
STATUTORY INSTRUMENTS

2006 No. 3313

The Oil Taxation (Market Value of Oil) Regulations 2006

Valuing Category 1 oil

General

6. The method of determining the market value of Category 1 oil to which these Regulations apply is as follows—

- (a) find the notional delivery day (see regulations 7 and 8);
- (b) find the average reference value for that day (see regulations 9 to 12);
- (c) add the adjustment factor (see regulations 13 to 15); and
- (d) find the total market value of the oil (see regulation 16).

The notional delivery day: the general rule

7.—(1) The general rule is that the notional delivery day is found in accordance with paragraph 1A of Schedule 3 to OTA⁽¹⁾ (determination of market value: notional delivery day for a quantity of oil).

(2) The general rule is subject to regulation 8.

The notional delivery day: additional rule

8.—(1) Paragraph (2) applies to a delivery of Category 1 oil by way of a sale otherwise than at arm's length if—

- (a) during any period of 24 months, beginning on or after 1st July 2006, the total quantity of equity oil of that type disposed of by a participator and persons connected with him is not less than 4,000,000 barrels;
- (b) a lower price would fall to be taken into account in determining the participator's gross profit under section 2(1) of OTA for the delivery from that which would have applied if it had been by way of a sale at arm's length;
- (c) the reason for that lower price is because the notional delivery day is a day other than that on which the actual delivery takes place;
- (d) the whole or main benefit which might reasonably be expected to be obtained from a sale otherwise than at arm's length, when compared with a sale at arm's length, is a tax advantage within the meaning of section 709 of ICTA⁽²⁾.

(2) The notional delivery day is the day specified in paragraph (a) or (b) (as the case requires) of paragraph 1A(7) of Schedule 3 to OTA.

(3) In this regulation—

(1) Paragraph 1A was inserted by section 146(1) of the Finance Act 2006.

(2) Section 709 has been amended. Subsection (2A) was inserted by section 73 of the Finance Act 1997 (c. 16) and partly repealed by the relevant entry in Part II(9) of Schedule 8 to the Finance (No. 2) Act 1997 (c. 58)

“barrel” means a volume of 0.158987 cubic metres of oil; and

“equity oil” means oil forming part of the trading stock of a participator or a person connected with him which has been won by that participator or a person connected with him from a field in the United Kingdom sector of the North Sea.

(4) Section 839 of ICTA (connected persons) applies for determining whether persons are connected for the purposes of this regulation.

The average reference value: notional delivery day one for which reference values available

9.—(1) If the notional delivery day is a day for which reference values are available find the daily average of the reference values from each of the three relevant reports for—

- (a) each of the two dates immediately preceding the notional delivery day;
- (b) the notional delivery day; and
- (c) each of the two dates immediately following notional delivery day.

(2) If any of the relevant reports contains more than one reference value for any of these dates, the result for that report for that date is the arithmetical mean of those values.

(3) Find the average of the daily averages found for each of the five days referred to in paragraph (1).

(4) The result is the average reference value for the notional delivery day.

The average reference value: notional delivery day a Saturday, or a Bank Holiday which is not a Monday, and for which reference values not available

10.—(1) If the notional delivery day is not a day for which reference values are available but is a Saturday, or a bank holiday which is not a Monday, find the daily average of the reference values from each of the three relevant reports for—

- (a) each of the three business days immediately preceding the notional delivery day; and
- (b) each of the two business days immediately following the notional delivery day.

(2) If any of the relevant reports contains more than one reference value for any of these dates, the result for that report for that date is the arithmetical mean of those values.

(3) Find the average of the daily averages found for each of the five days referred to in paragraph (1).

(4) The result is the average reference value for the notional delivery day.

The average reference value: notional delivery day a Sunday, or a Bank Holiday which is a Monday

11.—(1) If the notional delivery day is not a day for which reference values are available but is a Sunday, or a bank holiday which is a Monday, find the daily average of the reference values from each of the three relevant reports for—

- (a) each of the two business days immediately preceding the notional delivery day; and
- (b) each of the three business days immediately following the notional delivery day.

(2) If any of the relevant reports contains more than one reference value for any of these dates, the result for that report for that date is the arithmetical mean of those values.

