



Corporation Tax Act 2010

2010 CHAPTER 4

PART 8

OIL ACTIVITIES

CHAPTER 5

RING FENCE EXPENDITURE SUPPLEMENT

Post-commencement supplement

321 Supplement in respect of a post-commencement period

- (1) A qualifying company which incurs a ring fence loss (see section 323) in any post-commencement period may claim supplement under this section (“post-commencement supplement”) in respect of—
 - (a) that period, or
 - (b) any subsequent accounting period in which it carries on its ring fence trade.
 - (2) Any post-commencement supplement allowed on a claim in respect of a post-commencement period [^{F1}beginning before 1 April 2017] is to be treated for the purposes of the Corporation Tax Acts (other than the post-commencement supplement provisions or Part 4 of Schedule 19B to ICTA) as if it were a loss—
 - (a) which is incurred in carrying on the ring fence trade in that period, and
 - (b) which falls in whole to be used under section 45 (carry forward of [^{F2}pre-1 April 2017] trade loss against subsequent trade profits) to reduce trading income from the ring fence trade in succeeding accounting periods.
- [^{F3}(2A) Any post-commencement supplement allowed on a claim in respect of a post-commencement period beginning on or after 1 April 2017 is to be treated for the purposes of the Corporation Tax Acts (other than the post-commencement supplement provisions or Part 4 of Schedule 19B to ICTA) as if it were a loss—

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- (a) which is incurred in carrying on the ring fence trade in that period, and
 - (b) which falls in whole to be used under section 45B (carry forward of post-1 April 2017 trade loss against subsequent trade profits) to reduce trading income from the ring fence trade in succeeding accounting periods.]
- (3) Paragraph 74 of Schedule 18 to FA 1998 (company tax returns etc: time limit for claims for group relief) applies in relation to a claim for post-commencement supplement as it applies in relation to a claim for group relief.
- (4) In this Chapter “the post-commencement supplement provisions” means this section and sections 322 to 329.

Textual Amendments

- F1** Words in s. 321(2) inserted (with effect in accordance with Sch. 4 para. 190 of the amending Act) by Finance (No. 2) Act 2017 (c. 32), **Sch. 4 para. 52(2)(a)**
- F2** Words in s. 321(2)(b) inserted (with effect in accordance with Sch. 4 para. 190 of the amending Act) by Finance (No. 2) Act 2017 (c. 32), **Sch. 4 para. 52(2)(b)**
- F3** S. 321(2A) inserted (with effect in accordance with Sch. 4 para. 190 of the amending Act) by Finance (No. 2) Act 2017 (c. 32), **Sch. 4 para. 52(3)**

322 Amount of post-commencement supplement for a post-commencement period

- (1) The amount of the post-commencement supplement for any post-commencement period in respect of which a claim under section 321 is made is the relevant percentage for that period of the reference amount for that period.
- (2) If the post-commencement period is a period of less than 12 months, the amount of the supplement for the period (apart from this subsection) is to be reduced proportionally.
- (3) Sections 325 to 329 have effect for the purpose of determining the reference amount for a post-commencement period.

323 Ring fence losses

- (1) If—
 - (a) in any post-commencement period (“the period of the loss”) a qualifying company carrying on a ring fence trade incurs a loss in the trade, and
 - [^{F4}(b) some or all of the loss falls to be carried forward to the following accounting period under section 45, 45B or 303B (carry forward of trade losses against subsequent profits)]
 so much of the loss as falls to be so [^{F5}carried forward] is a “ring fence loss” of the company.
- (2) In determining for the purposes of the post-commencement supplement provisions how much of a loss incurred in a ring fence trade falls to be [^{F6}carried forward] as mentioned in subsection (1)(b), the following assumptions are to be made.
- (3) The first assumption is that every claim is made that could be made by the company under section 37 (relief for trade losses against total profits) to deduct losses incurred in the ring fence trade from ring fence profits of earlier post-commencement periods.

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- (4) The second assumption is that (where appropriate) section 42 (ring fence trades: further extension of period for relief) applies in relation to every such claim under section 37.
- (5) This section is subject to section 324 (special rule for straddling periods).
- (6) This section has effect for the purposes of the post-commencement supplement provisions.

