



Finance Act 1999

1999 CHAPTER 16

PART IV

OIL TAXATION

94 Excluded oil

- (1) This section applies where—
 - (a) a contract (“the old contract”) provides for the sale by a person (“A”) of oil consisting of gas to the British Gas Corporation or one of its successors (“the purchaser”);
 - (b) the old contract is a contract made, or treated (by virtue of this section) as made, before the end of June 1975;
 - (c) the old contract is replaced by a contract (“the new contract”) for the sale of oil consisting of gas to the purchaser made after the end of June 1975; and
 - (d) any of the rights and liabilities which, under the old contract, were rights and liabilities of A are, under the new contract, rights and liabilities of another person (“B”).
- (2) The new contract shall be treated for the purposes of section 10(1)(a) of the Oil Taxation Act 1975 as the same contract as the old contract unless the rights and liabilities of B under the new contract are so different from those of A under the old contract that a contract conferring those rights and imposing those liabilities on A could not have been regarded as the same contract as the old contract.
- (3) For the purposes of subsection (1) above the successors of the British Gas Corporation are—
 - (a) British Gas plc; and
 - (b) British Gas Trading Limited.
- (4) This section shall be deemed always to have had effect.

Status: This is the original version (as it was originally enacted).

95 Sale and lease-back

- (1) This section applies to a lease (“the lease in question”) of an asset (“the relevant asset”) where—
- (a) a person (“the seller”) who is a participator in an oil field (“the seller’s oil field”) has made a disposal in a chargeable period of the relevant asset or an interest in it;
 - (b) the relevant asset was a qualifying asset in relation to the seller and the seller’s oil field is the chargeable field in relation to it;
 - (c) the relevant asset is used in connection with an oil field (“the lessee’s oil field”) by a participator in that field (“the lessee”) under the lease in question;
 - (d) the seller, or a person connected with him at any time in the relevant period, is the lessee; and
 - (e) the lessee uses the relevant asset before the end of the period of two years beginning with the disposal.
- (2) Subject to subsection (8) below, to the extent that the expenditure falling within subsection (3) below exceeds the amount of the cap, that expenditure shall not be allowable under section 3 or 4 of the principal Act or section 3 of the Oil Taxation Act 1983 for the lessee’s oil field.
- (3) That expenditure is the aggregate of the following—
- (a) the total expenditure, excluding operating expenditure, incurred by the lessee under the lease in question; and
 - (b) if at any time after the disposal he acquires the relevant asset or an interest in it, the total expenditure (not falling within paragraph (a) above) incurred by him in acquiring the asset or interest.
- (4) Subject to subsections (5) to (7) below—
- (a) if the period in which the disposal was made is one in which the seller has benefitted from safeguard relief, the amount of the cap is the smaller of—
 - (i) the amount given by dividing the marginal tax on the disposal receipts by the applicable rate of tax; and
 - (ii) the amount of the disposal receipts; and
 - (b) in any other case the amount of the cap is the amount of the disposal receipts.
- (5) Subject to subsection (7) below, where at the relevant time there are, in relation to the relevant asset, two or more leases to which this section applies, the amount of the cap for the lease in question shall be the appropriate proportion of the cap found by applying subsection (4) above.
- (6) For the purposes of subsection (5) above the appropriate proportion is the proportion given by the formula—

$$\frac{A}{B}$$

where—

A is the proportion of the total use of the relevant asset during the term of the lease in question that is expected to be use under the lease; and

B is—

- (a) in a case where the seller disposed of the whole of the relevant asset, one; and

- (b) in any other case, the proportion that the value of the interest disposed of by him bore to the total value of the relevant asset.
- (7) Where at the relevant time the relevant asset is used, or is expected to be used, by the lessee under the lease in question in connection with two or more oil fields, the amount of the cap for each of the fields shall be so much of the cap found by applying subsections (4) to (6) above as accords with the proportion of the use of the asset under the lease that is expected, at that time, to be—
 - (a) use in connection with that field; or
 - (b) use giving rise to tariff receipts of the lessee attributable to that field.
- (8) Where—
 - (a) expenditure falling within subsection (3) above has been allowed for the lessee's oil field, on a claim under Schedule 5 or 6 to the principal Act, on the basis that the cap was of a particular amount;
 - (b) information later becomes available to the Board which establishes that the cap is not of that amount; and
 - (c) the amount that was allowed exceeds the amount (if any) of the expenditure falling within that subsection that would have been allowed on the claim if the information had been available when the expenditure was allowed,the excess shall continue to be allowable.
- (9) Subject to subsection (10) below, this section and sections 96 and 97 below apply to assets, or interests in assets, disposed of on or after 9th March 1999.
- (10) This section and those sections do not apply to assets, or interests in assets, disposed of pursuant to an agreement made before that date if—
 - (a) the agreement is not conditional; or
 - (b) the agreement is conditional and the condition is satisfied before that date.

