

PART 1

OIL

Petroleum revenue tax

1 Meaning of “participator”

- (1) In section 12 of OTA 1975 (interpretation of Part 1), the definition of “participator” is amended as follows.
- (2) In the words before paragraph (a), after “chargeable period” insert “(“the relevant chargeable period”)”.
- (3) In paragraphs (a), (b) and (c), for “that chargeable period” substitute “the relevant chargeable period”.
- (4) At the end of paragraph (c) insert “and
 - (d) a former participator to whom an amount is attributed under paragraph 2A(2) of Schedule 5 in respect of a default payment made in relation to the field in the relevant chargeable period; and
 - (e) a former participator to whom an amount was attributed under paragraph 2A(2) of Schedule 5 in respect of a default payment made in relation to the field in either of the two chargeable periods preceding the relevant chargeable period;”.
- (5) The amendments made by this section have effect in relation to expenditure incurred after 30 June 2008.

2 Abandonment expenditure: default by participator met by former participator

- (1) In Schedule 5 to OTA 1975 (allowance of expenditure, other than abortive exploration expenditure), for paragraph 2A substitute –
 - “2A (1) This paragraph applies if –
 - (a) a current participator (“the defaulter”) has defaulted on a liability under a relevant agreement to make a payment towards abandonment expenditure, and
 - (b) a current or former participator (“the contributing participator”) pays an amount in or towards meeting the whole or part of the default (“a default payment”).
- (2) If a claim is made under this Schedule for the allowance of the abandonment expenditure, the amount of the default payment is to

- be attributed to the contributing participator for the purposes of paragraphs 2(4)(b) and 3(1)(c).
- (3) But the amount attributed under sub-paragraph (2) may not exceed so much of the sum in default as the contributing participator is required to meet in accordance with the relevant agreement.
 - (4) Sub-paragraph (2) is subject to paragraph 2B.
 - (5) In determining the amount which is to be attributed to the contributing participator under sub-paragraph (2), account shall be taken of the whole of the defaulter's interest in the relevant oil field.
 - (6) But in determining the share of the abandonment expenditure to be attributed to the defaulter under paragraph 2(4)(b), the amount which would be attributed by reference to the defaulter's interest in the relevant oil field is to be reduced or (as the case may be) extinguished by the deduction of the aggregate of –
 - (a) the amount attributed to the contributing participator under sub-paragraph (2), and
 - (b) any other amounts attributed under sub-paragraph (2) to other current or former participators who make default payments in respect of the defaulter's default.
- 2B (1) No amount is to be attributed to a contributing participator under paragraph 2A(2) unless the following conditions are all met.
- (2) The first condition is that the contributing participator is not connected with the defaulter, applying section 839 of the Taxes Act (connected persons) for the purposes of this sub-paragraph.
 - (3) The second condition is that, at the end of the claim period for which the claim is made, the defaulter still has an interest in the relevant oil field which, under paragraph 2(4)(b), falls to be taken into account in determining the shares in the abandonment expenditure.
 - (4) The third condition is that the relevant participators have taken all reasonable steps by way of legal remedy –
 - (a) to secure that the defaulter meets the whole of the liability referred to in paragraph 2A(1)(a), and
 - (b) to enforce any guarantee or other security provided in respect of that liability.
 - (5) In sub-paragraph (4) “relevant participators” means –
 - (a) each current participator (other than the defaulter), and
 - (b) each former participator who makes a default payment in respect of the defaulter's default.
- 2C (1) An amount attributed under paragraph 2A(2) is –
 - (a) in the case of a current participator, to be an addition to the share of the abandonment expenditure referable to the current participator's interest in the oil field, or
 - (b) in the case of a former participator, to be the share of the abandonment expenditure referable to the former participator's interest in the oil field.
- (2) In paragraphs 2A and 2B and this paragraph –

“abandonment expenditure” means expenditure which is allowable for an oil field by virtue of section 3(1)(i) or (j);

“current participator” means a person who is, by virtue of paragraph (a), (b) or (c) of the definition in section 12, a participator in the relevant oil field in the chargeable period in which the abandonment expenditure is incurred;

“former participator” means a person who –

- (a) is not a current participator, but
- (b) was, by virtue of paragraph (a), (b) or (c) of the definition in section 12, a participator in the relevant oil field in any chargeable period before the chargeable period in which the abandonment expenditure is incurred;

“relevant agreement” has the meaning given by section 104(5)(a) of the Finance Act 1991;

“relevant oil field” means the oil field to which the abandonment expenditure relates;

“sum in default” means the amount of the payment which the defaulter is liable to make as mentioned in paragraph 2A(1)(a), less the aggregate of –

- (a) so much of that payment as has been made by the defaulter, and
- (b) so much of that payment as has been met by virtue of any guarantee or security provided in respect of the defaulter’s liability.

