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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2012, SCHEDULE 21. (See end of Document for details)*

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## SCHEDULES

### SCHEDULE 21

Section 183

#### RELIEF IN RESPECT OF DECOMMISSIONING EXPENDITURE

##### *Restriction of relief available in respect of decommissioning expenditure*

- 1 Part 8 of CTA 2010 (oil activities) is amended as follows.
- 2 In section 330 (supplementary charge in respect of ring fence trades), at the end of subsection (2) insert—

“See also sections 330A and 330B (which provide for the amount of adjusted ring fence profits to be further adjusted where decommissioning expenditure has been taken into account).”
- 3 After section 330 insert—

##### **“330A Decommissioning expenditure taken into account in calculating ring fence profits**

- (1) This section applies where—
  - (a) any decommissioning expenditure is taken into account in calculating the amount mentioned in paragraph (a) of subsection (3) of section 330 or the amount mentioned in paragraph (b) of that subsection, and
  - (b) if that expenditure were not so taken into account, the amount of the adjusted ring fence profits of the company for the accounting period would be greater than nil.
- (2) In calculating for the purposes of section 330(1) the amount of the adjusted ring fence profits of the company for the accounting period, there is to be added an amount equal to the appropriate fraction of the used-up amount of that expenditure.
- (3) For the purposes of this section—

“the appropriate fraction” is

$$\frac{SC - 20\%}{SC}$$

where SC is the percentage specified in section 330(1) for the accounting period, and  
“the used-up amount”, in relation to any expenditure, is the difference between—

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- (a) the adjusted ring fence profits of the company for the accounting period determined in the absence of this section (which may be nil), and
  - (b) what the adjusted ring fence profits of the company for that accounting period would be if that expenditure were not taken into account as mentioned in subsection (1).
- (4) In determining for the purposes of this section whether, and to what extent, any losses which have been taken into account as mentioned in subsection (1) are attributable to decommissioning expenditure—
- (a) assume that any amounts of any other expenditure which could be taken into account in calculating those losses are taken into account before any amounts of decommissioning expenditure, and
  - (b) where any losses have been surrendered in accordance with Part 5, the company must specify, in accordance with a basis determined jointly by the company, the surrendering company (if different) and any other claimant company, whether any of those losses is attributable to decommissioning expenditure.
- (5) But if paragraph (a) of subsection (4) would work unfavourably in the company's case, the company may elect for that paragraph not to apply in relation to it and for any amounts of expenditure which could be taken into account in calculating those losses instead to be taken into account in the order specified in the election.
- (6) In determining for the purposes of this section the used-up amount of decommissioning expenditure, assume that any other amounts that could be deducted in calculating the adjusted ring fence profits of the company for the accounting period have already been so deducted.
- (7) But if subsection (6) would work unfavourably in the company's case, the company may elect for that subsection not to apply in relation to it and for any amounts that could be deducted in calculating those adjusted ring fence profits instead to be deducted in the order specified in the election.
- (8) For the purposes of this section, any deduction made under section 330B is to be disregarded.
- (9) This section does not apply in relation to any accounting period for which the percentage specified in section 330(1) is less than or equal to 20% (including any accounting period beginning before 24 March 2011 and ending on or after that date).
- (10) In this section—
- “claimant company” and “surrendering company” are to be read in accordance with Part 5 (see section 188), and
  - “decommissioning expenditure” has the meaning given by section 330C.

