



# Finance Act 1981

## 1981 CHAPTER 35

### PART VII

#### PETROLEUM REVENUE TAX

#### **111 Restriction of expenditure supplement**

- (1) Expenditure taken into account under section 2(9) (b)(i) or (c)(i) of the Oil Taxation Act 1975 (" the principal Act ") in computing the assessable profit or allowable loss accruing to a participator in a chargeable period from an oil field shall not qualify for supplement under section 2(9)(b)(ii) or (c)(ii) of that Act if it is incurred after the end of the chargeable period (" the net profit period ") in which a net profit from the field first accrues to the participator.
- (2) Subject to subsections (3) and (4) below, a net profit shall be treated as having accrued to a participator from an oil field in a chargeable period when the total assessable profits (without any reduction under section 7 or 8 of the principal Act) that have accrued to him from the field in chargeable periods up to and including that period exceed the total allowable losses that have so accrued to him.
- (3) In determining for the purposes of subsection (2) above whether any, and if so what, assessable profit or allowable loss has accrued to a participator from an oil field in a chargeable period—
  - (a) there shall be excluded from its computation any expenditure allowed under Schedule 7 and any loss allowed under Schedule 8 to the principal Act (abortive exploration expenditure and unrelievable field losses);
  - (b) any election under paragraph 9(1) of Schedule 3 to that Act (spreading of allowable expenditure) shall be disregarded ; and
  - (c) in the case of the last chargeable period taken into account in deciding what is the net profit period there shall be included in that computation any amount which, by reason of an adjustment under section 4(9) of that Act (long-term assets) for a claim period ending not later than that period, will fall to be taken into account under paragraph 6 of Schedule 4 to that Act for the next chargeable period.

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- (4) A net profit shall not by virtue of subsection (2) above be treated as having accrued to a participator from an oil field in a chargeable period if—
  - (a) after an assessment or determination has been made in respect of that period under paragraph 10 of Schedule 2 to the principal Act any expenditure incurred before the end of that period is allowed on a claim under Schedule 5 or Schedule 6 to that Act; and
  - (b) a net profit would not have accrued to the participator from the field in that period if that expenditure (or, as respects expenditure allowed under Schedule 5, his share of it) had been taken into account in the assessment or determination together with any amount falling to be taken into account under section 2(9)(b)(ii) or (c) (ii) of the principal Act by reference to (or, as the case may be, to his share of) that expenditure.
- (5) The expenditure referred to in subsection (4) above does not include expenditure allowed for any claim period beginning after the chargeable period in respect of which the assessment or determination was made.
- (6) In the following provisions, that is to say—
  - (a) paragraphs 2(4)(a) and 3(1)(b) of Schedule 5 to the principal Act (claims for and determination of expenditure qualifying for supplement), including those paragraphs as applied by Schedule 6 to that Act; and
  - (b) paragraph 2(4)(b) of the Schedule to the Petroleum Revenue Tax Act 1980 (computation of payment on account),
 references to expenditure qualifying for supplement shall include references to expenditure that would so qualify apart from this section; but the responsible person need not make a claim under paragraph 2 (4) (a) of the said Schedule 5 if it appears to him that none of the expenditure is likely to qualify because of this section.
- (7) This section applies whether the net profit period ends before or after the passing of this Act but subsection (1) above shall not disqualify any expenditure which was incurred before 1st January 1981 or which is incurred before 1st January 1983 in pursuance of a contract entered into before 1st January 1981.

## **112      Restriction of expenditure supplement: transfers of interests**

- (1) Section 111 above shall have effect in accordance with this section where a participator in an oil field has acquired the whole or part of his interest in the field as a result of one or more transfers to him within the meaning of Schedule 17 to the Finance Act 1980, and in this section " the new participator " and " the old participator " mean respectively the first-mentioned participator and any participator from whom he has acquired the whole or part of his interest.
- (2) The new participator's net profit period shall be whichever is the earlier of—
  - (a) his own net profit period as determined in accordance with section 111 above and subsections (3) and (4) below; or
  - (b) subject to subsection (5) below, the chargeable period which is the net profit period of the old participator or, if there are two or more old participators, of whichever of them has the earliest net profit period.
- (3) Where the old participator has transferred the whole of his interest in the field to the new participator, the net profit period of the new participator shall be determined by

treating as if they were his the total assessable profits and allowable losses of the old participator as determined for the purposes of section 111 above.

- (4) Where the old participator has transferred part of his interest in the field to the new participator, the net profit period of the old and new participators shall be determined by treating as if they were the new participator's and not the old participator's such part of the total assessable profits and allowable losses of the old participator (as determined for the purposes of section 111 above) as may be just and reasonable.
- (5) The net profit period of an old participator shall not be taken into account under subsection (2)(b) above if the new participator's own net profit period, as determined without reference under subsection (3) or (4) above to the old participator's assessable profits or allowable losses, fell before the chargeable period in which the new participator acquired the whole or part of the old participator's interest.

