

SCHEDULES

SCHEDULE 16

Section 128(1).

SUPPLEMENTARY PETROLEUM DUTY

Management

- 1 The duty shall be under the care and management of the Board.
- 2 (1) The provisions of the Taxes Management Act 1970 which are applied in relation to petroleum revenue tax by paragraph 1 of Schedule 2 to the principal Act shall apply also in relation to the duty.
(2) Those provisions shall apply with the same modifications as are specified in the said paragraph 1, taking references to Part I of the principal Act as including references to Part VIII of this Act.

Returns and information

- 3 The particulars contained in returns made under paragraph 2 or 5 of Schedule 2 to the principal Act (returns by participators and by the responsible person for an oil field) shall be treated as furnished, and the powers conferred on the Board by paragraph 7 of that Schedule (production of accounts etc.) shall be exercisable, for the purposes of the duty as well as for the purposes of petroleum revenue tax, and accordingly references to that tax in paragraphs 3(2) and 8(1) and (2) of that Schedule (penalties) shall include references to the duty.

Assessments and determinations

- 4 (1) Where it appears to the Board that, in accordance with Part VIII of this Act, a gross profit has accrued to a participator in a chargeable period from an oil field, they shall make an assessment to the duty on the participator and give him notice of the assessment.
(2) Where it appears to the Board that, in accordance with Part VIII of this Act, no gross profit has accrued to a participator in a chargeable period from an oil field, they shall make a determination to that effect and give him notice of the determination.
(3) A notice of assessment shall state that the participator may appeal against the assessment in accordance with paragraph 7 below.
(4) After the service of the notice of assessment or the notice of determination the assessment or determination, as the case may be, shall not be altered except in accordance with the provisions applied by paragraph 2 above or the subsequent provisions of this Schedule.
- 5 (1) Where a participator has under paragraph 2 of Schedule 2 to the principal Act delivered to the Board a return for a chargeable period and the Board are satisfied that the information given in the return is correct in so far as it is material for the

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purpose of computing his gross profit (if any) for that period, the Board shall (in so far as the computation falls to be made by reference to the matters dealt with in the return) make the assessment or determination under paragraph 4 above in accordance with the return.

- (2) Where the Board are not so satisfied in relation to a participator's return or a participator fails to deliver to the Board a return for a chargeable period as required by the said paragraph 2, the Board shall, in so far as the computation of his gross profit (if any) for that period falls to be made by reference to the matters which were dealt with in the return or, as the case may be, ought to have been dealt with in a return, make the assessment or determination under paragraph 4 above to the best of their judgment.
 - (3) Nothing in sub-paragraph (2) above or in paragraph 5 of Schedule 2 to the principal Act shall be taken, in a case where the participator has delivered a return as to which the Board are not satisfied as mentioned in sub-paragraph (1) above, to prevent the Board from basing their assessment or determination on the participator's having had an interest in oil won and saved from the field different from that on which he based his return.
- 6 (1) Where it appears to the Board—
- (a) that the gross profit charged to the duty by an assessment ought to have been larger or smaller; or
 - (b) that for any period they ought to have made an assessment to the duty instead of a determination under paragraph 4(2) above or such a determination instead of an assessment to the duty,
- the Board may make any such assessment or determination or any such amendment of an assessment as may be necessary.
- (2) Where under this paragraph the Board make an assessment or determination or amend an assessment, they shall give notice thereof to the participator concerned; and sub-paragraphs (3) and (4) of paragraph 4 above shall apply in relation to any such assessment, determination or amendment as they apply in relation to an assessment or determination under that paragraph.

Appeals

- 7 (1) A participator may appeal to the Special Commissioners against an assessment or an amendment of an assessment made on him by notice of appeal in writing given to the Board within thirty days after the date of issue of the notice of assessment or of the amendment.
- (2) The notice of appeal shall specify the grounds of appeal, but on the hearing of the appeal the Commissioners may allow the appellant to put forward any ground not specified in the notice, and may take it into consideration if satisfied that the omission was not wilful or unreasonable.
- (3) The participator may at any time, if the Board do not object, abandon an appeal instituted by him; and for that purpose he shall notify his desire to do so to the Board who may, within thirty days after being so notified, object by notice in writing to the participator.
- (4) Where at any time between—