Textual Amendments

- F4** S. 323(1)(b) substituted (with effect in accordance with Sch. 4 para. 190 of the amending Act) by Finance (No. 2) Act 2017 (c. 32), **Sch. 4 para. 53(2)(a)**
- F5** Words in s. 323(1) substituted (with effect in accordance with Sch. 4 para. 190 of the amending Act) by Finance (No. 2) Act 2017 (c. 32), **Sch. 4 para. 53(2)(b)**
- F6** Words in s. 323(2) substituted (with effect in accordance with Sch. 4 para. 190 of the amending Act) by Finance (No. 2) Act 2017 (c. 32), **Sch. 4 para. 53(3)**

324 Special rule for straddling periods

- (1) This section applies if the period of the loss is the deemed accounting period under section 309(3) beginning on 1 January 2006 (“the deemed accounting period”).
- (2) The amount of ring fence loss in the deemed accounting period is determined as follows—

Step 1

Calculate so much of the ring fence loss in the straddling period as, for the purposes of Part 4 of Schedule 19B to ICTA, is attributable to qualifying E&A allowances for the straddling period. The amount given by this step is “the qualifying Schedule 19B amount”.

Step 2

Calculate so much of the ring fence loss in the straddling period as is attributable to allowances for the straddling period under Part 6 of CAA 2001 in respect of relevant expenditure. For the purposes of this step “relevant expenditure” means expenditure incurred by the company on or after 1 January 2006 which, but for that fact, would be qualifying E&A expenditure for the purposes of Schedule 19B to ICTA. For the purposes of this step a ring fence loss is attributable to those allowances so far as the amount of the loss (less the qualifying Schedule 19B amount) does not exceed the amount of those allowances for that period. The amount given by this step is “the amount of the post-1 January 2006 E&A allowances”.

Step 3

Deduct the qualifying Schedule 19B amount and the amount of the post-1 January 2006 E&A allowances from the amount of the ring fence loss in the straddling period.

Step 4

Apportion the remaining amount of that loss (if any) to the deemed accounting period in proportion to the number of days in the deemed accounting period that

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fall in the straddling period. The amount given by this step is “the amount of the apportioned loss”

Step 5

The amount of the ring fence loss in the deemed accounting period is the amount of the apportioned loss plus the amount of the post-1 January 2006 E&A allowances.

- (3) In this section “the straddling period”, in relation to a qualifying company, means an accounting period of the company—
 - (a) beginning before 1 January 2006, and
 - (b) ending on or after that date,
 disregarding section 309(3).
- (4) In this section references to the ring fence loss in the straddling period are to that loss determined on the assumption that the straddling period is the period of the loss for the purposes of section 323.
- (5) This section has effect for the purposes of the post-commencement supplement provisions.

325 The pool of ring fence losses and the pool of non-qualifying Schedule 19B losses

- (1) For the purpose of determining the amount of any post-commencement supplement, a qualifying company is to be taken at all times in its post-commencement periods to have a continuing mixed pool (the “ring fence pool”) of—
 - (a) the carried forward qualifying Schedule 19B amount (if any),
 - (b) the company's ring fence losses, and
 - (c) post-commencement supplement.
- (2) The ring fence pool continues even if the amount in it is nil.
- (3) For the purpose of determining the amount of any post-commencement supplement, a qualifying company is also to be taken in its post-commencement periods to have a non-qualifying pool consisting of the carried forward non-qualifying Schedule 19B amount.
- (4) But the non-qualifying pool ceases to exist when the amount in it is reduced to nil.
- (5) In this section—

“the carried forward qualifying Schedule 19B amount”, in relation to a qualifying company, means the amount in its qualifying pool for the purposes of Part 4 of Schedule 19B to ICTA immediately before 1 January 2006, and

“the carried forward non-qualifying Schedule 19B amount”, in relation to a qualifying company, means the amount in its non-qualifying pool for the purposes of Part 4 of Schedule 19B to that Act immediately before 1 January 2006.

