These notes refer to the Finance Act 2009 (c.10) which received Royal Assent on 21 July 2009

FINANCE ACT 2009

EXPLANATORY NOTES

INTRODUCTION

Section 90Schedule 44: Supplementary Charge: Reduction for Certain New Oil Fields

Summary

1. Section 90 and Schedule 44 introduce a new allowance, a Field Allowance, which can reduce a company's adjusted ring fence profits from oil and gas production in the UK and (UKCS).

2. The allowance is available to certain categories of new oil and gas fields in the UK/ UKCS – small fields, ultra heavy oil fields and ultra high pressure/high temperature fields. Allowances from a company's interests in all qualifying fields in an accounting period are then pooled and offset against adjusted ring fence profits. Any unused amounts in the pool are carried forward to the next accounting period.

Details of the Section

3. Section 90 amends section 501A of the Income and Corporation Taxes Act 1988 (ICTA) (supplementary charge in respect of ring-fence trades) to make it subject to Schedule 44, which provides for the reduction of supplementary charge on companies that are, or have been, licensees in new fields for accounting periods ending on or after 22 April 2009.

Details of the Schedule

4. Paragraph 2 provides that a company's pool of field allowances for an accounting period are the amount of the company's pool of field allowances that are carried forward from the previous accounting period plus the aggregate of field allowances activated in the accounting period.

5. Paragraphs 3 and 4 provide the rules for determining the amount of field allowances that are carried forward into a future accounting period.

6. Paragraph 5 provides that from the day a new oil field is licensed, a company that is an initial licensee in that field will hold a field allowance for that field. The amount of field allowance will be determined by the company's equity share in the field.

7. Paragraph 7 applies if a company holds a field allowance. The unactivated amount of that allowance is the difference between:

    a. the amount of field allowance the company has received (including where a company adds to an existing equity share) and

    b. the field allowance already activated and reductions made in the field allowance by virtue of disposals of equity.

8. Paragraph 8 provides that four conditions are to be met in respect of a new oil field for the activation of field allowance where there is no change in equity share during the accounting period.

9. Paragraph 9 provides the rules for determining the amount of field allowance to be activated in an accounting period when all conditions in paragraph 8 are met.

10. Paragraph 10 introduces Part 5 which deals with the situation where a company's equity share in a new oil field changes during the accounting period. The paragraph lists the four conditions which must be met if Part 5 is to apply.

11. Paragraph 11 divides the accounting period into reference periods. This facilitates the application of Part 5 where a company is not a licensee for a whole accounting period or where the equity share changes.

12. Paragraph 12 provides the calculation of field allowance for each reference period.

13. Paragraph 13 introduces Part 6 which concerns the treatment of transfers of field allowance.

14. Paragraph 14 provides the calculation for the remaining field allowance which a company ("the transferor") has, after it has disposed of some of the equity interest in a new oil field. This is the unactivated field allowance immediately prior to the disposal, multiplied by the equity disposed of as a proportion of the equity held post-disposal.

15. Paragraph 15 provides the calculation of field allowance where a company acquires an equity interest in a new oil field. If the transferee already holds a field allowance for the new oil field, the unactivated amount of the field allowance is increased by the amount reduced for the seller in paragraph 14, pro-rated if the acquirer does not acquire all of the equity disposed of by the seller. This calculation also provides the amount of field allowance acquired where the transferee did not hold a field allowance for the new oil field at the time of acquisition.

16. Paragraph 17 also contains powers for the list of field descriptions and allowances to be amended by statutory instrument.

17. Paragraphs 18 to 24 provide details of the total field allowance and the types of new oil field which will qualify for the allowance.

Background Note

18. The UKCS is facing increasing challenges as an oil and gas producing basin, however there remain significant reserves to be recovered. Having engaged in extensive discussions on the question of fiscal incentives, the Government believes that a correctly targeted and designed incentive could, over the life of the UKCS, lead to an increase in investment and production.

19. This section introduces a 'Field Allowance', which is targeted on those commercially marginal, but economic, fields facing the greatest challenges within the UKCS. Those are smaller oil and gas fields, fields comprised of heavy oil and high pressure/high temperature fields.

20. Each field in these categories which is given development consent by the Department of Energy and Climate Change on or after 22 April 2009 will qualify for the new Field Allowance.

21. An amount of allowance is 'activated' each year based on the amount of income the company has from the qualifying field, up to a preset annual maximum.

22. The allowances are then pooled and offset against a company's profits liable to the Supplementary Charge, i.e. the additional 20 per cent charge that companies with ring fence profits pay, on top of ring fence corporation tax.

23. Companies repeat the process each year until they have used up all their unactivated field allowance. Any unused allowances in the pool are carried forward for offset in future years. When a company disposes of an interest in a field which has unactivated field allowances, those allowances are transferred to the acquirer.