

SCHEDULES

SCHEDULE 15

OIL ACTIVITIES: TRANSFERABLE TAX HISTORY

PART 2

THE TOTAL TTH AMOUNT

The total TTH amount

- 3 (1) The total TTH amount may comprise—
- (a) an amount representing the seller's eligible ring fence profits for the reference accounting period, and
 - (b) amounts representing the seller's eligible ring fence profits for so many of the preceding accounting periods ending on or after 17 April 2002 as the seller and purchaser may determine.
- (2) Sub-paragraph (1) is subject to—
- (a) paragraph 4 (limits on total TTH amount),
 - (b) paragraph 11 (consecutive accounting periods), and
 - (c) paragraph 12 (the transferred profits amount for an accounting period).
- (3) See—
- (a) paragraph 13 for the meaning of “eligible ring fence profits”, and
 - (b) paragraph 102 for the meaning of “reference accounting period” in relation to the seller.

Limits on total TTH amount

- 4 The total TTH amount must not exceed the lower of—
- (a) the uplifted decommissioning costs estimate in relation to the TTH asset, and
 - (b) the total amount of the seller's eligible ring fence profits for the period—
 - (i) beginning with 17 April 2002, and
 - (ii) ending at the end of the reference accounting period.

The “uplifted decommissioning costs estimate”

- 5 To determine the “uplifted decommissioning costs estimate” in relation to the TTH asset—
- (a) determine the transferred proportion of the net cost amount (see paragraphs 6 and 7),

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- (b) allocate the relevant proportion of the amount determined under paragraph (a) to the TTH asset (see paragraph 8),
 - (c) adjust the allocated amount in accordance with paragraph 9, and
 - (d) double the adjusted amount.
- 6 (1) The “net cost amount” is the appropriate DSA estimate of the decommissioning costs for the TTH oil field.
- (2) A “DSA estimate” is an estimate approved for the purposes of a qualifying decommissioning security agreement.
- (3) If there is only one qualifying decommissioning security agreement relating to the TTH oil field, the “appropriate DSA estimate” is the most recent DSA estimate approved for the purposes of that agreement within the relevant period.
- (4) If there is more than one qualifying decommissioning security agreement relating to the TTH oil field, the “appropriate DSA estimate” is the lowest of the DSA estimates approved for the purposes of any of those agreements within the relevant period.
- (5) For the purposes of sub-paragraphs (3) and (4), the “relevant period” is the period of 12 months ending with—
- (a) the date on which the TTH election is made, or
 - (b) in a case where the hive down condition (see paragraph 56(5)) is met, the date on which the seller and the purchaser cease to be associated with one another.
- 7 The “transferred proportion” of the net cost amount is the proportion of the decommissioning costs for the TTH oil field that, under the qualifying decommissioning security agreement for the purposes of which the appropriate DSA estimate is approved, is allocated to—
- (a) the seller, in the case of an agreement entered into before the sale of the interest in the UK oil licence concerned, or
 - (b) the purchaser, in the case of an agreement entered into on or after that date.
- 8 In paragraph 5(b), the “relevant proportion” means—
- (a) the proportion that the interest in the TTH oil field which is the TTH asset bears to—
 - (i) the seller’s other interests in the TTH oil field, if paragraph 7(a) applies, or
 - (ii) the purchaser’s other interests in the TTH oil field, if paragraph 7(b) applies, or
 - (b) if the proportion cannot reasonably be determined in accordance with paragraph (a), such other proportion determined on a just and reasonable basis.
- 9 (1) To adjust the allocated amount for the purposes of paragraph 5(c)—
- (a) disregard the adjustments listed in sub-paragraph (2) made, for the purposes of calculating the net cost amount, in accordance with the terms of the decommissioning security agreement, and
 - (b) if, in making that calculation in accordance with those terms, the relevant proportion of the estimate of the decommissioning costs is increased by an amount to take account of inflation, disregard the amount (if any) by which the increase exceeds the standard inflation adjustment amount.

