

FINANCE ACT 2009

EXPLANATORY NOTES

INTRODUCTION

Section 85 Schedule 39: Blended Oil

Summary

1. [Section 85](#) and Schedule 39 dispenses with the requirement for companies to routinely provide documentation to support the way they allocate oil between two or more oil fields for petroleum revenue tax (PRT) purposes, and simplifies the legislation.

Details of the Schedule

2. Paragraph 2 replaces section 63 of Finance Act (FA) 1987 with a new section 63 which removes the information requirement contained in the current section 63(3) and also removes the penalty provisions in current sections 63(3) and (4).
3. New section 63(1) applies the new section where, before its disposal or appropriation, oil is mixed with oil from another field or fields.
4. New section 63(2) provides that the blended oil should be allocated to each of the relevant participators on a just and reasonable basis.
5. New section 63(3) provides that, in making the allocation, the quantity and quality of the oil derived from each of the fields from which the oil has been mixed must be taken into account.
6. New section 63(4) provides that the participators may select a method for allocating the oil.
7. New section 63(5) provides that subsection (4) above is subject to Schedule 12 of FA 1987. Schedule 12 allows HM Revenue & Customs (HMRC) to propose an alternative method of allocation and confers on each participator a right of appeal against HMRC's proposed allocation method.
8. New section 63(7) provides that the normal allocation rules in new section 63(2) apply for chargeable periods where oil is blended for only part of that chargeable period.
9. Paragraph 3(2) provides that paragraphs 1 and 2 of Schedule 12 (together with their headings) are replaced with new paragraphs 1 and 2.
10. New paragraph 1 is concerned with interpretation
11. New paragraph 1(1) defines, for the purposes of Schedule 12, the terms "HMRC" and "method of allocation".
12. New paragraph 1(2) defines a reference to a "suitable method of allocation" as a reference to a method that secures a just and reasonable allocation of blended oil.
13. New paragraph 2 concerns unsuitable methods of allocation.

*These notes refer to the Finance Act 2009 (c.10)
which received Royal Assent on 21 July 2009*

14. New paragraph 2(1) provides that new paragraph 2 will apply if a method of allocation that either has been used or is proposed to be used appears to HMRC not to be suitable.
15. New paragraph 2(2) allows HMRC to give notice to all of the participators in the fields from which oil has been mixed (that is, all those affected by the allocation) and to propose amendments to the method of allocation.
16. New paragraph 2(3) provides that, if HMRC gives notice then the allocation of the blended oil is to be redetermined, or determined, in accordance with the proposed amendments contained in the notice under sub-paragraph (2).
17. New paragraph 2(4) provides that sub-paragraph (3) is subject to the following provisions of Schedule 12, to any subsequent notices given under paragraph 2, and to any amendment to or replacement of the method of allocation made by the participators in the fields from which the oil has been mixed.
18. Paragraph 3(3) amends paragraph 3(1) of Schedule 12 by substituting “HMRC” for all occurrences of “the Board” and “paragraph 2(2)” for “paragraph 2(a)”.
19. Paragraph 3(4) amends paragraph 3(2) of Schedule 12 by substituting “HMRC” for all occurrences of “the Board”.
20. Paragraph 3(5) amends paragraph 3 of Schedule 12 by inserting two new sub-paragraphs (3) and (4).
21. New paragraph 3(3) provides that if the method of allocation is amended in accordance with paragraph 3 of Schedule 12 (appeals), the amended method will be used to determine the allocation of blended oil for the purposes of section 63 of FA 1987.
22. New paragraph 3(4) provides that sub-paragraph (3) is subject to any subsequent notice given under paragraph 3 of Schedule 12, and any further amendment to, or replacement of, the method of allocation as made by the participators in the fields from which the oil has been mixed.
23. Paragraph 3(6) omits paragraph 4 of Schedule 12.
24. Paragraph 4 provides that the Schedule has effect in relation to chargeable periods beginning after 30 June 2009.

Background Note

25. Blended oil is the result of the commingling (or mixing or blending) of oil from two or more oil fields (for the purposes of the Petroleum Revenue Tax (PRT) legislation “oil” can refer to hydrocarbons such as crude oil or gas). For example, the Brent blend is made up of a number of oil fields that are commingled before travelling down the Brent pipeline to shore.
26. In such cases it is important to establish for tax purposes the contribution each of the originating fields makes to the blend once it reaches the shore and is then sold. The commingling rules formalise for tax purposes the commercial arrangements in place for the allocation of oil to the various field owners.
27. The new rules do away with the need for companies routinely to provide details of changes made to an allocation methodology (which happens for example when a new oil field commences production). Instead HMRC will only ask for information where it appears that the allocation method is not made on a just and reasonable basis.