### **113 Restriction of expenditure supplement: loss following net profit period**

- (1) This section has effect where the total allowable losses that have accrued to a participator from an oil field in chargeable periods up to and including a chargeable period ending not more than three years after his net profit period exceed the total assessable profits (without any reduction under section 7 or 8 of the principal Act) that have so accrued to him.
- (2) Section 111(1) above shall not disqualify for supplement under section 2(9)(b)(ii) or (c)(ii) of the principal Act expenditure which is incurred up to the end of—
  - (a) the last chargeable period in the three years mentioned in subsection (1) above ; or
  - (b) the chargeable period in which a net profit next accrues to the participator from the field after the chargeable period mentioned in that subsection,whichever is the earlier.
- (3) Subsection (3) of section 111 above shall apply for the purposes of subsection (1) above as it applies for the purposes of subsection (2) of that section and subsections (3), (4) and (5) of that section shall apply for the purposes of subsection (2)(b) above as they apply for the purposes of subsection (2) of that section.

### **114 Restriction of limit on amount of tax payable**

- (1) For section 9 of the principal Act (annual limit on amount of tax payable by participator) there shall be substituted—
  - (1) The tax payable by a participator in an oil field for any chargeable period to which this subsection applies shall not exceed 80 per cent, of the amount (if any) by which his adjusted profit for that period (as defined in this section) exceeds 15 per cent, of his accumulated capital expenditure at the end of that period (as so defined).
  - (1A) Subsection (1) above applies to—
    - (a) any chargeable period from the first chargeable period up to and including the period which is the participator's net profit period for the field for the purposes of section 111 of the Finance Act 1981 or where section 113 of that Act applies, up to and including the earlier of the periods mentioned in subsection (2) of that section; and

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- (b) any subsequent chargeable period up to such number of periods as is equal to half the number of chargeable periods included in paragraph (a) above (counting any resulting fraction of a period as a whole period).
- (2) The adjusted profit of a participator in an oil field for any chargeable period shall be determined as follows—
  - (a) there shall be ascertained—
    - (i) the assessable profit (without any reduction under section 7 or 8 of this Act) or allowable loss accruing to him in that period ; and
    - (ii) the total amount taken into account under section 2(9)(b), (c), (d) and (e) of this Act in computing that profit or loss, excluding expenditure so taken into account under section 2(9)(b)(i) or (c)(i) which was not allowed as qualifying for supplement under section 2(9)(b)(ii) or (O(ii);
  - (b) if there is a profit under paragraph (a)(i) above, the sum of that profit and the total ascertained under paragraph (a)(ii) above is his adjusted profit for the period;
  - (c) if there is a loss under paragraph (a)(i) above smaller than the total ascertained under paragraph (a)(ii) above, the difference is his adjusted profit for the period.
- (3) The accumulated capital expenditure of a participator in an oil field at the end of any chargeable period is the total amount of expenditure taken into account under section 2(9)(b)(i) and (c)(i) of this Act in computing the assessable profit or allowable loss accruing to him in that period and all earlier chargeable periods excluding all expenditure so taken into account which was not allowed as qualifying for supplement under section 2(9)(b)(ii) or (c)(ii).
- (4) Where a participator has made an election under paragraph 9(1) of Schedule 3 to this Act the amount of any reduction by virtue of this section in the tax payable by him for any chargeable period shall not be greater than it would have been if he had not made any such election and for the purposes of subsection (3) above his accumulated capital expenditure at the end of any chargeable period shall be taken to be what it would have been if he had made no such election.”
- (2) In consequence of subsection (1) above, Schedule 17 to the Finance Act 1980 (transfers of interests in oil fields) shall be amended as follows—
  - (a) in paragraph 1(3) for the words from "the transfer period " onwards there shall be substituted the words " ' the transfer period' means the chargeable period in which the transfer takes place ";
  - (b) in paragraph 8(1) for the words from " the last calendar year" onwards there shall be substituted " the last chargeable period before the transfer period ";
  - (c) in paragraph 8(2) for the words " year " (in both places) and " calendar years " there shall be substituted respectively the words " period " and " chargeable periods ";
  - (d) in paragraph 18 for the word " year", wherever it occurs, there shall be substituted the word " period ".
- (3) This section applies whether the net profit period ends before or after the passing of this Act.

