

SCHEDULES

SCHEDULE 40

OIL: CHARGEABLE GAINS

PART 2

REINVESTMENT OF RING FENCE ASSETS

Amendment of TCGA 1992

9 TCGA 1992 is amended as follows.

Roll-over relief

10 In section 198 (replacement of business assets used in connection with oil fields), for subsection (3) substitute—

“(3) Where—

- (a) section 152 or 153 applies in relation to any of the consideration on a material disposal, and
- (b) the asset which constitutes the new assets for the purposes of that section is a depreciating asset,

section 154(2)(b) is to have effect as if the reference to a trade carried on by the claimant were a reference solely to the claimant’s ring fence trade.”

Alternative to roll-over relief

11 In section 198 (replacement of business assets used in connection with oil fields), after subsection (2) insert—

“(2A) But subsection (1) is subject to section 198A(3)(a).”

12 After that section insert—

“198A Ring fence reinvestment: whole consideration reinvested

(1) This section applies if a person (“P”) makes a disposal and acquisition which—

- (a) is a ring fence reinvestment, and
- (b) qualifies for roll-over relief.

(2) P may make a claim under this section in relation to the disposal and acquisition.

(3) If P makes a claim under this section—

- (a) section 152 does not apply to any of the disposal consideration, and

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- (b) any gain accruing to P on the disposal is not a chargeable gain.
- (4) In this section “disposal consideration” means the whole of the consideration obtained on the disposal made by P.

198B Ring fence reinvestment: part of consideration reinvested

- (1) This section applies if a person (“P”) makes a disposal and acquisition which—
 - (a) is a ring fence reinvestment, and
 - (b) qualifies for section 153 relief.
- (2) P may make a claim under this section in relation to the disposal and acquisition.
- (3) If P makes a claim under this section—
 - (a) section 153(1)(a) applies in relation to P and the disposal, but
 - (b) section 153(1)(b) does not apply to P and the acquisition.

198C Provisional application of sections 198A and 198B

- (1) This section applies where a person (“P”) carrying on a ring fence trade who for a consideration disposes of, or of an interest in, any assets (“the old assets”) declares, in P’s return for the chargeable period in which the disposal takes place—
 - (a) that the whole or any specified part of the consideration will be applied in the acquisition of, or of an interest in, other assets (“the new assets”),
 - (b) that the acquisition will take place as mentioned in section 152(3),
 - (c) that the disposal and acquisition will be a ring fence reinvestment,
 - (d) that P intends to make a claim under section 198A or 198B in relation to the disposal and acquisition, and
 - (e) that P has not made, and will not make, a declaration under section 153A in relation to the disposal and acquisition.
- (2) Until the declaration ceases to have effect, section 198A or 198B applies as if the acquisition had taken place and the person had made a claim under that section.
- (3) The declaration ceases to have effect as follows—
 - (a) if and to the extent that it is withdrawn before the relevant day, or is superseded before that day by a valid claim made under section 198A or 198B, on the day on which it is so withdrawn or superseded, and
 - (b) if and to the extent that it is not so withdrawn or superseded, on the relevant day.
- (4) On the declaration ceasing to have effect in whole or in part, all necessary adjustments—
 - (a) are to be made by making or amending assessments or by repayment or discharge of tax, and

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- (b) are to be so made despite any limitation on the time within which assessments or amendments may be made.
- (5) If—
- (a) P makes a declaration under this section, and
 - (b) the disposal and acquisition is not a ring fence reinvestment, but qualifies for roll-over relief or section 153 relief,
- on P making a claim, the declaration is to have effect as also a declaration under section 153A.
- (6) In this section “the relevant day” means—
- (a) in relation to capital gains tax, the third anniversary of the 31st January next following the year of assessment in which the disposal of, or of the interest in, the old assets took place, and
 - (b) in relation to corporation tax, the fourth anniversary of the last day of the accounting period in which that disposal took place.
- (7) Section 152(6), (10) and (11) apply for the purposes of this section as they apply for the purposes of section 152.