96 Transfer of field interest

- (1) This section applies where—
 - (a) section 95 above has applied to a lease;
 - (b) the lessee has transferred the whole or part of his interest in the lessee's oil field; and
 - (c) pursuant to the transfer, the relevant asset is used in connection with that oil field under a lease ("the new participator's lease") by the person who is the new participator in relation to the transfer.
- (2) Subject to subsection (4) below, section 95 above shall have effect as if the new participator were the lessee and the new participator's lease were the lease in question.
- (3) The reference in subsection (1)(b) above to the lessee includes a reference to a successor of his; and subject to subsection (4) below, the expenditure that the new participator is treated by virtue of subsection (2) above as having incurred includes—
 - (a) any expenditure, excluding operating expenditure, incurred by the lessee or a successor of his under the lease in question or a lease of the relevant asset; and
 - (b) any expenditure (not falling within paragraph (a) above) incurred by the lessee or a successor of his after the disposal mentioned in section 95(1)(a) above in acquiring the relevant asset or an interest in it.

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- (4) Where the transfer mentioned in subsection (1)(b) above, or any antecedent transfer, was a transfer of part of the transferor's interest in the lessee's oil field—
- (a) the amount of the cap which is applicable by virtue of subsection (2) above shall be so much of the cap that would be applicable apart from this subsection as accords with the proportion of the lessee's interest in the field that is represented by the new participator's interest in the field; and
 - (b) the expenditure incurred (as mentioned in subsection (3) above) by the lessee or any successor of his that is treated, by virtue of subsection (2) above, as expenditure incurred by the new participator shall be so much of the expenditure incurred (as so mentioned) by the person concerned as accords with the proportion of that person's interest in the field that is represented by the new participator's interest in the field.
- (5) A person is a successor of the lessee for the purposes of this section if and only if—
- (a) this section has applied to an earlier transfer by the lessee or a successor of his of the whole or part of his interest in the lessee's oil field; and
 - (b) that person was the new participator in relation to the earlier transfer and used the relevant asset under the lease in connection with that oil field.
- (6) In this section "antecedent transfer" means a transfer (other than the transfer mentioned in subsection (1)(b) above) by the lessee or a successor of his of the whole or part of his interest in the lessee's oil field, pursuant to which the relevant asset was used as mentioned in subsection (1)(c) above.

97 Provisions supplementary to ss. 95 and 96

- (1) For the purposes of section 95 above the marginal tax on the disposal receipts is the difference between—
- (a) the amount of tax to which the seller is chargeable on the assessable profit accruing to him from the seller's oil field in the period in which the asset or interest was disposed of; and
 - (b) the amount of tax to which the seller would have been so chargeable if the amount or value of the consideration received or receivable by him in respect of the disposal in that period of the asset or interest had been nil.
- (2) For the purposes of that section—
- (a) any question whether a person is connected with the seller shall be determined in accordance with the provisions of section 839 of the Taxes Act 1988;
 - (b) the relevant period is the period beginning with the time of the disposal of the asset or interest and ending with the time when the first claim is made for the allowance, for the lessee's oil field, of expenditure incurred by the lessee or a successor of his under the lease in question or a lease of the relevant asset (and in this paragraph the reference to the lessee includes a reference to a person who is treated as the lessee by virtue of section 96 above);
 - (c) the applicable rate of tax is the rate at which tax is charged under section 1(2) of the principal Act at the time of the disposal of the asset or interest;
 - (d) the amount of the disposal receipts is the aggregate of the amount or value of any consideration received or receivable by the seller in respect of the disposal of the asset or interest;
 - (e) a chargeable period is a period in which the seller benefits from safeguard relief if and only if the tax payable by the seller for that period is less than it

