

SCHEDULES

SCHEDULE 15

OIL ACTIVITIES: TRANSFERABLE TAX HISTORY

PART 8

TTH ELECTIONS: CONDITIONS AND PROCEDURE

Election conditions: associated companies

- 56 (1) A TTH election may only be made if—
- (a) the seller and purchaser are not associated with one another on the licence transfer date,
 - (b) the corporate restructuring condition is met, or
 - (c) the hive down condition is met.
- (2) The “corporate restructuring condition” is met for the purposes of a TTH election if —
- (a) the seller and purchaser are associated with one another on the licence transfer date, and
 - (b) either—
 - (i) a third party election is made in respect of the TTH asset within the permitted period, or
 - (ii) a hive down election is made in respect of the TTH asset within the permitted period.
- (3) For the purposes of sub-paragraph (2)(b)(i)—
- (a) a “third party election” is an election made between two companies that are not associated with one another, and
 - (b) the “permitted period” in relation to a third party election in respect of the TTH asset is—
 - (i) the period of 90 days ending with the licence transfer date referred to in sub-paragraph (2)(a), or
 - (ii) the period of 90 days beginning with that date.
- (4) For the purposes of sub-paragraph (2)(b)(ii)—
- (a) a “hive down election” is an election in respect of which the hive down condition is met, and
 - (b) the “permitted period” in relation to a hive down election in respect of the TTH asset is the period of 180 days ending with the licence transfer date referred to in sub-paragraph (2)(a).
- (5) The “hive down” condition is met for the purposes of a TTH election if the seller and purchaser—

Status: This is the original version (as it was originally enacted).

- (a) are associated with one another on the licence transfer date, but
 - (b) before the end of the period of 90 days beginning with that date, the purchaser ceases to be associated with—
 - (i) the seller, and
 - (ii) any other company that is associated with the seller.
- (6) See paragraph 98 of this Schedule and section 271 of CTA 2010 for further provision about the meaning of “associated companies”.

Election conditions: decommissioning relief agreements

- 57 (1) If the seller is a party to a decommissioning relief agreement, a TTH election may only be made if the agreement provides for the total TTH amount to be disregarded when determining the reference amount.
- (2) In this Schedule, “decommissioning relief agreement” and “reference amount” have the meaning given by section 80(2) of FA 2013.

Timing of election

- 58 (1) A TTH election in respect of a TTH asset may not be made—
- (a) before the licence transfer date, or
 - (b) after the end of the period of 90 days beginning with that date or, if later, 1 June 2019.
- (2) Paragraph 3 of Schedule 1A to TMA 1970 (amendment of claims and elections) does not apply in relation to a TTH election (but see paragraph 74 (amounts discovered to be incorrect)).

Content

- 59 (1) The election must contain such information and declarations as an officer of Revenue and Customs may reasonably require.
- (2) The officer may, in particular, require information and declarations as to—
- (a) the TTH asset to which the election relates,
 - (b) the amount of the seller’s taxable profits that are represented by the total TTH amount and each transferred profits amount,
 - (c) the rate of tax chargeable on those taxable profits, and the amount of tax paid,
 - (d) any decommissioning security agreement which relates to the TTH oil field and the seller, and any estimate of the decommissioning costs for the field determined for the purposes of any such agreement, and
 - (e) any decommissioning relief agreement to which the seller is a party (see paragraph 57).

Timing of an enquiry: cases where the corporate restructuring condition is met

- 60 (1) This paragraph applies if—
- (a) a TTH election is made, and
 - (b) the corporate restructuring condition or the hive down condition is met in relation to that election.

Status: This is the original version (as it was originally enacted).

- (2) Paragraph 5(2)(a) of Schedule 1A to TMA 1970 (power to enquire into claims: time limits) has effect in relation to the election as if the reference in that provision to the day on which the claim was made were a reference to—
- (a) in a case where the corporate restructuring condition is met by reference to paragraph 56(2)(b)(i), the day on which the third party election was made;
 - (b) in a case where the corporate restructuring condition is met by reference to paragraph 56(2)(b)(ii), the day on which the seller and purchaser cease to be associated with one another;
 - (c) in a case where the hive down condition is met, the day on which the seller and the purchaser ceased to be associated with one another.