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- (2) The adjustments to be disregarded are—
- (a) any discount applied by reference to the period of time expected to elapse before the decommissioning costs are payable in relation to the TTH oil field, and
 - (b) any adjustment made for the purposes of taking account of the risk that the decommissioning costs for the TTH oil field will exceed the estimate of those costs.
- (3) The “standard inflation adjustment amount” means the amount (if any) by which the relevant proportion of the estimate of the decommissioning costs for the TTH oil field would be increased if an adjustment for the purposes of taking account of inflation were made on the basis specified by Her Majesty’s Revenue and Customs for the purposes of this paragraph.
- 10 (1) A “decommissioning security agreement” is an agreement entered into for the purpose of—
- (a) determining the costs of decommissioning an oil field, and
 - (b) providing security for—
 - (i) the performance of obligations under an abandonment programme for the purposes of section 38A of the Petroleum Act 1998 (whether or not such a programme has been approved at the time the agreement is entered into), or
 - (ii) the costs of decommissioning plant or machinery which is, or forms part of, a relevant onshore installation.
- (2) A decommissioning security agreement is “qualifying” for the purposes of this Schedule if—
- (a) the seller is a party to the agreement,
 - (b) at least one of the parties is not associated with the seller, and
 - (c) the estimate approved for the purposes of the agreement is a reasonable estimate of the decommissioning costs for the oil field.
- (3) In a case where the corporate restructuring condition (see paragraph 56(2)) is met, sub-paragraph (2)(a) has effect as if the reference to the seller were a reference to a party to the third party election (as defined in that paragraph).
- (4) In sub-paragraph (1)—
- “abandonment programme” has the meaning given by section 29 of the Petroleum Act 1998, and
 - “relevant onshore installation” has the same meaning as in section 163 of CAA 2001 (see subsection (3C) of that section).
- (5) See paragraph 98 of this Schedule and section 271 of CTA 2010 for further provision about the meaning of “associated companies”.

Consecutive accounting periods

- 11 (1) The total TTH amount may not include an amount representing the eligible ring fence profits for a particular accounting period (other than the reference accounting period) unless it also includes an amount representing the eligible ring fence profits for the next following qualifying accounting period.

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- (2) An accounting period is “qualifying” for the purposes of this Schedule if the seller has eligible ring fence profits for that period.

The transferred profits amount

- 12 (1) The transferred profits amount for an accounting period, other than the earliest period, must be an amount equal to the amount of the seller’s eligible ring fence profits for the period.
- (2) The transferred profits amount for the earliest period must be an amount equal to the amount of the seller’s eligible ring fence profits for that period, so far as that amount does not exceed the TTH balance for the earliest period.
- (3) The “TTH balance” for the earliest period is an amount equal to—
- (a) the total TTH amount, less
 - (b) the transferred profits amounts for each later accounting period.
- (4) In this paragraph, “earliest period” means the earliest accounting period for which there is a transferred profits amount.

“Eligible ring fence profits”

- 13 Ring fence profits of an accounting period are “eligible” for the purposes of a TTH election if, as at the date the TTH election is made—
- (a) corporation tax is charged on the profits of that period at the main ring fence profits rate,
 - (b) neither section 279B nor section 279C of CTA 2010 (marginal relief) applies in relation to the seller in that period,
 - (c) the seller’s liability to corporation tax in respect of the profits has been discharged in full, and
 - (d) the total TTH amount for any other TTH election made by the seller (whether made with the purchaser or with another person) does not include an amount representing those profits.
- 14 In determining, for the purposes of this Schedule, the amount of the seller’s eligible ring fence profits for an accounting period that falls partly before 17 April 2002, the amount of the seller’s eligible ring fence profits for that period is to be reduced by the proportion which the part of the accounting period falling before that date bears to the whole of the accounting period.