(3) For the purposes of paragraph 2A, a current participator is to be regarded as defaulting on a liability to make a payment towards abandonment expenditure if the following conditions are met.

(4) The first condition is that the current participator has failed to make the payment in full on the due day.

(5) The second condition is that –

- (a) any of the payment remains unpaid on the sixtieth day after the due day, or
- (b) before that sixtieth day, the current participator’s interest in a relevant licence becomes liable under the relevant agreement to be sold or forfeited, in whole or in part, by reason of the failure to meet the liability.

(6) In sub-paragraphs (4) and (5) “due day” means the day on which the payment towards abandonment expenditure becomes due under the relevant agreement.”

(2) The amendments made by subsection (1) have effect in relation to expenditure incurred after 30 June 2008.

3 Abandonment expenditure: former participator reimbursed by defaulter

(1) Section 108 of FA 1991 (reimbursement by defaulter in respect of certain abandonment expenditure) is amended as follows.

(2) In subsection (1)(a), omit “(as set out in section 107 above)”.

- (3) For subsection (1)(b) substitute –
 - “(b) an amount is attributed to a contributing participator under paragraph 2A(2) of Schedule 5 to the principal Act; and”.
- (4) In subsection (1)(c), for “qualifying participator” substitute “contributing participator”.
- (5) In subsection (4), for “qualifying participator” (in each place) substitute “contributing participator”.
- (6) In subsection (5), for “qualifying participator” substitute “contributing participator”.
- (7) In subsection (7), for “qualifying participator” substitute “contributing participator”.
- (8) The amendments made by this section have effect in relation to expenditure incurred after 30 June 2008.

4 Returns of relevant sales of oil

- (1) Section 62 of FA 1987 (returns of relevant sales of oil) is amended as follows.
- (2) After subsection (3) insert –
 - “(3A) Subsection (4) applies to a participator in an oil field in any case where –
 - (a) paragraph 2 of Schedule 2 to the principal Act requires the participator to make a return for any chargeable period (including cases where the latest time for the delivery of that return is deferred), and
 - (b) there are any relevant sales of Category 2 oil (as defined in subsection (6) below).”
- (3) In subsection (4), for the words before paragraph (a) substitute –
 - “(4) In such a case, that participator shall also be required, not later than the end of the second month after the end of that chargeable period, to deliver to the Board a return of all relevant sales of Category 2 oil stating –”.
- (4) In subsection (4), in paragraphs (d), (e) and (f), for “oil” (in each place) substitute “Category 2 oil”.
- (5) In subsection (6) –
 - (a) in the words before paragraph (a), for “oil”, in each place except in the expression “oil field”, substitute “Category 2 oil”,
 - (b) in paragraph (a), for “subsection (4)” substitute “subsection (3A)”,
 - (c) in paragraph (c), for “oil” substitute “Category 2 oil”, and
 - (d) omit paragraph (d) and the word “and” before it.
- (6) After subsection (8) insert –
 - “(8A) For provision about the meaning of “Category 2 oil”, see paragraph 2 of Schedule 3 to the principal Act (which applies by virtue of section 72(6) below).”

- (7) The amendments made by this section have effect in relation to chargeable periods ending on or after 30 June 2008.

Corporation tax

5 Capital allowances: plant and machinery for use in ring fence trade

- (1) In section 52(3) of CAA 2001 (amount of first-year allowances), for the two entries in the table relating to section 45F substitute –

“Expenditure qualifying under section 45F (expenditure for use wholly in a ring fence trade) | 100%”.

- (2) The amendment made by subsection (1) has effect in relation to expenditure incurred on or after Budget Day 2008.

6 Capital allowances: decommissioning expenditure

- (1) Section 163 of CAA 2001 (meaning of “abandonment expenditure”) is amended as follows.

- (2) For the title substitute –

“163 Meaning of “general decommissioning expenditure””.

- (3) In subsection (1) –

- (a) for “abandonment expenditure” substitute “general decommissioning expenditure”, and
(b) for “subsections (2) to (4)” substitute “subsections (2) and (4)”.

