



Finance Act 1984

1984 CHAPTER 43

PART V

OIL TAXATION

113 Restriction on PRT reliefs.

- (1) Subject to subsection (3) below, in determining whether any . . . ^{F1} expenditure is allowable in the case of a participator in an oil field under section 5 or section 5A [^{F2}or section 5B] of the principal Act, no account shall be taken of any expenditure incurred before his qualifying date.
- (2) Subject to subsection (3) below, in determining whether any unrelievable field losses are allowable in the case of a participator in an oil field under section 6 of that Act, no account shall be taken of any allowable loss [^{F3}falling within subsection (1B)] of that section unless the date on which the winning of oil [^{F3}from the abandoned field] permanently ceased fell on or after his qualifying date.
- (3) Subsections (1) and (2) above do not apply in the case of a participator in an oil field if his qualifying date falls before 14th September 1983 or before the end of the first chargeable period in relation to the field.
- (4) In this section “qualifying date”, in relation to a participator in an oil field, means [^{F4}(subject to subsection (6) below)]whichever of the following dates is applicable in his case or (if there is more than one) the earliest of them—
 - (a) the date on which the participator first qualified in respect of any licensed area, being an area which is wholly or partly included in the field;
 - (b) if the participator is a company, the date on which another company first satisfied both of the following conditions, that is to say—
 - (i) it qualified in respect of any licensed area, being an area which is wholly or partly included in the field; and
 - (ii) it was connected with the participator; and
 - (c) if he is a participator in the field by reason of an arrangement between him and another company, being an arrangement to which paragraph 5 of Schedule 3

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1984, PART V. (See end of Document for details)

to the principal Act applies (transfer of rights etc. to associated company), the date on which the arrangement was made or, if later, the date on which that other company first qualified in respect of any licensed area, being an area which is wholly or partly included in the field.

- (5) For the purposes of subsection (4) above, a person qualifies in respect of a licensed area when, in respect of that area—
- (a) he is, or is one of those, entitled to the benefit of a licence, or
 - (b) he enjoys rights under an agreement, being an agreement which has been approved by the Board and certified by the [F5 OGA] to confer on him rights which are the same as, or similar to, those conferred by a licence.
- (6) Where (apart from this section) expenditure would be allowable under section 5 or section 5A [F6 or section 5B] of the principal Act in the case of a participator in an oil field (in this subsection referred to as “the new participator”) by virtue only of [F7 paragraphs 16 to 16B] of Schedule 17 to the Finance Act 1980 (transfers of interests in oil fields) then, for the purpose of determining whether the expenditure is allowable in his case in accordance with this section, the date which was the qualifying date in relation to the old participator (within the meaning of that Schedule) [F8, rather than the date given by subsection (4) above, shall be taken to be the qualifying date in relation to the new participator.].
- (7) For the purposes of subsection (2) above the date on which the winning of oil from an oil field has permanently ceased is the date stated in a decision (whether of the Board or on appeal from the Board) under Schedule 8 to the principal Act to be that date.
- (8) For the purposes of this section, one company is connected with another if—
- (a) one is a 51 per cent. subsidiary of the other and the other is not a 51 per cent. subsidiary of any company; or
 - (b) each of them is a 51 per cent. subsidiary of a third company which is not itself a 51 per cent. subsidiary of any company; and section [F9 Chapter 3 of Part 24 of the Corporation Tax Act 2010] (subsidiaries) applies for the purposes of this subsection.
- (9) In this section—
- (a) “company” means any body corporate; and
 - (b) any reference to the winning of oil from an oil field permanently ceasing includes a reference to the permanent cessation of operations for the winning of oil from the field.
- (10) This section shall have effect in relation to any expenditure or losses in respect of which a claim is made after 13th September 1983.

Textual Amendments

- F1** Words repealed by Finance Act 1987 ss. 64(2), 72(7), Schs. 13 Part II para. 9(1)(a) and 16 Part X
- F2** Words inserted by Finance Act 1987 s. 64(2), Sch. 13 Part II para. 9(1)(b)
- F3** Words in s. 113(2) substituted (*retrospective* to 7.3.2001) by **2001 c. 9, s. 101(3)(5)**
- F4** Words in s. 113(4) inserted (19.3.1997 with effect on 23.7.1996 as mentioned in s. 107(4) of the amending Act) by **1997 c. 16, s. 107(1)(2)(4)**
- F5** Word in s. 113(5)(b) substituted (1.10.2016) by **The Petroleum (Transfer of Functions) Regulations 2016 (S.I. 2016/898), regs. 1(2), 8**
- F6** Words inserted by Finance Act 1987 s. 64(2), Sch. 13 Part II para. 9(2)
- F7** Words substituted by Finance Act 1987 s. 64(2), Sch. 13 Part II para. 9(2)

