

SCHEDULES

SCHEDULE 31

Section 89

MISCELLANEOUS AMENDMENTS RELATING TO DECOMMISSIONING

PART 1

ABANDONMENT GUARANTEES AND ABANDONMENT EXPENDITURE

Expenditure on abandonment guarantees

- 1 (1) In Part 2 of ITTOIA 2005 (trading income), Chapter 16A (oil activities) is amended as follows.
 - (2) In section 225N (expenditure on and under abandonment guarantees)—
 - (a) after subsection (1) insert—

“(1A) Subsection (2) also applies if expenditure incurred by a participator in an oil field would be so allowable as a result of section 3(1)(hh) of that Act but for the fact that the oil field is a non-taxable oil field within the meaning of Part 3 of FA 1993 (see section 185 of that Act).”;
 - (b) in subsection (2), for “that expenditure is so allowable” substitute “the expenditure mentioned in subsection (1) or (1A) is or would be so allowable”.
 - (3) In section 225R (introduction to sections 225S and 225T)—
 - (a) in paragraph (a) of subsection (1), omit the words from “, or would apply” to “made”;
 - (b) in paragraph (b) of that subsection, after “Schedule” insert “, or would fall to be so attributed if a claim under paragraph 2A(2) of that Schedule were made”;
 - (c) after subsection (1) insert—

“(1A) The condition in subsection (1)(b) is to be treated as met for the purposes of this section if it would be met but for the fact that the contributing participator is (or was) a participator in an oil field that is a non-taxable oil field within the meaning of Part 3 of FA 1993 (see section 185 of that Act).”;
 - (d) in subsection (2), before “attributed” insert “or would be”.
- 2 (1) In Part 8 of CTA 2010 (oil activities), Chapter 4 (calculation of profits) is amended as follows.
 - (2) In section 292 (expenditure on and under abandonment guarantees)—
 - (a) after subsection (1) insert—

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- “(1A) Subsection (2) also applies if expenditure incurred by a participator in an oil field would be so allowable as a result of section 3(1)(hh) of that Act but for the fact that the oil field is a non-taxable oil field within the meaning of Part 3 of FA 1993 (see section 185 of that Act).”;
- (b) in subsection (2), for “that expenditure is so allowable” substitute “the expenditure mentioned in subsection (1) or (1A) is or would be so allowable”.
- (3) In section 296 (introduction to sections 297 and 298)—
- (a) in paragraph (a) of subsection (1), omit the words from “, or would apply” to “made”;
- (b) in paragraph (b) of that subsection, after “Schedule” insert “, or would fall to be so attributed if a claim under paragraph 2A(2) of that Schedule were made”;
- (c) after subsection (1) insert—
- “(1A) The condition in subsection (1)(b) is to be treated as met for the purposes of this section if it would be met but for the fact that the contributing participator is (or was) a participator in an oil field that is a non-taxable oil field within the meaning of Part 3 of FA 1993 (see section 185 of that Act).”;
- (d) in subsection (2), before “attributed” insert “or would be”.

Expenditure under abandonment guarantees

- 3 In Schedule 3 to OTA 1975 (petroleum revenue tax: miscellaneous provisions), in paragraph 8 (certain subsidised expenditure to be disregarded), after sub-paragraph (1) insert—
- “(1A) But sub-paragraph (1) above does not apply to any expenditure for which the relevant participator is liable that has been or is to be met directly or indirectly out of a payment made by the guarantor under an abandonment guarantee.
- (1B) In sub-paragraph (1A) above—
- “abandonment guarantee” has the same meaning as it has for the purposes of section 3 of this Act (see section 104 of the Finance Act 1991), and
- “the guarantor” and “the relevant participator” have the same meaning as in section 104 of that Act.”
- 4 In Schedule 5 to OTA 1975 (allowance of expenditure), in paragraph 2C(2), in the definition of “sum in default”, for the words from “less the aggregate of” to the end substitute “less so much of that payment as has been made by the defaulter”.
- 5 (1) Part 3 of FA 1991 (oil taxation) is amended as follows.
- (2) Omit section 105 (restriction of expenditure relief by reference to payments under abandonment guarantees).
- (3) Omit section 106 (relief for reimbursement expenditure under abandonment guarantees).

