) after an abandonment programme relating wholly or partly to the plant and machinery has had its approval withdrawn, and

(b) when no other abandonment programme relating wholly or partly to the plant and machinery is approved."

(5) After subsection (5) insert—

"(6) For the purposes of this section, it does not matter if approval of an abandonment programme that relates to relevant plant and machinery (including approval of the first such programme) is given before or after the start of the post-cessation period.

(7) In this section—

"abandonment programme" means an abandonment programme under Part 4 of the Petroleum Act 1998;

"approved", in relation to an abandonment programme, means approved or revised under Part 4 of the Petroleum Act 1998 (and "approval" is to be construed accordingly);

"relevant plant and machinery" means plant and machinery—

(a) which has been brought into use for the purposes of the ring fence trade that has ceased, and

(b) which, when last in use for the purposes of that ring fence trade, was, or formed part of, an offshore installation or submarine pipeline;

and for this purpose "offshore installation" and "submarine pipeline" have the same meaning as in Part 4 of the Petroleum Act 1998;

"withdrawn", in relation to approval of an abandonment programme, means withdrawn under Part 4 of the Petroleum Act 1998."

(6) Section 393A of ICTA (losses: set off against profits of the same, or an earlier, accounting period) is amended as follows.

(7) In subsection (11)—

(a) for "In any case where" substitute " Subsection (11A) applies in any case where ",

(b) in paragraph (a), for "within 3 years of" substitute " after ", and

(c) omit the words after paragraph (b).

(8) After that subsection insert—

"(11A) In relation to any claim under subsection (1)—

(a) to the extent that the claim relates to an increase falling within subsection (11)(a), this section shall have effect as if—

(i) in subsection (10), "the relevant period" were substituted for " the period of two years ", and

(ii) after subsection (10) there were inserted—

"(10ZA) In subsection (10) "relevant period" means the period calculated by adding two years to the post-cessation period (within the meaning of section 165 of the Capital Allowances Act).";

(b) to the extent that the claim relates to expenditure falling within subsection (11)(b), subsection (10) shall have effect with the substitution of " five years " for "two years"."

(9) The amendments made by this section have effect in relation to ring fence trades that cease to be carried on or after 12 March 2008.

## 111 Losses: set off against profits of earlier accounting periods

(1) In ICTA, after section 393A insert—

### "393B Losses of ring fence trade: set off against profits of an earlier accounting period

(1) This section applies if these conditions are met—

(a) a company makes a claim under section 393A(1) requiring that a loss incurred in a ring fence trade be set off against profits;

(b) section 393A(2A) applies in relation to that claim (three year set off period) by virtue of—

(i) section 393A(2B) (loss precedes cessation of trade), or

(ii) section 393A(2C) (loss arises in year when general decommissioning expenditure incurred); and

(c) the loss incurred in the ring fence trade that may be set off under section 393A ("L") exceeds the profits against which L may be set off under section 393A ("P").

(2) The profits of the ring fence trade of an accounting period are to be relieved under subsection (3) if that period—

(a) falls wholly or partly before the three year set off period, and

(b) ends on or after 17 April 2002.

(3) Subject to any relief for an earlier loss, those profits of that accounting period shall be treated as reduced by—

(a) the amount by which L exceeds P, or

(b) so much of that amount as cannot be relieved under this subsection against profits of the ring fence trade of a later accounting period.

(4) Subsection (3) is subject to subsection (5) in the case of an accounting period that falls partly (but not wholly) before the three year set off period.

(5) The amount of the reduction of the profits of the ring fence trade that may be made under subsection (3) shall not exceed a part of those profits proportionate to the part of the accounting period that falls before the three year set off period.

(6) Subsection (3) is subject to subsection (7) in the case of an accounting period that begins before 17 April 2002 and ends on or after that date.

(7) The amount of the reduction of the profits of the ring fence trade that may be made under subsection (3) shall not exceed a part of those profits proportionate to the part of the accounting period that falls after 16 April 2002.

(8) In this section—

"ring fence" has the same meaning as in section 162 of the Capital Allowances Act;

"three year set off period" means the period of three years that applies to the claim under section 393A(1) by virtue of section 393A(2A) and section 393A(2B) or (2C)."

(2) Schedule 35 contains minor and consequential amendments relating to the amendments made by this section.

(3) The amendments made by this section and that Schedule have effect in relation to losses incurred in accounting periods beginning on or after 12 March 2008.

### 112 Ring fence trade: no deduction for expenses of investment management

(1) In section 492 of ICTA (treatment of oil extraction activities etc for tax purposes), after subsection (3) insert—

"(3A) No deduction under section 75 (expenses of management of investment business) shall be allowed from a company's ring fence profits."

(2) The amendment made by subsection (1) has effect in relation to expenses referable to accounting periods ending on or after 12 March 2008 (but see also subsections (3) and (4)).

(3) In the case of expenses referable to a straddling period, a deduction of the relevant fraction of those expenses shall be allowed under section 75 of ICTA from the company's ring fence profits.

(4) But the deduction allowed under subsection (3) may not exceed the total amount of the expenses referable to the straddling period that have actually been paid—

(a) during the first portion of the straddling period, or

(b) before the start of the straddling period.

(5) In this section—

"first portion", in relation to a straddling period, means the portion which—

(a) begins with the first day of the straddling period, and

(b) ends with 11 March 2008,

"relevant fraction" means—

$$\frac{P}{T}$$

where—

P is the number of days in the first portion of the straddling period, and

T is the total number of days in the straddling period, and

"straddling period" means an accounting period beginning before 12 March 2008 and ending on or after that date.

**Status:**
Point in time view as at 21/07/2008.

**Changes to legislation:**
Finance Act 2008, Cross Heading: Corporation tax is up to date with all changes known to be in force on or before 24 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.