326 The ring fence pool

- (1) The ring fence pool consists of—
 - (a) the carried forward qualifying Schedule 19B amount (if any),

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- (b) the company's ring fence losses, allocated to the pool in accordance with subsection (2)(a), and
 - (c) the company's post-commencement supplement, allocated to the pool in accordance with subsection (2)(b).
- (2) The allocation of ring fence losses and post-commencement supplement to the pool is made as follows—
- (a) the amount of a ring fence loss is added to the pool in the period of the loss, and
 - (b) if any post-commencement supplement is allowed on a claim in respect of a post-commencement period, the amount of that supplement is added to the pool in that period.
- (3) The amount in the ring fence pool is subject to reductions in accordance with ^[F7]sections 327 and 328].
- (4) If a reduction in the amount in the ring fence pool falls to be made ^[F8]under section 327 or 328] in any accounting period, the reduction is to be made—
- (a) after the addition to the pool of the amount of any ring fence losses allocated to the pool in that period in accordance with subsection (2)(a), but
 - (b) before determining, and adding to the pool, the amount of any supplement claimed in respect of the period,
- and references to the amount in the pool are to be read accordingly.
- (5) In this section “the carried forward qualifying Schedule 19B amount”, in relation to a qualifying company, means the amount in its qualifying pool for the purposes of Part 4 of Schedule 19B to ICTA immediately before 1 January 2006.
- ^[F9](6) This section is subject to section 328A (adjustment of pool to remove pre-2013 losses after the initial 6 periods).]

Textual Amendments

- F7** Words in s. 326(3) substituted (with effect in accordance with Sch. 11 para. 14 of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [Sch. 11 para. 8\(2\)](#)
- F8** Words in s. 326(4) inserted (with effect in accordance with Sch. 11 para. 14 of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [Sch. 11 para. 8\(3\)](#)
- F9** S. 326(6) inserted (with effect in accordance with Sch. 11 para. 14 of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [Sch. 11 para. 8\(4\)](#)

^[F10]327 Reductions in respect of relief for carried-forward ring fence losses

- (1) Reductions are to be made in accordance with this section in a post-commencement period if the relevant amount for the period (see subsection (4)) is not nil.
- (2) If the company has a non-qualifying pool, the amount in the non-qualifying pool is to be reduced (but not below nil) by setting against it a sum equal to the relevant amount for the post-commencement period.
- (3) If—
 - (a) any of that sum remains after being so set against the amount in the non-qualifying pool, or
 - (b) the company does not have a non-qualifying pool,

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the amount in the ring fence pool is to be reduced (but not below nil) by setting against it so much of that sum as so remains or (as the case may be) a sum equal to the relevant amount for the post-commencement period.

- (4) For the purposes of this section, the relevant amount for a post-commencement period is the sum of—
- (a) the amount of any relief given in respect of ring fence losses in the post-commencement period under sections 45, 45B, 303B, 303C and 303D, and
 - (b) the amount of any relief prevented from being given in respect of ring fence losses in the post-commencement period by claims made under sections 45(4A) and 45B(5).]

Textual Amendments

F10 S. 327 substituted (with effect in accordance with [Sch. 4 para. 190](#) of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\), Sch. 4 para. 54](#)

328 Reductions in respect of unrelieved group ring fence profits

- (1) If there is an amount of unrelieved group ring fence profits for a post-commencement period, reductions are to be made in that period in accordance with this section.
- (2) If, after making any reductions that fall to be made in accordance with section 327, the company does not have a non-qualifying pool, the remaining amount in the ring fence pool is to be reduced (but not below nil) by setting against it a sum equal to the aggregate of the amounts of unrelieved group ring fence profits for the period.
- (3) If, after making any reductions that fall to be made in accordance with section 327, the company has an amount in a non-qualifying pool, the amount in that pool is to be reduced (but not below nil) by setting against it a sum equal to the aggregate of the amounts of unrelieved group ring fence profits for the period.
- (4) If any of that sum remains after being so set against the amount in the non-qualifying pool, the remaining amount in the ring fence pool is to be reduced (but not below nil) by setting against it so much of that sum as so remains.
- (5) For the purposes of this section references to the remaining amount in the ring fence pool are references to so much (if any) of the amount in the ring fence pool as remains after making any reductions that fall to be made in accordance with section 327.