- would have been if section 9 of the principal Act (safeguard relief) had not been enacted;
- (f) the relevant time is the end of the earliest claim period for which a claim such as is mentioned in paragraph (b) above is made; and
 - (g) tariff receipts of the lessee shall be taken to be attributable to an oil field if and only if they are attributable to the field for any chargeable period for the purposes of the Oil Taxation Act 1983.
- (3) In section 96 above references—
- (a) to the transfer by a person of the whole or part of his interest in the lessee’s oil field; or
 - (b) in relation to a transfer, to the new participator,
- shall be construed in accordance with Schedule 17 to the Finance Act 1980.
- (4) The expenditure which for the purposes of sections 95 and 96 above shall be taken to be operating expenditure shall be so much of the expenditure incurred by the lessee or, as the case may be, a successor of his under the lease concerned as appears, on a just and reasonable estimate, to be operating expenditure.
- (5) References in this section to a successor of the lessee shall be construed in accordance with section 96(5) above.
- (6) In this section and sections 95 and 96 above—
- “the chargeable field” has the same meaning as in the Oil Taxation Act 1983;
 - “lease”, in relation to an asset, has the same meaning as in sections 781 to 784 of the Taxes Act 1988;
 - “the lease in question”, “the lessee”, “the lessee’s oil field”, “the relevant asset”, “the seller” and “the seller’s oil field” shall be construed in accordance with section 95(1) above;
 - “operating expenditure” means expenditure (for example, in respect of the provision of staff or crew or the maintenance or operation of the relevant asset) of such a nature that the lessee or, as the case may be, his successor would or might have incurred it, otherwise than under any arrangements to finance his ownership, if he had been the owner of the asset;
 - “the new participator’s lease” shall be construed in accordance with section 96(1) above;
 - “the principal Act” means the Oil Taxation Act 1975;
 - “qualifying asset” has the same meaning as in the Oil Taxation Act 1983;
 - and
 - “tariff receipts” has the same meaning as in that Act.
- (7) This section and sections 95 and 96 above shall be construed as one with Part I of the principal Act.

98 Qualifying assets

- (1) Subsection (2) below applies where—
- (a) an asset which is not a mobile asset is a qualifying asset for the purposes of the Oil Taxation Act 1983 in relation to a person (“the taxpayer”) who is a participator in an oil field (“the field”);

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- (b) tariff receipts or disposal receipts of the taxpayer which are referable to the asset are attributable to the field for a chargeable period (“the earlier period”);
 - (c) receipts of the taxpayer which are referable to the asset for a subsequent chargeable period (“the later period”) would not, apart from this section, be tariff receipts or disposal receipts attributable to the field for that period as a result of—
 - (i) the taxpayer’s ceasing to be a participator in the field; or
 - (ii) his becoming a participator in another oil field; and
 - (d) not more than two chargeable periods intervene between the earlier period and the later period.
- (2) The Oil Taxation Acts shall have effect, in relation to the later period and any subsequent chargeable period, as if—
- (a) receipts of the taxpayer which are referable to the asset for the period concerned were tariff receipts or disposal receipts attributable to the field for that period; and
 - (b) in a case falling within subsection (1)(c)(i) above, the taxpayer continued to be a participator in the field.
- (3) Subsection (4) below applies where—
- (a) an asset which is not a mobile asset is a qualifying asset for the purposes of the Oil Taxation Act 1983 in relation to a person (“the taxpayer”) who is a participator in an oil field (“the field”);
 - (b) tariff receipts or disposal receipts of the taxpayer which are referable to the asset are attributable to the field for a chargeable period (“the earlier period”);
 - (c) in a subsequent chargeable period (“the later period”) the taxpayer disposes of—
 - (i) the asset; or
 - (ii) an interest in the asset,
 to another person (“the transferee”) in circumstances such that section 7 of the Oil Taxation Act 1983 does not apply to the disposal; and
 - (d) not more than two chargeable periods intervene between the earlier period and the later period.
- (4) The Oil Taxation Acts shall have effect, in relation to the later period and any subsequent chargeable period, as if—
- (a) receipts of the transferee which are referable to the asset for the period concerned were tariff receipts or disposal receipts attributable to the field for that period; and
 - (b) the transferee were a participator in the field.
- (5) Subject to subsection (6) below, any reference in this section to receipts of any person which are referable to the asset for a period is a reference to any sums which—
- (a) are received or receivable by that person in that period in respect of the use of the asset, or the provision of services or other business facilities of whatever kind in connection with its use; or
 - (b) are received or receivable by that person in respect of the disposal in that period of the asset, or an interest in the asset.
- (6) In a case falling within subsection (3)(c)(ii) above—