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- 6 (1) In Part 2 of ITTOIA 2005 (trading income), Chapter 16A (oil activities) is amended as follows.
- (2) In section 225N (expenditure on and under abandonment guarantees), omit subsections (3) and (4).
- (3) Omit section 225O (relief for reimbursement expenditure under abandonment guarantees).
- 7 (1) In Part 8 of CTA 2010 (oil activities), Chapter 4 (calculation of profits) is amended as follows.
- (2) In section 292 (expenditure on and under abandonment guarantees), omit subsections (3) and (4).
- (3) Omit section 293 (relief for reimbursement expenditure under abandonment guarantees).

Reimbursement by defaulter in respect of abandonment expenditure

- 8 In Part 3 of FA 1991, omit section 108 (reimbursement by defaulter in respect of certain abandonment expenditure).
- 9 In Part 2 of ITTOIA 2005, omit section 225T (reimbursement by defaulter in respect of certain abandonment expenditure).
- 10 In Part 8 of CTA 2010, omit section 298 (reimbursement by defaulter in respect of certain abandonment expenditure).

Consequential amendments

- 11 (1) Section 104 of FA 1991 is amended as follows.
- (2) In subsection (1), omit “and sections 105 and 106 below”.
- (3) In subsection (2), omit “and section 106 (but not section 105) below”.
- 12 In FA 2008, omit section 105.
- 13 In Part 2 of ITTOIA 2005, Chapter 16A is amended as follows.
- 14 (1) Section 225N is amended as follows.
- (2) Omit subsection (5).
- (3) In subsection (6), in the definition of “abandonment guarantee”—
- (a) for “section 105 of FA 1991” substitute “section 3 of OTA 1975”, and
- (b) for “that Act” substitute “FA 1991”.
- (4) The heading of that section becomes “**Expenditure on abandonment guarantees**”.
- 15 Omit sections 225P and 225Q.
- 16 In section 225R (introduction to sections 225S and 225T)—
- (a) in subsection (1), for “Sections 225S and 225T apply” substitute “Section 225S applies”;
- (b) the heading of section 225R becomes “**Introduction to section 225S**”.
- 17 In Part 8 of CTA 2010, Chapter 4 is amended as follows.

Status: This is the original version (as it was originally enacted).

- 18 (1) Section 292 is amended as follows.
- (2) Omit subsection (5).
- (3) In subsection (6), in the definition of “abandonment guarantee”—
- (a) for “section 105 of FA 1991” substitute “section 3 of OTA 1975”, and
- (b) for “that Act” substitute “FA 1991”.
- (4) The heading of that section becomes “**Expenditure on abandonment guarantees**”.
- 19 Omit sections 294 and 295.
- 20 In section 296 (introduction to sections 297 and 298)—
- (a) in subsection (1), for “Sections 297 and 298 apply” substitute “Section 297 applies”;
- (b) the heading of section 296 becomes “**Introduction to section 297**”.

PART 2

RECEIPTS ARISING FROM DECOMMISSIONING

Calculation of profits chargeable to corporation tax and supplementary charge

- 21 In Chapter 4 of Part 8 of CTA 2010 (oil activities: calculation of profits), after section 298 insert—

“Receipts arising from decommissioning

298A Receipts arising from decommissioning

- (1) This section applies if—
- (a) a company that is or has been carrying on a ring fence trade (“the defaulter”) has defaulted on a liability under—
- (i) a relevant agreement, or
- (ii) an abandonment programme,
- to make a payment towards decommissioning expenditure,
- (b) another company that is or has been carrying on a ring fence trade (“the contributing company”) pays an amount (“the relevant contribution”) in or towards meeting the whole or part of the default, and
- (c) the amount of the relevant contribution is less than the sum of the amounts within subsection (2).
- (2) The amounts within this subsection are—
- (a) any payments made (directly or indirectly) to the contributing company by the guarantor under an abandonment guarantee as a result of the defaulter defaulting on the liability,
- (b) any reimbursement payments, and
- (c) any relief from tax which the contributing company obtains in respect of the relevant contribution.
- (3) The difference between—