[^{F11}328A Adjustment of pool to remove pre-2013 losses after the initial 6 periods

- (1) This section applies for the purposes of determining the amount of any post-commencement supplement on any claim in respect of any of the additional 4 periods.
- (2) The ring fence pool is to be taken to have been reduced at the time specified in subsection (6).
- (3) The amount of the reduction is the amount of the total pre-2013 pool reduced (but not below nil) by the amount of the total pre-2013 reduction.
- (4) “The amount of the total pre-2013 pool” means the sum of—

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- (a) the carried forward qualifying Schedule 19B amount (within the meaning of section 326(5)) which is in the pool at the time specified in subsection (6) (if any),
 - (b) the total amount of the company's ring fence losses added to the pool in post-commencement periods beginning before 5 December 2013,
 - (c) if the commencement period begins on or after 5 December 2013, so much of any ring fence loss added to the pool in that period as does not exceed the sum of—
 - (i) any pre-commencement expenditure added to the pool in a pre-commencement period ending before 5 December 2013, and
 - (ii) any pre-commencement supplement allowed in respect of such a pre-commencement period, and
 - (d) the total amount of the company's post-commencement supplement added to the pool in post-commencement periods beginning before that date.
- (5) “The amount of the total pre-2013 reduction” means the total amount of the reductions in the ring fence pool falling to be made under section 327 or 328 in post-commencement periods beginning before the time specified in subsection (6).
- (6) The time is—
- (a) immediately after the last of the 6 initial periods, or
 - (b) if later, 5 December 2013.
- (7) The amount (if any) in the non-qualifying pool under section 325(3) is reduced to nil (and so ceases to exist under section 325(4)).
- (8) Section 318A(6) (“the straddling 2013 period”) applies for the purposes of making a reduction under this section as it applies for the purposes of making a reduction under section 318A.
- (9) Accordingly—
- (a) any ring fence loss of the company added to the pool in the straddling 2013 period is to be apportioned between the pre-2013 period and the post-2013 period in proportion to the number of days in each and treated as allocated to the pool for the period in question;
 - (b) any amount of the company's post-commencement supplement allocated to the pool for the straddling period is to be apportioned between the pre-2013 period and the post-2013 period in proportion to the number of days in each and treated as allocated to the pool for the period in question;
 - (c) the total amount of reductions in the ring fence pool falling to be made in the straddling period is apportioned between the pre-2013 period and the post-2013 period in proportion to the number of days in each and treated as a reduction falling to be made in the period in question.
- (10) If the basis of the apportionment in subsection (9)(a), (b) or (c) would work unjustly or unreasonably in the company's case, the company may elect for the apportionment to be made on another basis that is just and reasonable and specified in the election.
- (11) Once a reduction in the pool has been made under this section—
- (a) ^[F12]no account is to be taken of a loss in determining under section 327(4) the relevant amount for a post-commencement period] if and to the extent that the loss is represented by the reduction made under this section, and

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- (b) if and to the extent that losses are represented by the reduction they are to be used under section 45 to reduce any profits of a post-commencement period before [^{F13}any such profits are reduced by the use under section 45, 45B, 303B, 303C and 303D of ring fence losses that are not represented by the reduction].]

Textual Amendments

- F11** S. 328A inserted (with effect in accordance with Sch. 11 para. 14 of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [Sch. 11 para. 10](#)
- F12** Words in s. 328A(11)(a) substituted (with effect in accordance with Sch. 4 para. 190 of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 4 para. 55\(a\)](#)
- F13** Words in s. 328A(11)(b) substituted (with effect in accordance with Sch. 4 para. 190 of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 4 para. 55\(b\)](#)

329 The reference amount for a post-commencement period

For the purposes of section 322 the reference amount for a post-commencement period is so much of the amount in the ring fence pool as remains after making any reductions required by section 327 or 328.

Changes to legislation:

There are currently no known outstanding effects for the Corporation Tax Act 2010, Cross
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