198D No double claims

- (1) If P makes a claim under section 198A or 198B, no other relevant claim may be made in respect of the relevant acquisition.
- (2) P may make a claim under section 198A or 198B (“the new claim”), if P has previously made a claim under section 152 or 153 (“the previous claim”) in respect of the relevant acquisition.
- (3) But P may make the new claim only if the previous claim is withdrawn at or before the time the new claim is made.
- (4) If the new claim is made in accordance with subsections (2) and (3), all necessary adjustments—
 - (a) are to be made by making or amending assessments or by repayment or discharge of tax, and
 - (b) are to be so made despite any limitation on the time within which assessments or amendments may be made.
- (5) In this section—
 - “relevant acquisition” means the acquisition of the new assets that is comprised in the disposal and acquisition to which a claim under section 198A or 198B or declaration under section 198C relates;
 - “relevant claim” means a claim under section 152, 153, 198A or 198B.

198E Ring fence reinvestments and disposal consideration

- (1) This section applies for the purposes of sections 198A to 198G.
- (2) A disposal and acquisition is a ring fence reinvestment if—
 - (a) the disposal was—
 - (i) a material disposal, or

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- (ii) a disposal of a UK licence which relates to an undeveloped area,
 - (b) the old assets were used only for the purposes of P's ring fence trade,
 - (c) the new assets are taken into use, and used only, for the purposes of one or more of the following trades—
 - (i) P's ring fence trade;
 - (ii) if P is a member of a group of companies (within the meaning given in section 170), a ring fence trade of another member of that group, and
 - (d) the new assets are oil assets.
- (3) If the disposal consists of—
- (a) disposal of a licence to which section 195D(3) applies, or
 - (b) disposal of two or more licences to which section 195D(4) applies, the consideration for the disposal is to be taken to be the whole of the non-licence consideration obtained on the disposal (which is referred to as “C” in section 195D).
- (4) Accordingly, in sections 198A to 198G (including section 198A(4)), any reference to the consideration obtained on the disposal has effect subject to subsection (3).
- (5) Each of the following is an “oil asset” for the purposes of this section—
- (a) an interest in oil to be won from an oil field,
 - (b) an asset used in connection with an oil field,
 - (c) a structure which is to be placed on the seabed of the United Kingdom continental shelf,
 - (d) an asset used wholly in the winning of oil, or in the measuring of oil won, in the United Kingdom otherwise than from an oil field,
 - (e) an asset used for the initial treatment or storage of oil in the United Kingdom,
 - (f) an asset used for the transportation of oil from an oil field to the United Kingdom, and
 - (g) a UK licence which relates to an undeveloped area.
- (6) Section 12 of the Oil Taxation Act 1975 (interpretation of Part 1 of that Act) applies for the interpretation of subsection (5)(a) to (f).
- (7) Expressions used in this section and in section 152 have the same meanings in this section as in section 152.
- (8) In this section a reference to a UK licence which relates to an undeveloped area has the same meaning as in section 194 (see section 196).
- (9) In this section—
- “material disposal” has the meaning given in section 197;
 - “ring fence trade” has the meaning given in section 198.

198F Qualification for roll-over relief

- (1) This section applies for the purposes of sections 198A and 198B and section 198G.

- (2) A disposal and acquisition qualifies for roll-over relief if—
 - (a) the consideration for the disposal is applied in an acquisition as mentioned in section 152(1), and
 - (b) section 152(1)(a) and (b) would apply to the disposal and acquisition if the appropriate claim were made.
- (3) Subsections (4) to (6) apply in deciding whether a disposal and acquisition is one that qualifies for roll-over relief.
- (4) Section 152(8) is to be disregarded.
- (5) Section 198A is to be disregarded.
- (6) Subject to subsections (4) to (5), all the circumstances are to be taken into account, including section 153(1) and section 198(1) and (2).

198G Qualification for section 153 relief

- (1) This section applies for the purposes of sections 198B and 198C.
- (2) A disposal and acquisition qualifies for section 153 relief if—
 - (a) section 153(1) applies to part of the amount or value of the consideration for the disposal,
 - (b) section 153(1)(a) and (b) would apply to the disposal and acquisition if the appropriate claim were made, and
 - (c) the disposal and acquisition would qualify for roll-over relief but for the disapplication of section 152(1) by section 153(1).
- (3) Subsections (4) to (6) apply in deciding whether a disposal and acquisition is one that qualifies for section 153 relief.
- (4) Section 153(2) has effect subject to section 198F(4) and (5).
- (5) Section 198B is to be disregarded.
- (6) Subject to subsections (4) and (5), all the circumstances are to be taken into account, including section 198(1).”

13 The amendments made by this Part have effect in relation to disposals made on or after 22 April 2009 (whether the acquisition in which the consideration is reinvested takes place before, on or after that date).