



# Finance Act 1987

## 1987 CHAPTER 16

### PART V

#### OIL TAXATION

#### **61 Nomination of disposals and appropriations**

- (1) The provisions of Schedule 10 to this Act shall have effect, being provisions for and in connection with the establishment of a scheme of nominations by participants in oil fields of certain proposed sales, supplies and appropriations of oil.
- (2) Nothing in this section or Schedule 10 to this Act applies—
  - (a) to oil which is gaseous at a temperature of 15 degrees centigrade and pressure of one atmosphere; or
  - (b) to oil of a kind which is normally disposed of crude by deliveries in quantities of 25,000 metric tonnes or less; or
  - (c) to oil which is excluded from this section by regulations under subsection (8) below;and references to oil in this section and Schedule 10 to this Act shall be construed accordingly.
- (3) As respects each participator in an oil field, it shall be determined, for each calendar month in a chargeable period beginning with the month of March 1987, whether his aggregate nominated proceeds, as defined in Schedule 10 to this Act, exceed the proceeds of his disposals and appropriations in that month, as defined in subsection (6) below and, if they do, that excess shall be brought into account in accordance with subsection (5) below.
- (4) For each chargeable period of an oil field, "the excess of nominated proceeds for the period", in relation to a participator in that field, means the sum of the excess (if any) of each of the months in that chargeable period, as determined in his case under subsection (3) above.

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- (5) In subsection (5) of section 2 of the principal Act (amounts to be taken into account in determining whether a gross profit or loss accrues to a participator in any chargeable period) at the end of paragraph (d) there shall be added “and
- (e) the excess of the nominated proceeds for that period, as defined in section 61 of the Finance Act 1987.”
- (6) In relation to any calendar month, the proceeds of a participator's disposals and appropriations from an oil field means the total of—
- (a) the price received or receivable for so much of any oil forming part of his equity production from the field in that month as was disposed of by him crude in sales at arm's length; and
- (b) the market value, ascertained in accordance with Schedule 3 to the principal Act, of the rest of his equity production from the field in that month;
- and in this subsection any reference to a participator's equity production from an oil field in any month shall be construed in accordance with paragraph 1(2) of Schedule 10 to this Act.
- (7) The Treasury may by regulations made by statutory instrument make provision for any purpose for which regulations described as "Treasury regulations" may be made under Schedule 10 to this Act.
- (8) The Board may by regulations made by statutory instrument make provision, including provision having effect with respect to things done on or after 9th February 1987,—
- (a) as to oil which is excluded from this section, as mentioned in subsection (2) above; and
- (b) for any purpose for which regulations, other than those described as "Treasury regulations", may be made under Schedule 10 to this Act;
- and regulations made by virtue of paragraph (a) above may amend paragraphs (a) and (b) of subsection (2) above.
- (9) A statutory instrument made in the exercise of the power conferred by subsection (7) or subsection (8) above shall be subject to annulment in pursuance of a resolution of the Commons House of Parliament.

## **62 Market value of oil to be determined on a monthly basis**

- (1) In the following provisions of the principal Act (which refer to the market value of oil at the material time in a particular calendar month) the words "at the material time" shall be omitted—
- (a) in section 2 (assessable profits and allowable losses), in subsection (9), paragraphs (a)(i) and (a)(ii);
- (b) in section 5A (allowance of exploration and appraisal expenditure), subsection (5B);
- (c) in section 14 (valuation of oil disposed of or appropriated in certain circumstances), subsections (4) and (4A)(b); and
- (d) in paragraph 2 of Schedule 2 (returns by participators), sub-paragraphs (2)(a)(iii) and (2)(b)(ii).
- (2) In the following provisions of the principal Act (which refer to the market value of stocks of oil at the end of a chargeable period) for the words "at the end" there shall be substituted "in the last calendar month"—