- (4) For subsection (2) substitute –

“(2) The expenditure must have been incurred on decommissioning plant or machinery –

- (a) which has been brought into use for the purposes of a ring fence trade, and

- (b) which –

- (i) is, or forms part of, an offshore installation or a submarine pipeline, or
(ii) when last in use for the purposes of a ring fence trade, was, or formed part of, such an installation or pipeline.”

- (5) Omit subsection (3).

- (6) In subsection (5)(b), omit ““abandonment programme”,”.

- (7) Schedule 1 contains amendments that are consequential on this section.

- (8) The amendments made by this section and that Schedule have effect in relation to expenditure incurred on or after Budget Day 2008.

7 Capital allowances: abandonment expenditure after ceasing ring fence trade

- (1) Section 165 of CAA 2001 (abandonment expenditure within 3 years of ceasing ring fence trade) is amended as follows.

- (2) In the title, for “3 years” substitute “7 years”.
- (3) In subsection (2), for “3 years” substitute “7 years”.
- (4) Section 393A of ICTA (losses: set off against profits of the same, or an earlier, accounting period) is amended as follows.
- (5) In subsection (11) –
 - (a) for “In any case where” substitute “Subsection (11A) applies in any case where”,
 - (b) in paragraph (a), for “3 years” substitute “7 years”, and
 - (c) omit the words after paragraph (b).
- (6) After subsection (11) insert –

“(11A) In relation to any claim under subsection (1) –

 - (a) to the extent that it relates to an increase falling within subsection (11)(a), subsection (10) shall have effect with the substitution of “nine years” for “two years”;
 - (b) to the extent that it relates to expenditure falling within subsection (11)(b), subsection (10) shall have effect with the substitution of “five years” for “two years”.”
- (7) The amendments made by this section have effect in relation to ring fence trades that cease to be carried on on or after Budget Day 2008.

8 Losses: set off against profits of earlier accounting periods

- (1) In ICTA, after section 393A insert –

“393B Losses of ring fence trade: set off against profits of an earlier accounting period

 - (1) This section applies if these conditions are met –
 - (a) a company makes a claim under section 393A(1) requiring that a loss incurred in a ring fence trade be set off against profits;
 - (b) section 393A(2A) applies in relation to that claim by virtue of section 393A(2C) (three year set off period because loss arises in year when general decommissioning expenditure incurred); and
 - (c) the loss incurred in the ring fence trade that may be set off under section 393A (“L”) exceeds the profits against which L may be set off under section 393A (“P”).
 - (2) The profits of the ring fence trade of an accounting period are to be relieved under subsection (3) if that period –
 - (a) falls wholly or partly before the three year set off period, and
 - (b) began on or after 17 April 2002.
 - (3) Subject to any relief for an earlier loss, those profits of that accounting period shall be treated as reduced by –
 - (a) the amount by which L exceeds P, or
 - (b) so much of that amount as cannot be relieved under this subsection against profits of the ring fence trade of a later accounting period.

- (4) But that is subject to subsection (5) in the case of an accounting period that falls partly (but not wholly) before the three year set off period.
- (5) The amount of the reduction of the profits of the ring fence trade that may be made under subsection (3) shall not exceed a part of those profits proportionate to the part of the accounting period that falls before the three year set off period.
- (6) In this section –
 - “ring fence” has the same meaning as in section 162 of the Capital Allowances Act;
 - “three year set off period” means the period of three years that applies to the claim under section 393A(1) by virtue of section 393A(2A) and (2C).”
- (2) Schedule 2 contains minor and consequential amendments relating to the amendments made by this section.
- (3) The amendments made by this section and that Schedule have effect in relation to losses incurred in accounting periods beginning on or after Budget Day 2008.

SCHEDULES

SCHEDULE 1

Section 6

OIL: CORPORATION TAX – DECOMMISSIONING EXPENDITURE: CONSEQUENTIAL AMENDMENTS

ICTA

- 1 In section 393A of ICTA (losses: set off against profits), in subsections (2C)(b) and (11)(a), for “abandonment expenditure” substitute “general decommissioning expenditure”.

