
*Changes to legislation: There are currently no known outstanding effects
for the Finance Act 2019, PART 9. (See end of Document for details)*

SCHEDULES

SCHEDULE 15

OIL ACTIVITIES: TRANSFERABLE TAX HISTORY

PART 9

TTH ELECTIONS: APPROVAL

Approval notice

- 61 An officer of Revenue and Customs may approve the TTH election by giving notice in writing (an “approval notice”) to the seller and the purchaser.

Deemed approval

- 62 (1) If no approval notice or enquiry notice is given, in respect of the TTH election, before the end of the period mentioned in paragraph 5(2) of Schedule 1A to TMA 1970 (time limit for opening an enquiry), the election is deemed to have been approved by an officer of Revenue and Customs at the end of that period.
- (2) In sub-paragraph (1), the reference to an “enquiry notice” is a reference to a notice under paragraph 5(1) of Schedule 1A to TMA 1970 (intention to enquire into a claim or election).

Conditions of approval

- 63 The purchaser is required, as a condition of the approval of the election—
- (a) to comply with the profit tracking requirements in relation to—
 - (i) the accounting period in which the interest in a UK oil licence, referred to in paragraph 1, is acquired by the purchaser, and
 - (ii) each subsequent accounting period; and
 - (b) to keep and preserve records, in accordance with such requirements as may be specified by an officer of Revenue and Customs, for the purposes of giving effect to this Schedule.

Profit tracking requirements

- 64 (1) The purchaser complies with the profit tracking requirements in relation to an accounting period if the purchaser's company tax return for the period is accompanied by a statement of the tracked profit or loss amount for the period.
- (2) The “tracked profit or loss amount” for an accounting period is the amount of profit or loss that is attributable to the TTH asset, excluding the relevant proportion of the decommissioning expenditure amount attributable to the TTH oil field, for that period.

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- (3) In sub-paragraph 64(2), “relevant proportion” has the same meaning as in paragraph 30 (see paragraph 30(5)).
- 65 (1) For the purposes of determining the tracked profit or loss amount for an accounting period—
- (a) just and reasonable apportionments are to be made of the receipts, expenses, assets and liabilities of—
 - (i) the purchaser, and
 - (ii) any other company that is associated with the purchaser and has an interest in the TTH asset (including an interest in a share in the oil won and saved in the TTH oil field), and
 - (b) for the purposes of paragraph (a), an officer of Revenue and Customs may require that financing costs for an accounting period are to be apportioned on such basis as the officer may reasonably specify before the beginning of that period.
- (2) In this paragraph “financing costs” has the meaning it has for the purposes of section 330 of CTA 2010 (see section 331 of that Act).

Senior tracking officers

- 66 (1) The purchaser's senior tracking officer must—
- (a) take reasonable steps to ensure that the tracked profit and loss amount attributable to a TTH asset for each tracking period is determined in accordance with paragraph 65, and
 - (b) provide the Commissioners for Her Majesty's Revenue and Customs with a certificate as to compliance with paragraph (a).
- (2) For each tracking period, the purchaser must notify the Commissioners for Revenue and Customs of the name of each person who was its senior tracking officer at any time during the period.
- (3) The certificate under sub-paragraph (1)(b), and the notice under sub-paragraph (2), must be given—
- (a) in the form and manner specified by an officer of Revenue and Customs, and
 - (b) on or before the filing date for the purchaser's tax return for the tracking period (see paragraph 14 of Schedule 18 to FA 1998).
- (4) In this Part, “tracking period”, in relation to the TTH asset, means each accounting period in relation to which the purchaser is required under paragraph 63(a) to comply with the profit tracking requirements.
- 67 (1) The purchaser's “senior tracking officer” is the officer of the purchaser or of an associated company who, in the purchaser's reasonable opinion, has overall responsibility for the purchaser's financial accounting arrangements.
- (2) In this section, “officer”, in relation to a company, means—
- (a) a director,
 - (b) a manager,
 - (c) a secretary, and
 - (d) any other person managing or purporting to manage any of the company's affairs.

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- 68 (1) The senior tracking officer is liable to a penalty of £5,000 if the officer, without reasonable excuse—
- (a) fails to comply with paragraph 66(1)(a) at any time in a tracking period, or
 - (b) fails to provide a certificate in accordance with paragraph 66(1)(b) and (3).
- (2) The senior tracking officer is not liable to more than one penalty under paragraph 68(1)(a) in respect of the TTH asset and the same tracking period.
- (3) If the purchaser, without reasonable excuse, fails to give a notice in accordance with paragraph 66(2) and (3), the purchaser is liable to a penalty of £5,000.
- (4) If (but for this sub-paragraph) more than one person would be liable for a penalty under sub-paragraph 68(1)(a) or (b) in respect of the TTH asset and a tracking period, only the person who became the senior tracking officer latest in the tracking period is liable to such a penalty.
- 69 (1) Where a senior tracking officer, or the purchaser, becomes liable for a penalty under paragraph 68—
- (a) Her Majesty's Revenue and Customs may assess the penalty, and
 - (b) if they do so, they must notify the person liable for the penalty.
- (2) An assessment of a penalty under this Part for a failure in respect of a tracking period may not be made—
- (a) more than 6 months after the failure first comes to the attention of an officer of Revenue and Customs, or
 - (b) more than 6 years after the filing date for the purchaser's tax return for the tracking period (see paragraph 14 of Schedule 18 to FA 1998).
- (3) See paragraph 94 for provision about appeals against a penalty under paragraph 68.
- 70 (1) A penalty under paragraph 68 must be paid—
- (a) before the end of the period of 30 days beginning with the date on which the notification under paragraph 69 was issued, or
 - (b) if a notice of appeal against the penalty is given, before the end of the period of 30 days beginning with the date on which the appeal is determined or withdrawn.
- (2) A penalty under this Schedule may be enforced as if it were income tax charged in an assessment and due and payable or, in the case of the purchaser, corporation tax charged in an assessment and due and payable.

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