- (a) section 2(4)(b);
  - (b) section 2(5)(d); and
  - (c) in Schedule 2, paragraph 2(2)(d)(ii);
- and in the provisions specified in paragraphs (a) and (b) above for the word "then" there shall be substituted "at the end of that period".
- (3) In Schedule 3 to the principal Act (miscellaneous provisions relating to petroleum revenue tax) paragraphs 2, 2A and 3 (market value of oil) shall be amended in accordance with Part I of Schedule 11 to this Act; and the consequential amendments of the principal Act in Part II of that Schedule shall have effect.
- (4) A participator in an oil field who is required by paragraph 2 of Schedule 2 to the principal Act to deliver to the Board a return for a chargeable period shall, not later than the end of the second month after the end of that period, deliver to the Board an additional return of all relevant sales of oil (as defined in subsection (6) below) stating—
- (a) the date of the contract of sale;
  - (b) the name of the seller;
  - (c) the name of the buyer;
  - (d) the quantity of oil actually sold and, if it is different, the quantity of oil contracted to be sold;
  - (e) the price receivable for that oil;
  - (f) the date which, under the contract, was the date or, as the case may be, the latest date for delivery of the oil and the date on which the oil was actually delivered; and
  - (g) such other particulars as the Board may prescribe.
- (5) Where two or more companies which are participators in the same oil field are members of the same group of companies, within the meaning of section 258 of the Taxes Act, a return made for the purposes of subsection (4) above by one of them and expressed also to be made on behalf of the other or others shall be treated for the purposes of this section as a return made by each of them.
- (6) For the purposes of the return required by subsection (4) above from a participator in an oil field, a relevant sale of oil is a contract for the sale of oil to which the participator or any company which is resident in the United Kingdom and associated with the participator for the purposes of section 115(2) of the Finance Act 1984 is a party (as seller, buyer or otherwise), being a sale of oil—
- (a) for delivery at any time during the chargeable period referred to in subsection (4) above; and
  - (b) details of which are not included in the return made for the period under paragraph 2 of Schedule 2 to the principal Act (by virtue of subparagraph (3A) thereof); and
  - (c) which is for the delivery of at least 500 metric tonnes of oil; and
  - (d) which is not a contract for the sale of oil consisting of gas of which the largest component by volume over the chargeable period concerned is methane or ethane or a combination of those gases.
- (7) A return under subsection (4) above shall be in such form as the Board may prescribe and shall include a declaration that the return is correct and complete; and if a participator fails to deliver a return under that subsection he shall be liable—
- (a) to a penalty not exceeding £500; and

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- (b) if the failure continues after it has been declared by the court or the Commissioners 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;

except that a participator shall not be liable to a penalty under this subsection if the failure is remedied before proceedings for the recovery of the penalty are commenced.

- (8) Where a participator fraudulently or negligently delivers an incorrect return under subsection (4) above, he shall be liable to a penalty not exceeding £2,500 or, in the case of fraud, £5,000.
- (9) This section has effect with respect to chargeable periods ending after 31st December 1986.

### **63 Blends of oil from two or more fields**

- (1) If, at any time prior to its disposal or relevant appropriation, oil won from an oil field is mixed with oil won from another oil field, the provisions of this section shall have effect to determine what is the share of a participator in one of those fields of the oil won from that field in any chargeable period ending after 1st January 1987; and in the following provisions of this section—

- (a) "blended oil" means oil which has been so mixed; and  
(b) "the originating fields" means the oil fields from which the blended oil is derived.

- (2) If, for the purposes of commerce, blended oil is allocated to the participators in the originating fields in accordance with an agreed method, then, subject to the following provisions of this section, for the purposes of the oil taxation legislation, the blended oil which, in accordance with that method, is allocated to a participator in one of the originating fields in respect of any chargeable period shall be taken to be that participator's share of the oil won from that field in that period.

- (3) With respect to any blended oil, each of the participators in the originating fields (either jointly or individually) shall, not later than 1st August 1987 or, if it is later, not later than thirty days after the date on which the first allocation is made in accordance with a particular method falling within subsection (2) above, furnish to the Board for the purposes of this section such details as may be prescribed with respect to that method and to the blended oil concerned; and if any participator fails to comply with this subsection he shall be liable—

- (a) to a penalty not exceeding £500; and  
(b) if the failure continues after it has been declared by the court or the Commissioners 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;

except that a participator shall not be liable to a penalty under this subsection if the failure is remedied before proceedings for the recovery of the penalty are commenced.

- (4) Where a participator in an oil field fraudulently or negligently furnishes any incorrect details for the purposes of this section, he shall be liable to a penalty not exceeding £2,500 or, in the case of fraud, £5,000.
- (5) If, at any time after details with respect to a method of allocation have been furnished to the Board in accordance with subsection (3) above,—

- (a) that method is in any respect changed, or
  - (b) there is a material change of any kind in the quantity or quality of any of the oil which makes up the blended oil,
- any allocation made after that change shall be taken to be made in accordance with a new method of allocation.
- (6) The provisions of Schedule 12 to this Act shall have effect for supplementing this section.
- (7) In this section—
- (a) "the oil taxation legislation" means Part I of the principal Act and any enactment construed as one with that Part; and
  - (b) "prescribed" means prescribed by the Board, whether before or after the passing of this Act.