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1984, PART V. (See end of Document for details)

- F8** Words in s. 113(6) substituted(19.3.1997 with effect on 23.7.1996 as mentioned in s. 107(4) of the amending Act) by 1997 c. 16, s. 107(1)(3)(4)
- F9** Words in s. 113(8) substituted (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), Sch. 1 para. 186 (with Sch. 2)

114 Sales of gas: treatment of certain payments.

- (1) This section applies only in relation to oil consisting of gas and references in the following provisions of this section to oil shall be construed accordingly.
- (2) In any case where, under a contract for the sale of oil won from an oil field, the consideration includes any sum—
- (a) which is payable by the buyer in respect of a quantity of oil to be delivered at a specified time or in a specified period, and
 - (b) which is payable whether or not the buyer takes delivery of the whole of the oil at that time or in that period, and
 - (c) which, in the event that the buyer does not take delivery of the whole of the oil, entitles the buyer to delivery of oil free of charge at a later time or in a later period,
- then, to the extent that the sum is payable in respect of oil which is not delivered at the time or in the period in question, the sum shall be treated for the purposes of the principal Act as an advance payment for the oil to be delivered free of charge and, accordingly, that oil shall be treated for those purposes as sold for a price which (subject to any additional element arising under the following provisions of this section) is equal to that advance payment.
- (3) Where, in a case falling within subsection (2) above, an amount of oil is delivered free of charge in pursuance of the entitlement referred to in paragraph (c) of that subsection, the proportion of the advance payment referred to in that subsection which is to be attributed to that amount of oil shall be that which that amount of oil bears to the total quantity of oil of which the buyer is entitled to delivery free of charge by virtue of the payment of the sum in question.
- (4) In any case where—
- (a) by virtue of subsection (2) above a sum falls to any extent to be treated as an advance payment for oil to be delivered free of charge, but
 - (b) at the latest date at which oil could be delivered free of charge in pursuance of the entitlement referred to in paragraph (c) of that subsection, the whole or any part of the oil to which that entitlement relates has not been so delivered,
- then at that latest date, one tonne of oil shall be deemed to be delivered as mentioned in paragraph (b) above and so much of the advance payment as has not, under subsection (3) above, been attributed to oil actually delivered shall be attributed to that one tonne.
- (5) Where, under a contract for the sale of oil won from an oil field, the consideration includes any sums (in this section referred to as “capacity payments”)—
- (a) which are payable by the buyer at specified times or in respect of specified periods, and
 - (b) which, though they may vary in amount by reference to deliveries of oil or other factors, are payable whether or not oil is delivered under the contract at particular times or in particular periods, and

*Changes to legislation: There are currently no known outstanding effects
for the Finance Act 1984, PART V. (See end of Document for details)*

- (c) which do not, under the terms of the contract or by virtue of subsection (2) above, fall to be treated, in whole or in part, as advance payments for oil to be delivered at some time after the times or periods at or in respect of which the sums are payable,

then, in so far as they would not do so apart from this subsection, the capacity payments shall be treated for the purposes of the principal Act as an additional element of the price received or receivable for the oil sold under the contract.

- (6) For the purpose of determining, in a case where there are capacity payments under a contract for the sale of oil won from an oil field, the assessable profit or allowable loss accruing in a particular chargeable period to the participator by whom oil is sold under the contract, each capacity payment shall be treated as an additional element of the price received or receivable for the oil delivered by him under the contract in the chargeable period in which the capacity payment is paid or payable; and if no oil is in fact so delivered in a chargeable period in which a capacity payment is paid or payable, one tonne of oil shall be deemed to be so delivered in that period and, accordingly, the capacity payment shall be treated for the purposes of the principal Act as the price for which that tonne is sold.
- (7) If, by virtue of subsection (4) or subsection (6) above, one tonne of oil is deemed to be delivered in any chargeable period of the oil field referred to in subsection (2) or, as the case may be, subsection (5) above, a return for that period by the participator concerned under paragraph 2 of Schedule 2 to the principal Act shall give the like information in relation to that tonne as in relation to any other oil falling within subparagraph (2)(a) of that paragraph.

