These notes refer to the Finance Act 2014 (c.26) which received Royal Assent on 17 July 2014

FINANCE ACT 2014

EXPLANATORY NOTES

INTRODUCTION

Section 71: Oil and Gas: Reinvestment after Pre-Trading Disposal

Summary

1. This section makes provision for relief from corporation tax on chargeable gains where a company disposes of certain assets that were used by it for the purpose of oil and gas exploration and appraisal (E&A) activities. The relief applies where the proceeds are then reinvested in the UK or in the UK sector of the continental shelf.

Details of the Section

2. Subsection (1) inserts new sections 198J-198L after section 198I of Chapter 2 of Part 6 of Taxation of Chargeable Gains Act 1992 (TCGA).

New section 198J

3. New subsection (1) specifies the assets whose disposal may benefit from the relief. To qualify for the relief, the company making the disposal must be an "E&A company" disposing of "relevant E&A assets", as those terms are defined in subsection (7). Additionally, the assets disposed of must either be used by the company in an area in which it is licensed to carry out E&A activities (also defined in subsection (7)), or be a licence (or licence interest) relating to an undeveloped area.

4. An "E&A company" is a company engaged in E&A activities outside the oil and gas ring fence (see s277 Corporation Tax Act 2010). The definition of "E&A activities" refers to UK or UK continental shelf "oil and gas exploration and appraisal", that term being defined at section 1134 Corporation Tax Act 2010. "Relevant E&A assets" are defined in subsection (7) as assets used solely by the company for E&A activities that are within a class of assets listed in section 155 TCGA 1992.

5. New subsection (2) sets out that the relief will be available if the disposal proceeds are reinvested on "E&A expenditure" (defined in subsection (7) as expenditure on E&A activities treated as such under generally accepted accounting practice) whilst the company is an E&A company, or on "oil assets" (as defined in 198E(5) TCGA 1992) for the purposes of the company's ring fence trade. This definition includes the incurring of exploration, appraisal and development expenditure as provided for by section 198I. Subsection (2) also specifies that the disposal proceeds must be reinvested within the "permitted reinvestment period" as defined in subsection (5), and sets out that the effect of making a claim for relief is that the gain on the disposal will not be chargeable.

6. New subsections (3) and (4) provide that partial relief is available where only part of the proceeds of the disposal has been reinvested as required by subsection (1).

7. New subsection (5) defines "the permitted reinvestment period".

8. New subsection (6) specifies that certain existing provisions under roll-over relief for capital gains, modified as necessary, are to be used for the purpose of apportioning

consideration, and so calculating the disposal proceeds that may benefit from the relief, where the assets disposed of have not been used only for E&A activities.

9. New subsection (7) defines key terms used in new sections 198J-198L.

New section 198K

10. New subsections (1) and (2) allow the relief at 198J(2) and (4) to be applied provisionally.

11. New subsections (3) and (5) specify the conditions in which any provisional relief ceases to apply, and subsection (4) specifies the tax adjustments to be made in that event.

12. New subsection (6) replicates as necessary new 198J(6) (apportioning consideration and calculating disposal proceeds where asset disposed of was not used only for E&A activities) for the purposes of provisional application of the relief, and adopts the definitions in new s198J(7).

New Section 198L

13. New section 198L allows the disposal and expenditure to be made by different companies within the same capital gains group.

14. Subsection (2) provides that the provisions inserted by paragraph (1) are to have effect in relation to disposals made on or after 1 April 2014.

Background Note

15. Companies are subject to corporation tax (CT) on chargeable gains that arise when they dispose of assets. When the proceeds of a disposal of an asset used for the purposes of a trade are invested in new assets, which are also used only for the purpose of the trade, within certain time limits, sections 152 and 154 TCGA 1992 provide that the chargeable gain is not charged to tax immediately but instead is deducted from the allowable cost of the new assets or, in certain circumstances, is deferred until the sale of the replacement business assets (roll-over relief).

16. Reinvestment relief was introduced as one of a number of measures in Finance Act 2009 for companies with ring fence oil and gas trades. Reinvestment relief provides that, in circumstances where disposal proceeds are reinvested in new oil trade assets, and the disposal and acquisition qualify for roll-over relief, chargeable gains will not arise (rather than, as under roll-over relief, being deferred until the sale of the replacement assets).

17. Companies carrying on oil and gas exploration and appraisal activity who have not commenced trading are not eligible for existing reinvestment relief due to the trading requirement for roll-over relief. The new exemption will allow these companies to make disposals and reinvestments without a chargeable gain arising. This will provide an equivalent to the exemption given by existing reinvestment relief for companies carrying on exploration and appraisal activities who have commenced a trade.