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- (a) the giving of a notice of appeal against the assessment or the amendment of the assessment or from a decision of the Board on a claim under section 33 of the Taxes Management Act 1970 as applied by paragraph 2 above; and
 - (b) the determination of the appeal by the Special Commissioners,

the Board and the participator agree on how the assessment, amendment or decision should be varied or on what assessment or determination should be substituted in relation to the chargeable period in question, the same consequences shall ensue as if the Commissioners had determined the appeal to that effect.
 - (5) If, on the appeal against an assessment or an amendment of an assessment, it appears to the majority of the Commissioners present at the hearing that the assessment or amendment is wrong—
 - (a) because no, or a smaller, gross profit has accrued for the chargeable period in question; or
 - (b) because a, or a larger, gross profit has accrued for that period,

the Commissioners shall vary the assessment or amendment in such manner, or substitute such determination, as may be required; and it shall be for the participator to satisfy the Commissioners as to any matters within paragraph (a) above.
 - (6) Save as otherwise provided by this Schedule (including the provisions applied by paragraph 2 above) the determination by the Special Commissioners of any appeal shall be final and conclusive.
- 8
- (1) A participator who has given notice of appeal under paragraph 7 above against an assessment charging him with any duty for a chargeable period may, if he delivered a return for that period as required by paragraph 2 of Schedule 2 to the principal Act, withhold, until the determination or abandonment of the appeal, so much of the duty charged in the assessment as is the smaller of—
 - (a) the amount of the duty so charged ; and
 - (b) duty on the difference between—
 - (i) the aggregate of the consideration received or receivable for oil as stated in the participator's return in pursuance of sub-paragraph (2) of the said paragraph 2 and, subject to sub-paragraph (2) below, the market value of oil so stated ; and
 - (ii) the aggregate of the corresponding consideration and value as included in the assessment.
 - (2) Subject to sub-paragraph (3) below, where the market value of all the oil for which a market value is stated in the participator's return is, as stated in that return, less than the value which is produced for that oil by applying to it the average price mentioned in sub-paragraph (4) below, sub-paragraph (1) above shall have effect as if, for the reference to the market value of oil as so stated, there were substituted a reference to the value which is so produced for that oil.
 - (3) The comparison of values and the substitution required by sub-paragraph (2) above shall, in the case of an appeal by a participator whose return relates both to gas and to other oil, be made separately for the gas and for the other oil.
 - (4) The average price referred to in sub-paragraph (2) above is the average price at which all oil included in the relevant returns as oil delivered in the period covered by the returns and disposed of in sales at arm's length was so disposed of.

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- (5) The relevant returns for the purposes of sub-paragraph (4) above are all the returns of all the participators in all oil fields which—
- (a) were made for the chargeable period preceding that to which the appeal relates ; and
 - (b) were delivered before the end of the chargeable period to which the appeal relates.
- (6) Where in determining the gross profit accruing to a participator from a field in a chargeable period the aggregate of the amounts mentioned in section 2(5)(a), (b) and (c) of the principal Act falls to be increased under section 123 of this Act (whether as respects all oil or as respects a particular kind or kinds of oil) the difference mentioned in sub-paragraph (1)(b) above (or, as the case may be, the difference so far as relating to oil of the particular kind or kinds in question) shall be increased by multiplying it by the fraction mentioned in subsection (2) of that section.

Payment

- 9 Subject to paragraphs 7 and 8 above, the duty charged in an assessment made on a participator for any chargeable period, so far as not paid under paragraphs 10 and 11 below, shall be payable by him four months after the end of that chargeable period or, if later, thirty days after the date of issue of the notice of assessment.
- 10 (1) Every participator in an oil field shall, at the time when he delivers to the Board the return for a chargeable period required by paragraph 2 of Schedule 2 to the principal Act—
- (a) deliver to the Board a statement showing whether any, and if so what, amount of duty is payable by him under this paragraph for that period in respect of the field; and
 - (b) pay to the Board a sum equal to the amount of duty, if any, shown in the statement
- (2) The statement under sub-paragraph (1)(a) above shall be in such form as the Board may prescribe.
- (3) For the purposes of sub-paragraph ((1)(a)) above the duty payable by a participator for any chargeable period in respect of an oil field shall be determined by him by—
- (a) calculating the gross profit accruing to him for that period from the field by reference to the particulars included in the return in pursuance of paragraph 2(2) of Schedule 2 to the principal Act (and without regard to sections 123 and 124 of this Act);
 - (b) making any addition required by section 123 of this Act;
 - (c) making the reduction required by section 124 of this Act; and
 - (d) applying to the result the percentage rate at which the duty is chargeable for the period.
- (4) The sum paid under sub-paragraph (1)(b) above shall constitute a payment on account of the duty charged in any assessment made on the participator in respect of the gross profit accruing to him for the chargeable period from the oil field ; and if the payment on account exceeds the duty so charged the excess shall be repaid to the participator.
- (5) Where a participator gives notice of appeal under paragraph 7 above against an assessment charging duty in respect of which he has made a payment on account, the

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amount, if any, to be repaid under sub-paragraph (4) above shall be calculated as if the duty charged in the assessment were limited to the duty which he would not be entitled to withhold under paragraph 8 above.