## **115 Contracts with deferred payment**

- (1) Expenditure incurred in pursuance of a contract to which this section applies shall not qualify for supplement under section 2(9)(b)(ii) or (c)(ii) of the principal Act.
- (2) This section applies to any contract which is entered into after 1st July 1980 unless—
  - (a) the amount required to be paid under it by the person incurring the expenditure is less than £10 million; or
  - (b) it is reasonable to expect, at the time when the contract is entered into—
    - (i) that not less than 90 per cent, of that amount will be paid within nine months of the date on which the other party begins to perform the contract; or
    - (ii) that a payment or payments in respect of that amount will be made which comply with subsection (3) below;and for the purposes of paragraph (a) above there may be disregarded any provision of the contract allowing for variations in the amount payable to take account of changes in costs or design.
- (3) The payment or payments referred to in subsection (2)(b)(ii) above must be such that the amount to be paid up to any time after the date on which the other party to the contract begins to perform it is equal to not less than 75 per cent, of the amount that would have become payable up to that time if—
  - (a) the payments required to be made under the contract were such that the first of them was payable within six months after that date and each subsequent one within six months after the previous one ; and
  - (b) the first of the payments were required to be of an amount proportionate to the extent to which the contract has been performed by that party since that date and each subsequent one to be of an amount proportionate to the extent to which the contract has been so performed since the previous payment was required to be made.
- (4) Where a contract requires a payment in respect of any period or in respect of the completion of any stage in the performance of the contract to be made within three months after the end of that period or within three months after the completion of that stage the amount to be paid up to any time shall be determined for the purposes of subsection (3) above as if the payment were required to be made at the end of that period or on completion of that stage.
- (5) Where a contract provides for payments in respect of the completion of stages in the performance of separate parts of the work specified in the contract, the payments under the contract shall be treated as complying with subsection (3) above if the payments attributable to each part of the contract would have complied with that subsection if that part had been the subject of a separate contract.

## **116 Spreading of capital expenditure**

- (1) For paragraph 9 of Schedule 3 to the principal Act (spreading of capital expenditure) there shall be substituted—
  - “9 (1) A participator in an oil field may by notice in writing to the Board elect—
    - (a) that the relief for supplemented expenditure to be taken into account in computing the assessable profit or allowable loss

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accruing to him from the field in the chargeable period specified in the notice shall not exceed such amount as is so specified; and

- (b) that any excess shall be dealt with in accordance with the following provisions of this paragraph.

- (2) Subject to sub-paragraphs (3) and (4) below, one-twentieth of any excess of the relief over the amount specified for the chargeable period in question shall be taken into account in computing the assessable profit or allowable loss accruing to the participator from the field in each of the next twenty chargeable periods.
- (3) A participator may, in the first notice given by him under sub-paragraph (1) above in respect of a field, elect that sub-paragraph (2) above shall have effect in relation to that and any subsequent notice given by him in respect of that field with the substitution for the denominator of the fraction and the number of chargeable periods of such number, being three, five, ten or fifteen, as is specified in the election.
- (4) A participator may by a notice in writing given to the Board and applying to any of the chargeable periods referred to in sub-paragraph (2) above before the last elect that so much of the excess as has not been taken into account in a previous chargeable period shall be taken into account in the period specified in the notice instead of partly in that period and partly in the subsequent periods.
- (5) Any notice under this paragraph shall be in such form as the Board may prescribe and shall be given within three months after the end of the chargeable period to which it relates or, if later, twenty-seven months after the end of the first chargeable period of the field.
- (6) Any tax charged or repayable in respect of the first four chargeable periods of an oil field in consequence of an election under this paragraph shall not carry interest under paragraph 15 or 16 of Schedule 2 to this Act in respect of any period before the date of the election.
- (7) In this paragraph 'relief for supplemented expenditure' means the amount attributable to expenditure qualifying for supplement under paragraph (b) (ii) or (c) (ii) of section 2(9) of this Act which would, apart from any election under this paragraph, fall to be taken into account under paragraph (b) or (c) of section 2(9) in computing the assessable profit or allowable loss accruing to the participator from the field in the chargeable period in question ; and the reference in this sub-paragraph to the amount attributable to expenditure qualifying for supplement as aforesaid includes the amount attributable to the expenditure itself as well as to the amount calculated by reference to it under the said paragraph (b) (ii) or (c) (ii)."

- (2) For paragraph 10 of Schedule 3 to the principal Act there shall be substituted—

“10       Where a participator has made an election under paragraph 9(1) above the reduction to be made in his case under section 8(1) of this Act for any chargeable period (whether or not that to which the election relates) shall not be greater than it would have been if he had made no such election.”

- (3) This section has effect in relation to any chargeable period ending after 31st December 1979.