(3) Find the average of the daily averages found for each of the five days referred to in paragraph (1).

(4) The result is the average reference value for the notional delivery day.

The average reference value: additional provisions

12.—(1) If in respect of any of the days specified in a provision of regulation 9, 10 or 11 one or two of the relevant reports is not published, that provision has effect as if references to the relevant reports were to such of the relevant reports as are actually published in respect of that day.

(2) If in respect of any of the days specified in a provision of regulation 9, 10 or 11 other than the notional delivery day, none of the relevant reports is published (“a non-publication day”), that provision has effect as if—

- (a) references to a day which is a non-publication day falling before the notional delivery day were to the day falling next before that day on which at least one of the relevant reports is published; and
- (b) references to a day which is a non-publication day falling after the notional delivery day were to the day falling next after that day on which at least one of the relevant reports is published.

(3) If the application of the rule in paragraph (2) would lead to the reports for a day being taken into account more than once, a reference to the day falling next before, or after, the non-publication day shall be read as a reference to the first day falling next before or after (as the case may be) the non-publication day which would not otherwise be taken into account for the purposes of this regulation.

(4) In cases where the date of completion of load or the date of the bill of lading is substituted for the notional delivery day under regulation 8, references in this regulation to the notional delivery day are to be read as references to the day substituted under that regulation.

The adjustment factors — general

13.—(1) The adjustment factor applicable to the Category 1 oil in question must be added to the average reference value.

- (2) The adjustment factor is found—
 - (a) in accordance with regulation 14 in the case of Brent blend; and
 - (b) in accordance with regulation 15 in the case of other Category 1 oil.

Adjustment factor — Brent blend

14.—(1) The adjustment factor for Brent blend is found as follows.

(2) Find the daily average of the differentials from the reference value quoted in the relevant reports for each of the days—

- (a) during the period which begins 21 days, and ends 14 days before the notional delivery day, and
- (b) in respect of which at least one such report is produced,

as follows.

(3) Find the Argus Crude differential for a particular day by taking the value shown as the “Brent” assessment and subtracting from it the value shown as “Dated BFO” in that report.

(4) Find the ICIS differential for a particular day by taking the value shown as the “Brent” assessment and subtracting from it the value shown as “Dated BFO” in that report.

(5) Find the Platts differential for a particular day by taking the value for “Brent Assessment 10 — 21 days out” in Platts Crude Oil Marketwire and subtracting from it the value for “North Sea Dated Strip” in that report.

(6) In this regulation “Platts Crude Oil Marketwire” means the report of that name published by Platts, a division of the McGraw-Hill Companies, whose registered office is Two Penn Plaza, 25th Floor, New York, N.Y. 10121-2298.

(7) If any of the reports referred to in this regulation contains more than one value for the relevant quote for any of these days, the result for that report for that day is the arithmetical mean of those values.

(8) Find the average of the daily averages found in accordance with this regulation for each of the days specified in paragraph (2).

(9) The result is the adjustment factor for Brent blend.

Adjustment factor — other Category 1 oil

15.—(1) The adjustment factor for a Category 1 oil other than Brent blend is found as follows.

(2) Find the daily average of the differentials, from reference value, for the Category 1 oil in question quoted in the three relevant reports for each of the days—

- (a) during the period which begins 21 days, and ends 14 days before the notional delivery day, and
- (b) in respect of which at least one such report is produced.

(3) If any of the relevant reports contains more than one value for the Category 1 oil in question for any of these days, the result for that report for that day is the arithmetical mean of those values.

(4) Find the average of the daily averages found by paragraphs (2) and (3) for each of the days specified in paragraph (2).

(5) The result is the adjustment factor for the relevant Category 1 oil.

The total market value of the oil

16.—(1) The total market value of a volume of Category 1 oil to which these Regulations apply is found as follows—

- (a) take the average reference value for the notional delivery day (see regulations 9 to 12);
- (b) add the adjustment factor applicable to the Category 1 oil in question (see regulations 13 to 15); and
- (c) multiply the sum found by sub-paragraph (b) by the volume of Category 1 oil in question.

(2) The result is the total market value of the oil.