- (a) any sums which are received or receivable by the transferee otherwise than by virtue of his acquisition of the interest shall not be regarded for the purposes of subsection (4) above as receipts of his which are referable to the asset for any period; and
 - (b) for the purposes of paragraph (a) above, such apportionments shall be made as may be just and reasonable.
- (7) This section shall be construed as one with Part I of the Oil Taxation Act 1975; and in this section “the Oil Taxation Acts” means—
- (a) the enactments relating to petroleum revenue tax (including this section);
 - (b) Chapter V of Part XII of the Taxes Act 1988 (petroleum extraction activities); and
 - (c) sections 62 to 65 of the Finance Act 1991 (oil industry).
- (8) Nothing in this section shall be taken to affect the meaning of “participator” in paragraph 4 of Schedule 2 to the principal Act.
- (9) Subject to subsection (11) below, subsection (1) above applies where—
- (a) the disposal by virtue of which the taxpayer ceased to be a participator in the field; or
 - (b) the acquisition by virtue of which he became a participator in the other oil field,
- was made on or after 1st July 1999.
- (10) Subject to subsection (11) below, subsection (3) above applies where the asset, or the interest in the asset, was disposed of on or after that date.
- (11) Neither subsection (1) nor subsection (3) above applies where the disposal or acquisition concerned was made pursuant to an agreement which was made before 1st July 1999 and either—
- (a) the agreement was not conditional; or
 - (b) the agreement was conditional and the condition was satisfied before that date.

99 PRT instalments

- (1) In paragraph 3 of Schedule 19 to the Finance Act 1982 (months in which instalments may be withheld)—
- (a) in sub-paragraph (1), at the beginning there shall be inserted “Subject to sub-paragraph (1A) below,” and after “month” there shall be inserted “(the relevant month)”; and
 - (b) after that sub-paragraph there shall be inserted the following sub-paragraph—
- “(1A) Sub-paragraph (1) above does not apply if the relevant month is a month in which any consideration (whether in the nature of income or capital) is received or receivable by the participator in respect of any such matter as is mentioned in paragraph (a) or (b) of section 6(2) of the Oil Taxation Act 1983 (chargeable tariff receipts).”
- (2) Subsection (1) above applies for the purpose of determining whether instalments are payable in respect of chargeable periods ending on or after 31st December 1999.

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100 Sale and lease-back: ring fence profits

(1) After section 494 of the Taxes Act 1988 there shall be inserted the following section—

“494AA Sale and lease-back

- (1) This section applies where—
- (a) a company (“the seller”) carrying on a trade has disposed of an asset which was used for the purposes of that trade, or an interest in such an asset;
 - (b) the asset is used, under a lease, by the seller or a company associated with the seller (“the lessee”) for the purposes of a ring fence trade carried on by the lessee; and
 - (c) the lessee uses the asset before the end of the period of two years beginning with the disposal.
- (2) Subject to subsection (4) below, subsection (3) below applies to so much (if any) of the expenditure incurred by the lessee under the lease as—
- (a) falls, in accordance with normal accountancy practice, to be treated in the accounts of the lessee as a finance charge; or
 - (b) would so fall if the lessee were a company incorporated in the United Kingdom.
- (3) The expenditure shall not be allowable in computing for the purposes of Schedule D the profits of the ring fence trade.
- (4) Expenditure shall not be disallowed by virtue of subsection (3) above to the extent that the disposal referred to in subsection (1) above is made for a consideration which—
- (a) is used to meet expenditure incurred by the seller in carrying on oil extraction activities or in acquiring oil rights otherwise than from a company associated with the seller; or
 - (b) is appropriated to meeting expenditure to be so incurred by the seller.
- (5) Where any expenditure—
- (a) would apart from subsection (3) above be allowable in computing for the purposes of Schedule D the profits of the ring fence trade for an accounting period, but
 - (b) by virtue of that subsection is not so allowable,
- that expenditure shall be brought into account for the purposes of Chapter II of Part IV of the Finance Act 1996 as if it were a non-trading debit in respect of a loan relationship of the lessee for that accounting period.
- (6) In this section, “lease”, in relation to an asset, has the same meaning as in sections 781 to 784.”
- (2) Subject to subsection (3) below, this section applies to assets, or interests in assets, disposed of on or after 9th March 1999.
- (3) This section does not apply to assets, or interests in assets, disposed of pursuant to an agreement made before that date if—
- (a) the agreement is not conditional; or
 - (b) the agreement is conditional and the condition is satisfied before that date.

101 Pipe-line elections

- (1) In subsection (1)(b) of section 233 of the Finance Act 1994 (relief for tariff receipts from participator in non-taxable field)—
 - (a) for “a participator in a non-taxable field” there shall be substituted “any person”, and
 - (b) for “in connection with that non-taxable field” there shall be substituted “otherwise than in connection with a taxable field”.
- (2) Subsection (1) above applies to sums received or receivable in any chargeable period ending on or after 31st December 1999.

