

Draft Regulations laid before the House of Commons under section 2(5D)(e) of the Oil Taxation Act 1975, for approval by resolution of that House

DRAFT STATUTORY INSTRUMENTS

2006 No.

PETROLEUM REVENUE TAX

**The Petroleum Revenue Tax (Attribution
of Blended Crude Oil) Regulations 2006**

Made - - - -

Coming into force - -

A draft of these Regulations was laid before the House of Commons in accordance with section 2(5B) and (5D) of the Oil Taxation Act 1975(1).

The draft was approved by a resolution of that House.

Accordingly the Commissioners for Her Majesty's Revenue and Customs make the following Regulations in exercise of the powers conferred upon them by section 2(5B) to (5D) of the Oil Taxation Act 1975 and section 148(3) of the Finance Act 2006.

Citation and commencement

1. These Regulations may be cited as the Petroleum Revenue Tax (Attribution of Blended Crude Oil) Regulations 2006, shall come into force on the day following that on which they are made and shall have effect in respect of chargeable periods ending on or after 1st July 2006.

Interpretation

2.—(1) In these Regulations—

“the Act” means the Finance Act 1987(2);

“balancing parcel” is the difference between—

(a) the volume of blended oil which a purchaser has notified to the participator as being required under the contract; and

(b) the volume of blended oil actually lifted under that contract;

“blended oil” has the meaning given by section 63(1A) of the Act(3);

(1) 1975 c. 22. Subsections (5B) to (5D) were inserted by section 148(2) of the Finance Act 2006 (c. 25).

(2) 1987 c. 16.

(3) Section 63(1A) was inserted by section 101 of the Finance (No.2) Act 1987 (c.51).

“lifting” is—

- (a) the loading of a volume of blended oil onto a tanker from an offshore loading point or an onshore oil terminal, or
- (b) the transfer of a volume of blended oil by means of a pipeline to an onshore oil terminal, and cognate expressions shall be construed accordingly;

“loading schedule” is the schedule produced each month by the terminal operator based upon the projected monthly production entitlement for each participator for the blended oil in question;

“month” is a calendar month and “monthly” shall be construed accordingly;

“nomination excess” is the amount by which the market value of a relevant delivery exceeds the participator’s delivery proceeds of that relevant delivery (within the meaning of section 61(3) of the Act⁽⁴⁾);

“opening stock”—

- (a) in relation to the first month to which these Regulations apply in relation to a participator’s interest in a particular originating field, is so much of the amount found by the latest computation of a participator’s production entitlement in that field, used in constructing a loading schedule, as has not been lifted at the start of that month (and which may accordingly be a positive or negative value); and
- (b) in relation to any later month to which these Regulations apply in relation to such an interest is—
 - (i) the participator’s production entitlement in respect of that interest at the start of the preceding month; less
 - (ii) the total volume of oil lifted during the previous month and allocated, in accordance with these Regulations to that field;

“originating field” has the meaning given by section 63(1A) of the Act;

“period of entitlement contract” is a contract under which a participator sells its projected oil entitlement over a fixed period to a purchaser in return for regular payment, and under which the purchaser has discretion as to when to lift that oil;

“production entitlement” in relation to an originating field means the sum of—

- (a) the participator’s opening stock of oil from that field; and
- (b) his qualifying production from that field;

“qualifying production” means—

- (a) in the case of oil in a blend where oil is normally allocated to an originating field in advance of lifting, the projected production referred to in the loading schedule for the period in question; and
- (b) in any other case, the amount of oil actually won by the participator from that field;

“relevant delivery” has the meaning given by paragraph 12A⁽⁵⁾ of Schedule 10 to the Act;

“term contract” is a contract for the sale of a volume of oil within a specified period which is subject to more than one delivery.

(2) Section 839 of the Income and Corporation Taxes Act 1988⁽⁶⁾ (connected persons) applies to determine whether persons are connected with each other for the purposes of these Regulations.

⁽⁴⁾ Section 61(3) was substituted by section 149(3) of the Finance Act 2006 (c. 25).

⁽⁵⁾ Paragraph 12A was inserted by section 150(13) of the Finance Act 2006.

⁽⁶⁾ 1988 c.1.

Volume of oil

3.—(1) For the purposes of the following provisions of these Regulations references to the volume of oil lifted shall be construed—

- (a) if the conditions in paragraph (2) are satisfied, as a reference to the nominated volume; and
- (b) in any other case, as a reference to the volume actually lifted.

(2) The conditions are that—

- (a) the contract under which the oil is to be lifted entitles the purchaser to notify the participator of the volume of oil to be lifted under it (“the nominated volume”);
- (b) the agreement between the participator and the operator of the terminal from which the oil is actually to be lifted entitles the participator to allocate the nominated volume between the participator’s field interests and provides for different treatment of the balancing parcel; and
- (c) the nominated volume is allocated as mentioned in sub-paragraph (b).