### **330B Decommissioning expenditure taken into account for PRT purposes**

- (1) This section applies where—

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- (a) any decommissioning expenditure is taken into account in calculating the assessable profit accruing to a participator in any chargeable period from an oil field, and
  - (b) if that expenditure were not so taken into account, the amount of petroleum revenue tax with which the participator would be chargeable in respect of the field for the chargeable period would be greater than nil.
- (2) In calculating for the purposes of section 330(1) the amount of the participator's adjusted ring fence profits for the relevant accounting period, there is to be deducted an amount equal to the appropriate fraction of the PRT difference.
- (3) For the purposes of this section—  
“the appropriate fraction” is

$$\frac{SC - 20\%}{SC}$$

where SC is the percentage specified in section 330(1) for the relevant accounting period, and

“the PRT difference” is the difference between—

- (a) the amount of petroleum revenue tax with which the participator is chargeable for the chargeable period (which may be nil), and
  - (b) the amount of petroleum revenue tax with which the participator would be chargeable for that chargeable period if the decommissioning expenditure were not taken into account as mentioned in subsection (1).
- (4) In determining for the purposes of this section whether, and to what extent, any allowable losses which have been taken into account as mentioned in subsection (1) are attributable to decommissioning expenditure, assume that any amounts of any other expenditure which could be taken into account in calculating those losses are taken into account before any amounts of decommissioning expenditure.
- (5) But if subsection (4) would work unfavourably in the participator's case, the participator may elect for that subsection not to apply in relation to it and for any amounts of expenditure which could be taken into account in calculating those losses instead to be taken into account in the order specified in the election.
- (6) This section does not apply in relation to any accounting period for which the percentage specified in section 330(1) is less than or equal to 20% (including any accounting period beginning before 24 March 2011 and ending on or after that date).
- (7) In this section—  
“assessable profit” and “allowable loss” have the same meaning as in Part 1 of OTA 1975 (see section 2 of that Act),

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“decommissioning expenditure” has the meaning given by section 330C, and

“the relevant accounting period”—

- (a) in a case where section 301 applies, is to be construed in accordance with subsection (7) of that section, and
- (b) in any other case, means the accounting period for which a deduction in respect of any petroleum revenue tax with which the participator may be chargeable for the chargeable period mentioned in subsection (1) would be made under section 299(2) (deduction of PRT in calculating income for corporation tax purposes).

### **330C Meaning of “decommissioning expenditure”**

- (1) In sections 330A and 330B “decommissioning expenditure” means expenditure incurred in connection with—
  - (a) demolishing any plant or machinery,
  - (b) preserving any plant or machinery pending its reuse or demolition,
  - (c) preparing any plant or machinery for reuse,
  - (d) arranging for the reuse of any plant or machinery, or
  - (e) the restoration of any land.
- (2) It is immaterial for the purposes of subsection (1)(b) whether the plant or machinery is reused, is demolished or is partly reused and partly demolished.
- (3) It is immaterial for the purposes of subsection (1)(c) and (d) whether the plant or machinery is in fact reused.
- (4) In subsection (1)(e) “restoration” includes landscaping.
- (5) The Treasury may by order amend this section.
- (6) An order under subsection (5) may include transitional provision and savings.”

- 4 In section 7 of FA 2011 (increase in rate of supplementary charge), in subsection (6), at the end insert—

“See also sections 330A and 330B of CTA 2010 (which have effect in relation to the separate accounting period consisting of so much of the straddling period as falls on or after 24 March 2011).”

### *Extension of loss relief available in respect of decommissioning expenditure*

- 5 (1) In Chapter 2 of Part 4 of CTA 2010 (relief for trade losses), section 40 (ring fence trades: extension of periods for which relief may be given) is amended as follows.
- (2) In subsection (1)(b), for the words from “for which” to the end substitute “ for which any allowances under section 164 or 403 of CAA 2001 are made to the company in respect of decommissioning expenditure ”.
- (3) In subsection (3)—
  - (a) for “the allowance” substitute “ the sum of the allowances ”, and
  - (b) for “that allowance” substitute “ that amount ”.

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(4) After that subsection insert—

“(3A) In this section “decommissioning expenditure” has the meaning given by section 330C.”

*Application*

- 6 (1) The amendments made by this Schedule have effect in relation to expenditure incurred in connection with decommissioning carried out on or after 21 March 2012.
- (2) In sub-paragraph (1) “decommissioning” means anything falling within any of paragraphs (a) to (e) of section 330C(1) of CTA 2010 (as inserted by this Schedule).

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