

FINANCE ACT 2015

EXPLANATORY NOTES

INTRODUCTION

Section 50 and Schedule 13: Supplementary Charge: Cluster Area Allowance

Details of the Schedule

Part 1 - Amendments to Part 8 of Corporation Tax Act 2010 (CTA 2010)

3. Paragraph 1 provides that the Schedule amends part 8 of CTA 2010 (oil activities).
4. Paragraph 2 inserts, after Chapter 8, a new Chapter 9 entitled Supplementary Charge: Cluster Area Allowance which makes provision for a new allowance (reducing the supplementary charge) for investment expenditure incurred in relation to a cluster area.
5. New section 356JC provides an overview of new Chapter 9.
6. New section 356JD defines “cluster area”, including that it is an offshore area only, as determined by the Secretary of State, and does not include any previously authorised oil fields. It provides for notice to be given of proposed cluster areas, as well as a 30 day period for representations to be made prior to the publication of a final determination. A determination has effect from the day on which it is published. It also provides that determinations can be varied or revoked.
7. New section 356JDA defines “previously authorised oil field”, to exclude from the cluster area oil fields authorised for development before the cluster area determination date, other than a decommissioned oil field. Decommissioned oil fields will have their original authorisation date ignored for the purposes of exclusion from the cluster area, so will be eligible for cluster allowance if in a determined cluster area. It also provides that authorisation for development is interpreted according to section 356IB of CTA 2010, and refers to paragraph 5 of the Schedule to Finance Act 2015 for the treatment of proposed determinations before the date the Act is passed.
8. New section 356JE defines “investment expenditure” as expenditure that is capital expenditure or expenditure as prescribed by HM Treasury by regulations.
9. New section 356JF explains how cluster area allowance is generated including that an amount of “relievable investment expenditure” (as defined by reference to activities in the course of which it is incurred) generates an allowance of 62.5% of that amount, and that allowance is generated in relation to a cluster area. There is also provision for cases where investment expenditure is incurred only partly for the purposes of oil-related activities, or is incurred only partly in relation to the cluster area; in both cases the expenditure is to be apportioned to that cluster area on a just and reasonable basis.
10. New section 356JFA provides the disqualifying conditions for expenditure on the acquisition of an asset. Investment expenditure is not relievable if it is incurred in relation to the acquisition of an asset, which has already generated allowance for any company, or for expenditure on the acquisition of a licence, and any connected assets, that would have been relievable had cluster allowance legislation been in place.

*These notes refer to the Finance Act 2015 (c.11)
which received Royal Assent on 26 March 2015*

11. New section 356JG provides for a company's adjusted ring fence profits for an accounting period to be reduced (but not below zero) by the cumulative total amount of activated allowance in that period.
12. New section 356JGA provides that a company's unused activated allowances are carried forward to the next accounting period.
13. New section 356JH provides that where a company's share of the equity in the cluster area remains unchanged during an accounting period, that is to have activated allowances the smaller of the closing balance of unactivated allowance held, or relevant income from that cluster area. The company must hold a closing balance of unactivated allowance greater than zero, and have relevant income from the cluster area. "Relevant income" is also defined in this section as production income from oil extraction activities.
14. New section 356JHA provides for the calculation of the closing balance of unactivated allowances held by a company for an accounting period.
15. New section 356JHB provides that an amount equal to the company's closing balance of unactivated allowances, less activated allowance for the period and any amount transferred out following a disposal, is to be carried forward to the next period.
16. New section 356JI introduces and defines reference periods where a company's share of equity in any licensed area or sub-area in a cluster changes in any one accounting period. The accounting period is divided into as many reference periods as is necessary according to the acquisitions and disposals made by the company in the cluster area.
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17. New section 356JJ provides for the calculation of a company's activated allowance in any reference period, being the smaller of the relevant income in the reference period, or the total amount of unactivated allowance attributable to that reference period.
18. New section 356JJA provides for the calculation of the total amount of unactivated allowances attributable to a reference period and a cluster area. This is allowance generated in the reference period (including transfer of allowance following an acquisition of equity share) plus the amount carried forward from preceding periods.
19. New section 356JJB provides that an amount equal to the amount of unactivated allowance attributable to the reference period, less activated allowance for the period and any amount transferred out following a disposal is to be carried forward to the next period.
20. New section 356JK provides for a company to elect to transfer a specified amount of cluster area allowance on disposal of an equity share in a licensed area or sub-area, subject to a minimum and maximum transferable amount.
21. New section 356JKA provides for a company to elect the order of priority of disposals if there is more than one disposal on a single day.
22. New section 356JKB provides for the calculation of the amount to be treated as generated by the transferee following the acquisition of an equity share in a licensed area.
23. New section 356JL provides for use of allowance attributable to an unlicensed area in a cluster area. A company may elect a licensed area or sub-area to attribute allowance generated in an unlicensed area to.
24. New section 356JM provides that any alteration to a company's adjusted ring fence profits is reflected in the operation and calculations of Chapter 9.
25. New section 356JMA provides that HM Treasury may by regulations make adjustments to the percentage specified at section 356JF(2).

26. New section 356JN explains when capital expenditure can be said to be incurred for the purposes of new Chapter 9 and provides that any regulations made on the meaning of investment expenditure may make provisions about when that expenditure is incurred.
27. New section 356JNA provides for licensed areas and licensed sub-area in a cluster area.
28. New section 356JNB provides interpretation on definitions for “adjusted ring fence profits”, “cluster area allowance”, “cumulative total amount of activated allowance”, “licence”, “licensed area”, “licensee”, and “relevant income”.
29. Paragraph 3 makes provision that additionally-developed oil fields with an authorisation date after the date of determination of a cluster area are not additionally developed oil fields and so are unable to qualify for field allowance under Chapter 7.
30. Paragraph 4 makes provision that new oil fields with an authorisation date after the date of determination of a cluster area are not qualifying oil fields and so are unable to qualify for field allowances under Chapter 7.

Part 2 - Transitional Provisions

31. Paragraph 5 provides for proposed determinations of cluster areas in the period between 3 December 2014, and the date of Royal Assent to Finance Act 2015, to ensure companies in a licensed area in a proposed cluster area are able to generate cluster area allowance from the date of the proposed cluster area being published. It provides for such proposed determinations to be treated as valid determinations under section 356JD.
32. Paragraph 6 introduces arrangements for companies who are licensees in oil fields in a cluster area, to elect to exclude certain fields from the cluster area until a date to be specified in regulations.