(3) Regulation 6 (treatment of balancing parcels) applies where the conditions in paragraph (2) are satisfied.

(4) Any references in these Regulations to a volume of oil is to a volume calculated in barrels.

For this purpose a barrel is a volume of 0.158987 cubic metres of oil.

Allocation of blended oil lifted

4.—(1) For each lifting of blended oil by a participator in an originating field, the amount to be allocated to each originating field in respect of that lifting is—

$$A \times \frac{B}{C}$$

Here—

A is the volume of blended oil of a particular blend lifted by the participator in that lifting;

B is the total volume of the participator’s production entitlement for that blend from the originating field for that month; and

C is the sum of—

- (a) the participator’s production entitlements from all originating fields for that blend, and
- (b) so much of the seller’s production entitlement in respect of oil of that blend for that period as the participator is entitled to lift under period of entitlement contracts,

but where an entitlement in respect of an originating field is a negative amount that entitlement shall be treated as zero in computing *C*.

These definitions are subject to the following qualifications.

(2) Where oil is lifted under a period of entitlement contract or a term contract regulation 5 applies.

(3) The final volume produced by application of the formula in paragraph (1) may be adjusted (up or down) by the participator by up to a maximum of 1000 barrels.

But the sum of the adjusted volumes in respect of each allocation must equal the total volume of blended oil lifted.

Period of Entitlement Contracts and Term Contracts

5.—(1) Where a participator in an originating field sells blended oil under a period of entitlement contract or a term contract, and the contract relates to oil from more than one field, the following

formula applies to determine how much of the volume of oil lifted and sold under the contract must be allocated to each originating field in the blend—

$\frac{A \times B}{C}$

Here—

A is the volume of blended oil lifted in the lifting in question;

B is the total volume of the participant's production entitlement for that blend from the originating field for that month under the terms of the contract; and

C is the sum of the participant's production entitlements from that blend from all originating fields for that month under the contract, but where an entitlement in respect of an originating field is a negative amount, that entitlement shall be treated as zero in computing *C*.

(2) The final volume produced by application of the formula in paragraph (1) may be adjusted (up or down) by the participant to a maximum of 1000 barrels.

But the sum of the adjusted volumes in respect of each allocation must be equal to the total volume of oil of the particular blend lifted.

Balancing parcels

6.—(1) Where this regulation applies—

- (a) the participant must notify Her Majesty's Revenue and Customs of an originating field ("the receiving field") to which balancing parcels of the particular blend of oil are to be attributed, and
- (b) every balancing parcel in respect of that blend must be allocated to the receiving field, but subject to the following provisions of this regulation.

(2) When a receiving field ceases oil production, the participant must allocate balancing parcels to another originating field ("the substituted field"), and thereafter this regulation applies to the substituted field as it applied to the receiving field.

(3) Where the allocation, or continuing allocation, of a balancing parcel to a receiving field becomes impossible having regard to the terms of the agreement between the participant and the terminal operator for that field, the participant must notify Her Majesty's Revenue and Customs that another originating field is to be treated as the receiving field while those conditions persist.

(4) A notice under paragraph (3) must be given before the first allocation of a balancing parcel to the other originating field which is to be treated as the receiving field.

Sale of field interests

7.—(1) If a participant ("the seller") agrees to sell a field interest to an unconnected party ("the buyer") the seller must notify Her Majesty's Revenue and Customs in writing of—

- (a) the names of the buyer and seller;
- (b) the field interest in question;
- (c) the proposed completion date of the sale; and
- (d) the cessation date.

(2) In this regulation "the cessation date" means the date after which, in accordance with the contract for the sale of the field interest, the seller will make no further lifting of oil won from that field interest, except as required by the terminal operator, prior to completion of the sale.

(3) The information must be provided to Her Majesty's Revenue and Customs no later than the first day of the month preceding the month in which the cessation date falls.

(4) From the later of the cessation date, or the end of the month in which falls the date on which the information specified in paragraph (1) is received by Her Majesty's Revenue and Customs—

- (a) any amounts lifted from that field interest (“the separated interest”) shall be separated from the seller's other field interests for the purposes of calculating the allocation entitlements for that field; and
- (b) the entitlements in respect of the separated interest shall be calculated on the basis of the formula set out in paragraph (5).

(5) For each lifting of blended oil from the separated interest in a month, the following formula applies to determine the quantity of oil lifted from each of the fields from which the oil is derived—

Here—

A is the volume of oil lifted;

B is the total amount of the seller's production entitlement for the separated interest for that month; and

C is the sum of the seller's production entitlement from all his separated interests for that month.