- 11 (1) Subject to sub-paragraphs (4) and (6) below, every participator in an oil field shall, in the third month of each chargeable period and in each of the four succeeding months, make to the Board an advance payment of duty in respect of the field for that period.
- (2) The amount of each payment shall be equal to one-fifth of the amount, if any, shown in the statement delivered by the participator under paragraph 10(1)(a) above as payable by him in respect of the field for the last chargeable period.
- (3) The aggregate of the advance payments of duty made by a participator in respect of a field for a chargeable period—
- (a) shall, to the extent to which it does not exceed the sum which sub-paragraph (1)(b) of paragraph 10 above requires him to pay when delivering his return for that period in respect of the field—
 - (i) discharge his liability to pay the whole or a corresponding part of that sum ; and
 - (ii) be treated for the purposes of sub-paragraph (4) of that paragraph as if it were, or were part of, a sum paid by him under sub-paragraph (1) (b) of that paragraph ; and
 - (b) shall, to the extent to which it exceeds the sum required to be paid as aforesaid, be repaid to him.
- (4) If in any month in a chargeable period a participator in an oil field—
- (a) has not delivered (otherwise than to the Secretary of State) any of the oil which has been won from the field and disposed of by him at any time in or before that month ; and
 - (b) has not relevantly appropriated any of the oil which has been so won by him at any such time,
- he shall be entitled to withhold the advance payment of duty (if any) in respect of the field for that period which next falls to be made by him after the end of that month.
- (5) An advance payment shall not be withheld by virtue of the conditions in sub-paragraph (4) above being fulfilled in any month unless a notice to that effect, in such form as the Board may prescribe, is given to the Board before the end of the next month and—
- (a) where the Board are not satisfied with any such notice the powers conferred by paragraph 7 of Schedule 2 to the principal Act (production of accounts etc.) shall be exercisable as if the notice were a return under paragraph 2 of that Schedule ; and
 - (b) paragraph 8 of that Schedule (penalties) shall apply to an incorrect notice as it applies to an incorrect return under paragraph 2.
- (6) No advance payment of duty shall be made in respect of the first chargeable period to which Part VIII of this Act applies or in respect of the first chargeable period for any oil field.
- 12 Certificates of tax deposit issued by the Treasury under section 12 of the National Loans Act 1968 on terms published on or before 14th May 1979 may be used for making payments of duty; and for that purpose those terms shall have effect with the necessary modifications and as if the duty in or towards the payment of which a certificate is used were due—

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- (a) in the case of duty payable under paragraph 9 or 10 above, two months after the end of the chargeable period to which it relates ;
- (b) in the case of duty payable under paragraph 11 above, at the end of the month in which it is required to be paid.

Interest

- 13 (1) Duty charged in an assessment for a chargeable period shall carry interest at the rate applying under paragraph 15 of Schedule 2 to the principal Act from two months after the end of the period until payment.
- (2) Any amount payable by a participator as an advance payment of duty in respect of a field for a chargeable period and not paid by him in the month in which it ought to be paid shall carry interest at the rate applying under paragraph 15 of Schedule 2 to the principal Act from the end of that month until—
- (a) payment of the amount; or
 - (b) two months after the end of that period,
- whichever is the earlier.
- (3) Where under paragraph 8 above duty may be withheld until the determination or abandonment of an appeal, the interest on that duty may also be withheld until the determination or abandonment of the appeal.
- (4) Where any amount of duty charged by an assessment or paid on account of duty so charged becomes repayable, that amount shall carry interest at the rate applying under paragraph 15 of Schedule 2 to the principal Act from—
- (a) two months after the end of the chargeable period for which the assessment was made ; or
 - (b) the date on which it was paid,
- whichever is the later, until repayment.
- (5) Where any amount of duty paid as an advance payment becomes repayable under paragraph 11(3)(b) above, that amount shall carry interest at the rate applying under paragraph 15 of Schedule 2 to the principal Act from—
- (a) two months after the end of the chargeable period in respect of which it was paid ; or
 - (b) the date on which it was paid,
- whichever is the later, until repayment.
- (6) For the purposes of sub-paragraph (2) above a payment of overdue duty shall, so far as possible, be attributed to the earliest month for which duty is overdue; and for the purposes of sub-paragraphs (4) and (5) above any amount that becomes repayable shall, so far as possible, be regarded as consisting of the duty most recently paid.
- (7) In its application (by virtue of paragraph 2(1) above) to interest payable under sub-paragraph (2) above, section 69 of the Taxes Management Act 1970 shall have effect with the omission of the words "charged and due and payable under the assessment to which it relates ".
- (8) Interest paid to a participator under sub-paragraph (4) or (5) above shall be disregarded in computing his income for the purposes of corporation tax.

Transfers to associated companies

- 14 In paragraph 5(2) and (4) of Schedule 3 to the principal Act (liability for petroleum revenue tax and interest in the case of transfers to associated companies) the references to tax and to interest payable under Part I of that Act shall include references to the duty and to interest payable under paragraph 13 above.