#### **64 Relief for research expenditure**

- (1) The section set out in Part I of Schedule 13 to this Act shall be inserted in the principal Act after section 5A for the purpose of setting up a new allowance by virtue of which a participator in an oil field may obtain relief for certain research expenditure which is incurred otherwise than in connection with that field.
- (2) For the purpose of giving effect to, and in consequence of, the new allowance, the enactments specified in Part II of Schedule 13 to this Act shall have effect subject to the amendments there specified.
- (3) Part III of Schedule 13 to this Act shall have effect with respect to sums falling to be set off against expenditure which would otherwise be allowable under the new section set out in Part I of that Schedule.

#### **65 Cross-field allowance of certain expenditure incurred on new fields**

- (1) Where an election is made by a participator in an oil field (in this section referred to as "the receiving field"), up to 10 per cent. of certain expenditure incurred on or after 17th March 1987 in connection with another field, being a field which is for the purposes of this section a relevant new field, shall be allowable in accordance with this section in respect of the receiving field; and in the following provisions of this section the relevant new field in connection with which the expenditure was incurred is referred to as "the field of origin".
- (2) An election under this section may be made only in respect of expenditure which—
- (a) was incurred by the participator making the election or, if that participator is a body corporate, by an associated company; and
  - (b) as regards the field of origin, is allowable under section 3 or section 4 of the principal Act or section 3 of the Oil Taxation Act 1983; and
  - (c) as regards the field of origin, has been allowed as qualifying for supplement under section 2(9)(b)(ii) or (c)(ii) of the principal Act (in the following provisions of this section referred to as "supplement"); and
  - (d) is not expenditure falling within subsection (1) of section 5A of the principal Act (allowance of exploration and appraisal expenditure);
- and Part I of Schedule 14 to this Act shall have effect with respect to elections under this section.

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- (3) A participator may not make an election under this section in respect of expenditure which was incurred before the date which is his qualifying date, within the meaning of section 113 of the Finance Act 1984 (restriction of PRT reliefs), in relation to the receiving field unless that date falls before the end of the first chargeable period in relation to that field.
- (4) Where, by virtue of an election by a participator under this section, an amount of expenditure is allowable in respect of the receiving field, it shall be allowable as follows—
- (a) it shall be taken into account in that assessment to tax or determination relating to a chargeable period of the receiving field which is specified in Part II of Schedule 14 to this Act; and
  - (b) it shall be so taken into account under subsection (8) of section 2 of the principal Act (allowable expenditure etc.) as if, for the chargeable period in question, it were an addition to the sum mentioned in paragraph (a) of that subsection; and
  - (c) it shall be excluded in determining for the purposes of section 111(2) of the Finance Act 1981 (restriction of expenditure supplement) whether any, and if so what, assessable profit or allowable loss accrues to the participator in any chargeable period of the receiving field.
- (5) Where, by virtue of an election by a participator under this section, an amount of expenditure is allowable in respect of the receiving field, that amount shall be disregarded in determining, as regards the field of origin, the amounts referred to (in relation to the participator or the associated company, as the case may be) in paragraph (b) or paragraph (c) of subsection (9) of section 2 of the principal Act (allowable expenditure and supplement thereon).
- (6) In Schedule 14 to this Act—
- (a) Part III has effect to determine for the purposes of this section what is a relevant new field and who is an associated company of a participator making an election;
  - (b) Part IV contains provisions supplemental to and consequential upon the allowance of expenditure by virtue of an election under this section, including provisions applicable where a notice of variation is served in respect of expenditure which is already the subject of such an election;
  - (c) "the receiving field" and "the field of origin" have the meaning assigned by subsection (1) above;
  - (d) "the principal section" means this section;
  - (e) "election" means an election under this section; and
  - (f) "supplement" has the meaning assigned by subsection (2)(c) above.

## **66 Oil allowance: adjustment for final periods**

- (1) For the purposes of this section—
- (a) "the final allocation period", in relation to an oil field, means the chargeable period of that field in which section 8(6)(b) of the principal Act applies (the earliest chargeable period in which oil allowance is subject to "the necessary restriction" in order to confine it within the overall maximum); and
  - (b) "the penultimate period", in relation to an oil field, means the chargeable period of that field which immediately precedes the final allocation period;

and any reference in this section to the two final periods is a reference to the final allocation period and the penultimate period.

