



# Finance Act 1990

## 1990 CHAPTER 29

### PART IV

#### MISCELLANEOUS AND GENERAL

##### *Petroleum revenue tax*

#### **121 Limit on PRT repayment interest where loss carried back**

- (1) Schedule 2 to the Oil Taxation Act 1975 (management and collection of PRT) shall be amended as follows.
- (2) At the beginning of paragraph 16 (interest on repayments) there shall be inserted the words “Subject to paragraph 17 below”.
- (3) After that paragraph there shall be inserted the following paragraph—
  - “17 (1) This paragraph applies where—
    - (a) an assessment made on a participator for a chargeable period or an amendment of such an assessment (in this paragraph referred to as “the relevant assessment or amendment”) gives effect to relief under subsection (2) or subsection (3) of section 7 of this Act for one or more allowable losses accruing in a later chargeable period (in this paragraph referred to, in relation to the relevant assessment or amendment, as “the relief for losses carried back”); and
    - (b) the later chargeable period referred to in paragraph (a) above ends after 30th June 1991; and
    - (c) an amount of tax becomes repayable to the participator by virtue of the relevant assessment or amendment (whether wholly or partly by reason of giving effect to the relief for losses carried back).
  - (2) In the following provisions of this paragraph, so much of the repayment of tax referred to in sub-paragraph (1)(c) above as is attributable to giving

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effect to the relief for losses carried back is referred to as “the appropriate repayment”.

- (3) For the purpose of determining the amount of the appropriate repayment in a case where the relevant assessment or amendment not only gives effect to the relief for losses carried back but also takes account of any other matter (whether a relief or not) which goes to reduce the assessable profit of the period in question or otherwise to reduce the tax payable for that period, the amount of the repayment which is attributable to the relief for losses carried back is the difference between—
  - (a) the total amount of tax repayable by virtue of the relevant assessment or amendment; and
  - (b) the amount of tax (if any) which would have been so repayable if no account had been taken of the relief for losses carried back.
- (4) Where this paragraph applies, the amount of interest which, by virtue of paragraph 16 above, is carried by the appropriate repayment shall not exceed the difference between—
  - (a) 85 per cent. of the allowable loss or losses referred to in sub-paragraph (1)(a) above; and
  - (b) the amount of the appropriate repayment.”

## **122 Variation, on account of fraudulent or negligent conduct, of decision on expenditure claim etc**

- (1) In the Oil Taxation Act 1975, in Schedule 5 (allowance of certain expenditure on a claim by the responsible person) paragraph 9 (variation of decision on a claim where the amount of expenditure allowed etc. was incorrectly stated in the notice of the decision) shall be amended in accordance with subsections (2) to (4) below.
- (2) After sub-paragraph (1) there shall be inserted the following sub-paragraphs—
  - “(1A) In any case falling within sub-paragraph (1B) below, sub-paragraph (1) above shall have effect—
    - (a) with the substitution for the words “within the period of three years commencing with” of the words “at any time after”; and
    - (b) with the omission of the words “before the expiry of that period”.
  - (1B) The cases referred to in sub-paragraph (1A) above are those where—
    - (a) the incorrect statement of the relevant amount in the notice of the decision mentioned in sub-paragraph (1) above was an over-statement of that amount; and
    - (b) that over-statement was, in whole or in part, referable to an error in a statement or declaration made in connection with the claim; and
    - (c) at least one of the conditions in sub-paragraph (1C) below is fulfilled with respect to that error.
  - (1C) The conditions referred to in sub-paragraph (1B)(c) above are—
    - (a) that the error was attributable, in whole or in part, to the fraudulent or negligent conduct of the responsible person or a person acting on his behalf;
    - (b) that paragraph (a) above does not apply but, on the error coming to the notice of the person by whom the statement or declaration was

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made or a person acting on his behalf, the error was not remedied without unreasonable delay; and

- (c) that paragraph (a) above does not apply but, on the error coming to the notice of any person who subsequently becomes the responsible person, the error was not remedied without unreasonable delay.”

- (3) After sub-paragraph (2) there shall be inserted the following sub-paragraph—

“(2A) In any case where—

- (a) the relevant amount which was incorrectly stated is a part of any expenditure falling within paragraph (c) of sub-paragraph (2) above (in this sub-paragraph referred to as a “paragraph (c) amount”), and
- (b) under sub-paragraph (1B)(a) above the question arises whether the incorrect statement was an over-statement,

that question shall be determined by comparing the total amount which, in accordance with the notice of decision containing the incorrect statement, was brought into account under section 2(9)(b)(ii) of this Act with the total amount which would have been so brought into account if the paragraph (c) amounts stated in that notice had been correct”.

- (4) For sub-paragraph (11) there shall be substituted the following sub-paragraph—

“(11) In a case falling within sub-paragraph (1B) above, this paragraph has effect in relation to notices of decisions of the Board under paragraph 3 above whenever given; and, in any other case, this paragraph has effect in relation to such notices given after 15th March 1983.”

- (5) In the Table set out in paragraph 2 of Schedule 6 to the Oil Taxation Act 1975 (which modifies Schedule 5 in its application to a claim under Schedule 6) in the second column relating to paragraph 9 of Schedule 5 there shall be inserted—

“Omit sub-paragraph (1C)(c).”

- (6) In the Table set out in paragraph 1(3) of Schedule 7 to the Oil Taxation Act 1975 (which modifies Schedule 5 in its application to Schedules 7 and 8), in the entry in the second column relating to paragraph 9 of Schedule 5,—

- (a) at the beginning insert “In sub-paragraph (1C) omit paragraph (c)”; and
- (b) after “(b) and (c)” insert “omit sub-paragraph (2A)”.