115 Information relating to sales at arm's length and market value of oil.

- (1) The Board may, by notice in writing given to a company which is or has been a participator in an oil field, require that company to give to the Board, within such time (not being less than thirty days) as may be specified in the notice, such particulars (which may include details of relevant documents) as may be so specified of any related transaction which appears to the Board to be relevant for the purpose of—
- (a) determining whether a disposal of any oil is a sale at arm's length, or
 - (b) ascertaining the market value of any oil.
- (2) For the purposes of a notice under subsection (1) above a transaction is a related transaction if, but only if, it is one to which the company to whom the notice is given or a company associated with that company was a party; and for the purposes of this subsection two companies are associated with one another if—
- (a) one is under the control of the other; or
 - (b) both are under the control of the same person or persons;
- and in this subsection "control" has the meaning given by [F¹⁰section 1124 of the Corporation Tax Act 2010] .
- (3) In any case where a company (in this subsection and subsection (4) below referred to as "the participator company") is or has been a participator in an oil field and—
- (a) the participator company is a 51 per cent. subsidiary of another company, or
 - (b) another company is a 51 per cent. subsidiary of the participator company, or
 - (c) the participator company and another company are both 51 per cent. subsidiaries of a third company,

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1984, PART V. (See end of Document for details)

the Board may, by notice in writing given to any company referred to in paragraphs (a) to (c) above which is resident in the United Kingdom, require it to make available for inspection any relevant books, accounts or other documents or records whatsoever of the company itself or, subject to subsection (5) below, of any other company which is its 51 per cent. subsidiary.

- (4) In subsection (3) above “relevant” means relating to any transaction which is relevant for the purpose of—
- (a) determining whether a disposal of any oil by the participator company is a sale at arm’s length; or
 - (b) ascertaining the market value of oil won by the participator company.
- (5) In any case where—
- (a) under subsection (3) above a company is by notice required to make available for inspection any books, accounts, documents or records of one of its 51 per cent. subsidiaries which is resident outside the United Kingdom, and
 - (b) it appears to the Board, on the application of the company, that the circumstances are such that the requirement ought not to have effect,
- the Board shall direct that the company need not comply with the requirement.
- (6) If, on an application under subsection (5) above, the Board refuse to give a direction under that subsection, the company concerned [^{F11}may appeal, by notice] in writing given to the Board within thirty days after the refusal, [^{F12}and, where such an appeal is notified to the tribunal, the tribunal] , if satisfied that the requirement in question ought in the circumstances not to have effect, may determine accordingly.

[^{F13}(6A) The provisions of paragraphs 14A to 14I of Schedule 2 to the principal Act shall apply to appeals under this paragraph subject to any necessary modifications.]

(7) In this section—

“company” means any body corporate; and

“51 per cent. subsidiary” shall be construed in accordance with [^{F14}Chapter 3 of Part 24 of the Corporation Tax Act 2010] (subsidiaries).

Textual Amendments

- F10** Words in s. 115(2) substituted (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 1 para. 187(2)** (with Sch. 2)
- F11** Words in s. 115(6) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 1 para. 104(2)(a)**
- F12** Words in s. 115(6) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 1 para. 104(2)(b)**
- F13** S. 115(6A) inserted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 1 para. 104(3)**
- F14** Words in s. 115(7) substituted (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 1 para. 187(3)** (with Sch. 2)

116 Offences relating to section 115.

- (1) Where a company has been required by notice under subsection (1) or subsection (3) of section 115 above to give any particulars or, as the case may be, to make available

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1984, PART V. (See end of Document for details)

for inspection any books, accounts, documents or records and fails to comply with the notice, the company shall be liable, subject to subsection (3) below—

- (a) to a penalty not exceeding £500; and
 - (b) if the failure continues after it has been declared by the court or the ^{F15}tribunal before whom proceedings for the penalty have been commenced, to a further penalty not exceeding £100 for each day on which the failure so continues.
- (2) Where a company fraudulently or negligently furnishes, gives, produces or makes any incorrect information, document or record of a kind mentioned in subsection (1) or subsection (3) of section 115 above, the company shall be liable to a penalty not exceeding £2,500 or, in the case of fraud on its part, £5,000.
- (3) A company shall not be liable to any penalty incurred under subsection (1) above for failure to comply with a notice if the failure is remedied before proceedings for the recovery of the penalty are commenced.
- (4) In this section “company” has the same meaning as in section 115 above.

Textual Amendments

F15 Word in s. 116(1)(b) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 105**

Changes to legislation:

There are currently no known outstanding effects for the Finance Act 1984, PART V.