## **117 Spreading of capital expenditure: transitional provisions**

- (1) Where allowable losses have accrued to a participator from an oil field in chargeable periods ending before 1st January 1980 he may by notice in writing given to the Board elect that so much of those losses as would, apart from this section, be available for set off under section 7 of the principal Act against assessable profits accruing to him from the field in chargeable periods beginning on or after that date shall instead be treated as an amount of relief for supplemented expenditure which, subject to any election under paragraph 9 of Schedule 3 to that Act, falls to be taken into account in computing the assessable profit or allowable loss accruing to him from the field in the chargeable period ending on 30th June 1980.
- (2) The amount to which an election under this section applies shall not exceed the total amount of relief for supplemented expenditure taken into account in computing the assessable profits or allowable losses accruing to the participator in chargeable periods ending before 1st January 1980.
- (3) Any notice under this section shall be in such form as the Board may prescribe and shall be given before 1st April 1982; and—
  - (a) any notice under paragraph 9 of Schedule 3 to the principal Act in respect of a chargeable period ending before that date shall not be out of time if given before that date;
  - (b) any tax charged or repayable in respect of any such chargeable period in consequence of an election under that paragraph shall not carry interest under paragraph 15 or 16 of Schedule 2 to that Act in respect of any period before the date of the election.
- (4) In section 111(3)(b) above and in section 9(4) of, and paragraph 10 of Schedule 3 to, the principal Act references to an election under paragraph 9(1) of that Schedule shall include references to an election under this section.
- (5) This section shall be construed as one with Part I of the principal Act and paragraph 9(7) of Schedule 3 to that Act shall apply for the interpretation of subsections (1) and (2) above.

## **118 Licence payments other than royalties**

- (1) For the purpose of computing under section 2 of the principal Act the assessable profit or allowable loss accruing to a participator in any chargeable period from an oil field—
  - (a) there shall be included as a positive amount any chargeable sum paid to the participator in the period by the Secretary of State; and
  - (b) there shall be included as a negative amount any allowable sum paid by the participator in the period to the Secretary of State.
- (2) In this section "chargeable sum" and "allowable sum" mean any sum which after 31st December 1980 is paid to a participator by the Secretary of State or, as the case may be, by the participator to the Secretary of State by reference to a relevant licence except—
  - (a) any sum falling to be taken into account under section 2(6) of the principal Act (licence debit or credit) or section 3(1)(b) of that Act (payment under or for the purpose of obtaining a relevant licence);
  - (b) any sum consisting of interest on a sum payable to or by the Secretary of State;

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- (c) any repayment by the Secretary of State under section 41(3) of the Petroleum and Submarine Pipe-lines Act 1975 (repayment of royalty for facilitating or maintaining the development of United Kingdom petroleum resources); and
  - (d) any payment or repayment of royalty in respect of excluded oil (as denned in section 10 of the principal Act) and any other payment attributable to such oil.
- (3) Where the relevant licence by reference to which a chargeable sum or allowable sum is paid relates to a licensed area comprising the whole or part of two or more oil fields, that sum shall for the purposes of this section be apportioned between all or any of those fields, or attributed wholly to one of them, as may be just and reasonable.
- (4) A return under paragraph 2 of Schedule 2 to the principal Act shall include a statement of the chargeable sums and allowable sums, if any, paid to or by the participator in the chargeable period to which the return relates.
- (5) In considering for the purposes of paragraph 8(1) of Schedule 3 to the principal Act (subsidised expenditure) how far any expenditure has been or is to be met directly or indirectly by the Crown or by any authority or person other than the person incurring the expenditure, any chargeable sum shall be left out of account.
- (6) This section shall be construed as one with Part I of the principal Act.

#### **119      Transportation costs for off-shore oil**

- (1) In section 3(4)(c) of the principal Act (buildings and structures eligible for expenditure relief) after paragraph (iii) there shall be inserted—
- “(iv) a building or structure used or to be used for transporting such oil as is mentioned in subsection (1)(f) above from the place where it is first landed in the United Kingdom to the place in the United Kingdom at which the seller in a sale at arm's length could reasonably be expected to deliver it or, if there is more than one place at which he could reasonably be expected to deliver it, the one nearest to the place of extraction ; or”.
- (2) This section shall have effect in relation to any expenditure in respect of which a claim is made after 31st December 1978.

#### **120      Deduction of petroleum revenue tax in computing income for corporation tax**

In section 17(1) of the principal Act (deduction of petroleum revenue tax in computing income for corporation tax) for the words from " For the purposes of this subsection " onwards there shall be substituted—

“For the purposes of this subsection the relevant accounting period, in relation to any petroleum revenue tax paid by a company, is—

- (a) the accounting period of the company in or at the end of which the chargeable period for which that tax was charged ends ; or
- (b) if that chargeable period ends after the accounting period of the company in or at the end of which the trade giving rise to the income referred to above is permanently discontinued, that accounting period.”.



## **121 Gas banking schemes**

Regulations under section 108 of the Finance Act 1980 (gas banking schemes) may provide for the modifications made by them to have effect from a date before the regulations are made and for any election made under that section to have effect from a date before the election is made.