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- (a) the sum of the amounts within subsection (2), and
 - (b) the relevant contribution,
- (“the relevant difference”) is to be treated as a receipt (in the nature of income) of the contributing company’s ring fence trade for the relevant accounting period (see subsection (4)).
- (4) “The relevant accounting period” means the accounting period that includes the day on which the Secretary of State certifies that the relevant abandonment programme has been satisfactorily completed (“the certification date”).
- This is subject to subsections (5) and (6).
- (5) If the contributing company has ceased to carry on the ring fence trade before the certification date, “the relevant accounting period” is the last accounting period of the trade.
- (6) If the contributing company has ceased to be within the charge to corporation tax in respect of the ring fence trade before the certification date, “the relevant accounting period” is the accounting period during or at the end of which the contributing company ceased to be within the charge to corporation tax in respect of the trade.
- (7) The relevant difference is to be determined—
- (a) in a case where subsection (5) or (6) applies, at the end of the calendar year in which the certification date falls, and
 - (b) in any other case, at the end of the relevant accounting period.
- (8) In a case where subsection (5) or (6) applies, any corporation tax chargeable for the relevant accounting period by virtue of this section is due and payable as if it were corporation tax for an accounting period beginning with the certification date.
- (9) Any additional assessment to corporation tax required in order to take account of a receipt arising under this section may be made at any time not later than 4 years after the end of the calendar year in which the certification date falls.
- (10) In this section—
- “abandonment programme” means an abandonment programme approved under Part 4 of the Petroleum Act 1998 (including such a programme as revised),
 - “decommissioning expenditure” has the meaning given by section 330C,
 - “reimbursement payment” means any payment made to the contributing company by the defaulter in reimbursing the contributing company in respect of, or otherwise making good to the contributing company, the whole or any part of the relevant contribution,
 - “the relevant abandonment programme” means the abandonment programme in respect of which the decommissioning expenditure mentioned in subsection (1)(a) was incurred, and
 - “relevant agreement” has the meaning given by section 104(5)(a) of FA 1991.”

Calculation of profits chargeable to income tax

22 In Chapter 16A of Part 2 of ITTOIA 2005 (trading income: oil activities), after section 225U insert—

“Receipts arising from decommissioning

225V Receipts arising from decommissioning

- (1) This section applies if—
- (a) a person that is or has been carrying on a ring fence trade (“the defaulter”) has defaulted on a liability under—
 - (i) a relevant agreement, or
 - (ii) an abandonment programme,
 to make a payment towards decommissioning expenditure,
 - (b) another person that is or has been carrying on a ring fence trade (“the contributing person”) pays an amount (“the relevant contribution”) in or towards meeting the whole or part of the default, and
 - (c) the amount of the relevant contribution is less than the sum of the amounts within subsection (2).
- (2) The amounts within this subsection are—
- (a) any payments made (directly or indirectly) to the contributing person by the guarantor under an abandonment guarantee as a result of the defaulter defaulting on the liability,
 - (b) any reimbursement payments, and
 - (c) any relief from tax which the contributing person obtains in respect of the relevant contribution.
- (3) The difference between—
- (a) the sum of the amounts within subsection (2), and
 - (b) the relevant contribution,
- (“the relevant difference”) is to be treated as a receipt (in the nature of income) of the contributing person’s ring fence trade for the relevant tax year (see subsection (4)).
- (4) “The relevant tax year” means the tax year that includes the day on which the Secretary of State certifies that the relevant abandonment programme has been satisfactorily completed (“the certification date”).
- This is subject to subsection (5).
- (5) If the contributing person’s ring fence trade is permanently discontinued before the certification date, “the relevant tax year” is the last tax year in which that trade is carried on.
- (6) The relevant difference is to be determined—
- (a) in a case where subsection (5) applies, at the end of the tax year in which the certification date falls, and
 - (b) in any other case, at the end of the relevant tax year.

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- (7) In a case where subsection (5) applies, any income tax chargeable for the relevant tax year by virtue of this section is due and payable for the tax year in which the certification date falls.
- (8) Any additional assessment to income tax required in order to take account of a receipt arising under this section may be made at any time not later than 4 years after the end of the tax year in which the certification date falls.
- (9) In this section—
- “abandonment programme” means an abandonment programme approved under Part 4 of the Petroleum Act 1998 (including such a programme as revised),
- “decommissioning expenditure” has the meaning given by section 330C of CTA 2010,
- “reimbursement payment” means any payment made to the contributing person by the defaulter in reimbursing the contributing person in respect of, or otherwise making good to the contributing person, the whole or any part of the relevant contribution,
- “the relevant abandonment programme” means the abandonment programme in respect of which the decommissioning expenditure mentioned in subsection (1)(a) was incurred, and
- “relevant agreement” has the meaning given by section 104(5)(a) of FA 1991.”

PART 3

COMMENCEMENT

- 23 The amendments made by this Schedule have effect in relation to expenditure incurred on or after the day on which this Act is passed.