CAA 2001

- 2 CAA 2001 is amended as follows.
- 3 In section 26 (demolition costs), in subsection (5), for “abandonment expenditure” substitute “general decommissioning expenditure”.
- 4 In section 57 (available qualifying expenditure), in the entry in subsection (2) relating to section 165(3) of CAA 2001, for “abandonment expenditure” substitute “general decommissioning expenditure”.
- 5 (1) Section 164 (abandonment expenditure incurred before cessation of ring fence trade) is amended as follows.
 - (2) In the title, for “**abandonment expenditure**” substitute “**general decommissioning expenditure**”.
 - (3) In subsections (2)(a), (3)(a), (4)(a) and (5), for “abandonment expenditure” substitute “general decommissioning expenditure”.
- 6 (1) Section 165 (abandonment expenditure within 3 years of ceasing ring fence trade) is amended as follows.
 - (2) In the title, for “**abandonment expenditure**” substitute “general decommissioning expenditure”.
 - (3) In subsection (1)(b) and (c), for “abandonment expenditure” substitute “general decommissioning expenditure”.
 - (4) In subsection (3) –
 - (a) in paragraph (a), for “relevant abandonment cost” substitute “relevant decommissioning cost”, and
 - (b) in paragraph (b), for “abandonment expenditure” substitute “general decommissioning expenditure”.
 - (5) In subsection (4), in the definition of “the relevant abandonment cost” –

- (a) for “relevant abandonment cost” substitute “relevant decommissioning cost”, and
- (b) for “abandonment expenditure” in each place substitute “general decommissioning expenditure”.

SCHEDULE 2

Section 8

OIL: CORPORATION TAX — SET OFF AGAINST PROFITS: MINOR AND CONSEQUENTIAL AMENDMENTS

TMA 1970

- 1 In section 87A of TMA 1970 (interest on overdue corporation tax), in subsection (6)(a), after “set off” insert “(whether under section 393A(1) or 393B(3))”.

ICTA

- 2 ICTA is amended as follows.
- 3 In section 343 (company reconstructions without change of ownership), in subsection (3), after “section 393A(1)” insert “(including a case where section 393B applies)”.
- 4 In section 393 (losses other than terminal losses), in subsection (1), for the words after “cannot” substitute “be relieved under this subsection, or (if a claim is made under section 393A(1)) under section 393A(1) or 393B(3), against income or profits of an earlier accounting period.”
- 5 In section 393A (losses: set off against profits of the same, or an earlier, accounting period), after subsection (2C) insert –
 - “(2D) Section 393B makes further provision about setting off losses in cases where subsection (2C) applies.”
- 6 In section 768A (change in ownership: disallowance of carry back of trading losses), in subsection (1), after “section 393A(1)” insert “or 393B(3)”.
- 7 In section 826 (interest on tax overpaid), in subsection (7A)(b), after “set off” insert “(whether under section 393A(1) or 393B(3))”.
- 8 (1) Schedule 19B (petroleum extraction activities: exploration expenditure supplement) is amended as follows.
 - (2) In paragraph 1 (provision about the Schedule), in sub-paragraph (7)(b), after “section 393A” insert “or 393B”.
 - (3) In paragraph 17 (ring fence losses and qualifying E&A losses), in sub-paragraph (2) –
 - (a) the words after “assumed” become sub-paragraph (a), and
 - (b) at the end of that sub-paragraph insert “and –
 - (b) that (where appropriate) section 393B applies in relation to every such claim.”
- 9 (1) Schedule 19C (petroleum extraction activities: ring fence expenditure supplement) is amended as follows.

- (2) In paragraph 1 (provision about the Schedule), in sub-paragraph (6)(b), after “section 393A” insert “or 393B”.
- (3) In paragraph 17 (ring fence losses) –
 - (a) in sub-paragraph (2) for “assumption is” substitute “assumptions are”,
 - (b) in sub-paragraph (3) for “The assumption” substitute “The first assumption”, and
 - (c) after sub-paragraph (3) insert –
 - “(3A) The second assumption is that (where appropriate) section 393B applies in relation to every such claim under section 393A.”

FA 2000

- 10 (1) Schedule 20 to FA 2000 (tax relief for expenditure on research and development) is amended as follows.
- (2) In paragraph 15 (entitlement to R&D tax credit) –
 - (a) in sub-paragraph (4)(b), after “section 393A(1)(b)” insert “or 393B(3)”, and
 - (b) in sub-paragraph (5)(b), after “section 393A(1)(b)” insert “or 393B(3)”.
- (3) In paragraph 23 (treatment of deemed trading loss), in sub-paragraph (2), after “section 393A(1)(b)” insert “or 393B(3)”.