- (2) The following provisions of this section apply if the responsible person gives notice to the Board (in this section referred to as an "apportionment notice") specifying the manner in which the oil allowance for the field is to be apportioned between the participators in each of the two final periods, being a manner designed—
  - (a) to produce, so far as practicable, the result specified in subsection (4) below, being a result which, in the circumstances of the case, could not be achieved under section 8(6)(b) of the principal Act; and
  - (b) to secure that adjustments in a participator's share of the oil allowance are made in the final allocation period in preference to the penultimate period.
- (3) An apportionment notice shall be of no effect unless—
  - (a) it is given not later than six months after the expiry of the final allocation period; and
  - (b) not later than the date of the notice the responsible person notifies the Board in accordance with paragraph (b) of subsection (6) of section 8 of the principal Act of the manner in which the necessary restriction, as defined in that subsection, is to be apportioned between the participators; and
  - (c) it specifies a period for each of paragraphs (a) and (b) of subsection (4) below; and
  - (d) it contains such information as the Board may prescribe for the purpose of showing how, or to what extent, the apportionment of the oil allowance achieves the result specified in subsection (4) below.
- (4) The result referred to in subsection (2) above is that the respective shares of the oil allowance utilised by each of two or more participators specified in the apportionment notice bear to each other the same proportion as their respective shares in oil won and saved from the field and, for this purpose—
  - (a) a participator's share of the oil allowance means the total amount of the allowance utilised by him over the period specified for the purpose of this paragraph in the apportionment notice; and
  - (b) a participator's share in oil won and saved from the field means the total of the oil included in his share of oil won and saved from the field (as specified in returns under Schedule 2 to the principal Act) over the period specified for the purposes of this paragraph in the apportionment notice, being a period which includes that specified for the purposes of paragraph (a) above.
- (5) If the Board are satisfied that an apportionment notice complies with subsections (2) to (4) above, they shall give notice to the responsible person accepting the apportionment notice and, on the giving of that notice—
  - (a) the apportionment specified in the apportionment notice shall, as respects the two final periods, have effect as if it were the apportionment resulting from section 8(2) of the principal Act; and
  - (b) all such amendments of assessments to tax and determinations shall be made as may be necessary in consequence of paragraph (a) above.
- (6) If the Board are not satisfied that an apportionment notice complies with subsections (2) to (4) above, they shall give notice to the responsible person rejecting the apportionment notice and, where the Board give such a notice, the responsible person may, by notice in writing given to the Board within thirty days after the date of the notice of rejection, appeal to the Special Commissioners against the notice.

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- (7) Where notice of appeal is given under subsection (6) above—
- (a) if, at any time after the giving of the notice and before the determination of the appeal by the Commissioners, the Board and the appellant agree that the apportionment notice should be accepted or withdrawn or varied, the same consequences shall ensue as if the Commissioners had determined the appeal to that effect;
  - (b) if, on the hearing of the appeal, it appears to the majority of the Commissioners present at the hearing that the apportionment notice should be accepted, with or without modifications, they shall allow the appeal and, where appropriate, make such modifications of the apportionment specified in the notice as they think fit; and
  - (c) where the appeal is allowed, subsection (5) above shall apply as if the apportionment notice (subject to any modifications made by the Commissioners) had been accepted by the Board.
- (8) Sub-paragraphs (2), (8) and (11) of paragraph 14 of Schedule 2 to the principal Act shall apply in relation to an appeal against a notice of rejection under subsection (6) above as they apply in relation to an appeal against an assessment or determination made under that Act, construing any reference in those provisions to the participator as a reference to the responsible person by whom notice of appeal is given.
- (9) This section applies where the final allocation period ends on or after 30th June 1987.

#### **67 Variation of decisions on claims for allowable expenditure**

In Schedule 7 to the principal Act (claim for allowance of certain exploration expenditure etc.) at the end of the Table set out in paragraph 1(3) (which applies the provisions of Schedule 5 specified in the first column of the Table with the modifications specified in the second column) there shall be added—

“9	...	...	In sub-paragraph (2) omit paragraphs (b) and (c), in sub-paragraph (8) for the reference to all or any of the participators substitute a reference to the participator by whom the claim is made and in sub-paragraph (11) for "after 15th March 1983" substitute "on or after 17th March 1987."”.
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