These notes refer to the Finance Act 2014 (c.26) which received Royal Assent on 17 July 2014

FINANCE ACT 2014

EXPLANATORY NOTES

INTRODUCTION

Section 70 and Schedule 15: Supplementary Charge: Onshore Allowance

Summary

1. This section and Schedule introduce a new allowance, which will remove an amount equal to 75 per cent of capital expenditure incurred by a company in relation to an onshore site from its adjusted ring fence profits for the purposes of supplementary charge (SC).

Details of the Schedule

Part 1

Amendments to Part 8 of CTA 2010

2. Paragraph 1 provides that the Schedule amends Part 8 of CTA 2010.

3. Paragraph 2 provides that section 357 is renumbered as section 356AA.

4. Paragraph 3 inserts after Chapter 7 a new Chapter 8 entitled “Supplementary Charge: Onshore Allowance” which makes provision for a new allowance (reducing the Supplementary Charge) for capital expenditure on “on-shore oil-related activities”.

5. New section 356B provides an overview of new Chapter 8. It explains that relief is given by way of an allowance for capital expenditure incurred on onshore oil-related activities, said allowance operating by way of reducing a company’s adjusted-ring fence profits for the purpose of the Supplementary Charge; that the new allowance is activated by relevant income in relation to a site; that allowances are transferred on disposal of a licence interest; and that a company may elect to transfer allowances between different sites for which it holds a licence.

6. New section 356BA defines “Onshore oil-related activities”.

7. New section 356BB defines “activities”.

8. New section 356BC defines what is meant by “site”.

9. New section 356C explains how onshore allowance is generated, including that an amount of “relievable capital expenditure” (as defined by reference to activities in the course of which it is incurred, and disqualifying conditions) generates an allowance of 75 per cent of that amount, and that allowance is generated in relation to a “qualifying site” (as defined by reference to date of development authorisation). There is also provision for cases where, in relation to a qualifying site, relievable capital expenditure is incurred there only partly for the purposes of onshore oil-related activities, or is incurred only partly in relation to the site; in that case the expenditure is to be apportioned to that site on a just and reasonable basis.

10. New section 356CA defines the conditions which disqualify capital expenditure from being "relievable capital expenditure".

11. New section 356CB provides for how a company is to treat capital expenditure incurred before a site is established.

12. New section 356D provides for a company's adjusted ring fence profits for an accounting period to be reduced (but not below zero) by the total amount of activated allowances held by the company in that period.

13. New section 356DA provides that a company's unused activated allowances are carried forward to the next accounting period.

14. New section 356DB provides that where a company holds both field allowances and onshore allowances it may choose the order in which the allowances are to be used.

15. New section 356E provides, in the case where during an accounting period a company's share of the equity in the site remains unchanged, that a company is to have activated allowances no greater than the relevant income from that site. "Relevant income" is also defined in this section.

16. New section 356EA provides for the calculation of the closing balance of unactivated allowances held by a company for an accounting period.

17. New section 356EB provides that an amount equal to the a company's closing balance of unactivated allowances, less relevant income for the period, is to be carried forward to the next accounting period.

18. New section 356F provides that, where a company has an interest in a licence for more than one site, it may elect for the whole or part of its unactivated allowances in one site to be transferred to another site.

19. New section 356G introduces new sections 356GA to 356GD, which provide for the case where a company's share of the equity in a licensed area changes in any one accounting period. In summary, those provisions introduce a reference period to identify those parts of the accounting period for which the company is a licensee, and make provision for the activation of allowance for those reference periods.

20. New section 356GA defines a "reference period".

21. New section 356GB provides for the calculation of a company's activated allowance in any reference period.

22. New section 356GC provides that the unactivated allowance in a reference period is carried forward to the next period (being either a reference period or an accounting period).

23. New section 356GD provides for the calculation of the amount of total unactivated allowances attributable to a reference period and a site.

24. New section 356H introduces new sections 356HA and 356HB which apply where a company holds unactivated allowances and disposes of some or all of its equity interest in a licensed area.

25. New Section 356HA provides for the calculation of the amount to be deducted from a company's unactivated allowances attributable to a reference period and a site following the disposal of an equity interest in the licensed area.

26. New section 356HB provides for the calculation of the amount of unactivated allowance generated by a company for a reference period and in relation to a site following the acquisition of an equity interest in the licensed area.

27. New section 356I provides that any alteration to a company's adjusted ring fence profits is reflected in the operation and calculations of Chapter 8.

28. New section 356IA provides that Treasury may by Order make adjustments to the percentage specified at section 356C(2) and the also the cap on production specified in section 356CA(1) or (2).

29. New section 356J explains how references in new Chapter 8 to "authorisation of development": drilling and extraction sites are to be interpreted.

30. New Section 356JA explains when capital expenditure can be said to be incurred for the purposes of new Chapter 8.

31. New section 356JB provides interpretation on definitions for "adjusted ring fence profits", "cumulative total amount of activated allowance", "licence", "licensed area", "licensee", "onshore allowance", "relevant income", and "site".

32. Paragraph 4 of the Schedule makes provision for existing field allowances to be unavailable in respect of fields licensed for onshore activity on or after commencement of Chapter 8.

Part 2

Minor and consequential amendments

33. Paragraph 5 makes minor consequential amendments to Part 8 as follows.

34. Paragraph 5(2) inserts in section 270 (overview of Part 8) a new subsection (7A) to introduce the onshore allowance.

35. Paragraph 5(3) amends section 333 (reduction of adjusted ring fence profits) to bring the wording in line with that used for the onshore allowance with regard to field allowances.

36. Paragraph 5(4) amends the definition of adjusted ring fence profits in section 357 to insert a reference to allowances under Chapter 8.

37. Paragraph 5(5) amends Schedule 4 of CTA 2010 to substitute "357" for "356AA".

Part 3

Commencement and transitional provisions

38. Paragraph 6 provides that the amendments are to have effect in relation to capital expenditure incurred on or after 5 December 2013.

39. Paragraph 7 introduces transitional arrangements for onshore oil fields, allowing a company to elect to defer commencement of the onshore allowance until 1 January 2015.

40. Paragraph 8 introduces arrangements in paragraphs 9 and 10 for accounting periods which straddle the commencement date of 5 December 2013 (or, if applicable, 1 January 2015).

41. Paragraph 9 provides for the apportionment of a company's adjusted ring fence profits in a straddling accounting period according to the number of days falling on or after the commencement day.

42. Paragraph 10 provides for the apportionment of relevant income for determining activated allowance in a straddling accounting period according to the number of days falling on or after the commencement day.

Background Note

43. In addition to ring fence corporation tax (RFCT), oil and gas companies are also subject to an additional tax, the supplementary charge (SC), on adjusted ring fence profits arising from oil-related activities. The rate of SC is set at 32 per cent.

44. Field allowances provide relief by reducing the amount of adjusted profits on which SC is due for oil and gas projects which meet certain conditions. Existing field allowances are provided by Part 8, Chapter 7 Corporation Taxes Act 2010 and apply to both onshore and offshore projects which satisfy the relevant criteria.

45. This section introduces a new allowance, replacing field allowances for onshore projects.