102 PRT returns

- (1) In paragraph 2 of Schedule 2 to the Oil Taxation Act 1975 (returns by participators)—
 - (a) in sub-paragraph (1) (returns must be delivered within two months of the end of a chargeable period), after “the period” there shall be inserted “or within such longer period as the Board may allow”; and
 - (b) after sub-paragraph (4) there shall be inserted the following sub-paragraph—
 - “(5) The power of the Board to allow an extension of time under sub-paragraph (1) above shall include power—
 - (a) to allow an extension for an indefinite period; and
 - (b) to provide for the period of any extension to end at such time as may be stipulated in a notice given by the Board.”
- (2) In paragraph 5 of that Schedule (returns by the responsible person)—
 - (a) in sub-paragraph (1) (returns must be delivered within one month of the end of a chargeable period), after “the period” there shall be inserted “or within such longer period as the Board may allow”; and
 - (b) after sub-paragraph (3) there shall be inserted the following sub-paragraph—
 - “(4) The power of the Board to allow an extension of time under sub-paragraph (1) above shall include power—
 - (a) to allow an extension for an indefinite period; and
 - (b) to provide for the period of any extension to end at such time as may be stipulated in a notice given by the Board.”
- (3) After paragraph 12 of that Schedule there shall be inserted the following paragraph—

“12A (1) Where—

 - (a) the Board has extended the period for the delivery of any return that is required under paragraph 2 of this Schedule to be delivered for any chargeable period, and
 - (b) the relevant time falls more than one year after the end of the chargeable period,

the period within which the Board may make an assessment under this Schedule for that chargeable period shall not expire before the end of the period of five years beginning with the relevant time.

 - (2) In this paragraph “the relevant time” means the earlier of—
 - (a) the time which, as a result of the extension, is the latest time for the delivery of the return; and

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(b) the time when the return is delivered.”

(4) In paragraph 2 of Schedule 5 to that Act, after sub-paragraph (6) there shall be inserted the following sub-paragraphs—

“(7) Where—

- (a) the claim period in which any expenditure allowable under section 3 or 4 of this Act for an oil field is incurred coincides with or includes a chargeable period, and
- (b) the Board has extended the period for the delivery of the return that is required under paragraph 5 of Schedule 2 to this Act to be delivered for that chargeable period by the responsible person, and
- (c) the relevant time falls more than four years after the end of the claim period,

sub-paragraph (1) above shall have effect as if the reference to six years after the end of the claim period in which the expenditure is incurred were a reference to two years after the relevant time.

(8) In sub-paragraph (7) above “the relevant time” means the earlier of—

- (a) the time which, as a result of the extension mentioned in that sub-paragraph, is the latest time for the delivery of the return there mentioned; and
- (b) the time when that return is delivered.”

(5) In the Table in paragraph 2 of Schedule 6 to that Act (application of provisions of Schedule 5 to claims under Schedule 6), after the entry relating to paragraph 2(6) of Schedule 5 there shall be inserted the following entries—

“2(7)	For the reference to paragraph 5 of Schedule 2 to this Act substitute a reference to paragraph 2 of that Schedule; for the reference to paragraph 2(1) of Schedule 5 to this Act substitute a reference to paragraph 1(2) of this Schedule.
2(8)	—”

(6) In subsection (4) of section 62 of the Finance Act 1987 (returns relating to sales of oil), for the words from the beginning to “additional return” there shall be substituted—

“(4) In any case where paragraph 2 of Schedule 2 to the principal Act requires a participator in any oil field to make a return for any chargeable period (including cases where the latest time for the delivery of that return is deferred), 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”.

(7) In subsection (6) of that section, for paragraph (b) (return under subsection (4) not to include details included in return under paragraph 2 of Schedule 2 to the principal Act) there shall be substituted the following paragraph—

“(b) details of which are not included in a return for the period under paragraph 2 of Schedule 2 to the principal Act which is delivered to the Board at the same time as the return required by subsection (4) above or which was delivered to them previously; and”.

(8) The preceding provisions of this section apply in relation to chargeable periods ending on or after 30th June 1999.

103 Business assets: roll-over relief

(1) Section 193 of the Taxation of Chargeable Gains Act 1992 (roll-over relief not available for gains on oil licences) shall cease to have effect.

(2) This section has effect in relation to—

- (a) a disposal of a licence or an interest in a licence which occurs on or after 1st July 1999;
- (b) an acquisition of a licence or an interest in a licence which occurs on or after 1st July 1999.