Sale of field interest — further provisions

8.—(1) This regulation applies when, during a chargeable period—

- (a) a field interest, from which oil is used to produce blended crude oil, is sold to a buyer with whom the seller is not connected; and
- (b) the seller retains another field interest forming part of the same blend.

(2) Where this regulation applies, the adjustment to the closing stock is calculated as follows.

Step 1

Find the operational closing stock, that is to say the amount found by the formula $E - L$.

Here—

E is the sum of—

- (a) the participator's operational stock of oil won from that field interest at the start of the month in which the field interest is sold; and
- (b) the amount of oil actually won by the participator from that field interest during that month; and

L is the amount of oil actually lifted in that month and won from that field interest.

In paragraph (a) of the definition of E “operational stock” is so much of the amount found by the latest computation of a participator's production entitlement in that field, used in constructing a loading schedule, as has not been lifted at the start of that month (and which may accordingly be a positive or negative value).

Step 2

Find the tax closing stock, that is to say the amount found by the formula $O + W - A$

Here—

O is the opening stock at the start of the month in which the field interest is sold;

W is the amount of oil actually won by the participator from that field interest during that month; and

A is the amount of oil allocated to that field under regulations 4 to 6.

Step 3

Subtract the result of Step 2 from that of Step 1.

(3) The amount found under Step 3 (whether positive or negative) must be allocated to the other field interests in the blend of which the field interest to be sold is a part, in accordance with regulation 4 but, for the purposes of calculating C in regulation 4(1), the participator's production entitlement for the field interest being sold shall be zero.

Sale of field interest not proceeding

9.—(1) In the event that it appears to the proposed seller that the sale of a field interest or interests will not proceed, the seller shall notify Her Majesty's Revenue and Customs, no later than the due date for his petroleum revenue tax return for the period in which the seller is first aware of this, that it will not proceed.

(2) Where a sale does not proceed—

- (a) from the beginning of the month following that in which the seller is first aware that the sale will not proceed the separation of the field interest or interests which were the subject matter of the sale will cease; and
- (b) thereafter the formula set out in regulation 4 will again apply for the purposes of allocating any lifting from that field or those fields.

Allocation of Nomination Excesses

10. Where a participator makes a relevant delivery of blended oil the following provisions apply to determine how much of his nomination excess to attribute to each originating field.

Step 1

Calculate the respective volumes of blended lifted oil to be allocated to individual originating fields applying the formula in regulation 4(1).

Step 2

Establish the total volume of the relevant delivery of blended oil.

Step 3

Divide each of the volumes calculated in Step 1 by the amount found under Step 2.

Step 4

Multiply each result of Step 3 by the nomination excess.

The result is the nomination excess to be allocated to the individual originating field in question.

Two of the Commissioners for Her Majesty's
Revenue and Customs

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations deal with the attribution of blended crude oil across the originating field interests of a participator or seller so that the allocation reflects the extent of the participator or seller's actual or projected production entitlements in an originating field for tax purposes. The Regulations further deal with the attribution of nomination excesses across a participator's field interests where there has been a relevant delivery of blended crude oil.

These Regulations have effect in respect of chargeable periods ending on or after 1st July 2006. Authorisation for retrospective provision is contained in section 148(3) of the Finance Act 2006 (c. 25).

Regulation 1 deals with citation and commencement, and regulation 2 with the interpretation of certain terms used in the Regulations.

Regulation 3 provides for the construction of references in the Regulations to the volume of oil lifted.

Regulation 4 introduces a formula and associated provisions to calculate the allocation of blended crude oil lifted.

Regulation 5 provides a method of allocating blended oil, derived from more than one field and which is lifted under a period of entitlement contract or a term contract, to each of the fields from which it has been derived.

Regulation 6 contains a special rule about balancing parcels. It applies where a participator's contract with a purchaser permits the latter to notify the former of the volume of oil which is to be lifted under it in a particular period (a "nominated volume"). This is because there can be variations between the volume notified to be lifted at a particular time and the actual volume lifted. A rule to deal with the extent of the difference is therefore necessary.

Regulations 7 to 9 deal with the sale of field interests and introduce a formula and associated provisions to calculate the allocation of blended crude oil sold under month of entitlement or term contracts across the field interests of a seller on a monthly basis.

Regulation 10 sets out the steps to be followed in order to calculate the amount of any nomination excess to allocate to a particular originating field where a participator makes a relevant delivery of blended crude oil.

A regulatory impact assessment was prepared by HM Revenue and Customs in respect of Part 5 of the Finance (No. 2) Bill of the 2005-06 Session and was published on 22nd March 2006. That Bill received Royal Assent as the Finance Act 2006.