



# Finance Act 2008

## 2008 CHAPTER 9

### PART 6

#### OIL

##### *Petroleum revenue tax*

### **103 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—

(i) a relevant agreement, or

(ii) an abandonment programme,

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—

(a) so much of the sum in default as the contributing participator is required to meet in accordance with—

(i) the relevant agreement, or

(ii) the abandonment programme, or

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*Status: This is the original version (as it was originally enacted).*

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- (b) such other amount as the participator may be required to meet in accordance with a direction given under Part 4 of the Petroleum Act 1998.
- (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—

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*Status: This is the original version (as it was originally enacted).*

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

“abandonment programme” means an abandonment programme approved under Part 4 of the Petroleum Act 1998 (including any such programme as revised);

“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 or the abandonment programme.”

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