

SCHEDULE 1

Consequential Amendments and Supplemental Provisions – Primary Legislation

Oil Taxation Act 1975

75. After paragraph 14 insert—

“Appeal: HMRC review or determination by tribunal

14A.—(1) This paragraph applies if notice of appeal has been given to HMRC.

(2) In such a case—

- (a) the participator may notify HMRC that the participator requires HMRC to review the matter in question (see paragraph 14B),
- (b) HMRC may notify the participator of an offer to review the matter in question (see paragraph 14C), or
- (c) the participator may notify the appeal to the tribunal (see paragraph 14D).

(3) See paragraphs 14G and 14H for provision about notifying appeals to the tribunal after a review has been required by the participator or offered by HMRC.

(4) This paragraph does not prevent the matter in question from being dealt with in accordance with paragraph 14(9).

Participator requires review by HMRC

14B.—(1) Sub-paragraphs (2) and (3) apply if the participator notifies HMRC that the participator requires HMRC to review the matter in question.

(2) HMRC must, within the relevant period, notify the participator of HMRC’s view of the matter in question.

(3) HMRC must review the matter in question in accordance with paragraph 14E.

(4) The participator may not notify HMRC that the participator requires HMRC to review the matter in question and HMRC shall not be required to conduct a review if—

- (a) the participator has already given a notification under this paragraph in relation to the matter in question,
- (b) HMRC have given a notification under paragraph 14C in relation to the matter in question, or
- (c) the participator has notified the appeal to the tribunal under paragraph 14D.

(5) In this paragraph “relevant period” means—

- (a) the period of 30 days beginning with the day on which HMRC receive the notification from the participator, or
- (b) such longer period as is reasonable.

HMRC offer review

14C.—(1) Sub-paragraphs (2) to (5) apply if HMRC notify the participator of an offer to review the matter in question.

(2) When HMRC notify the participator of the offer, HMRC must also notify the participator of HMRC’s view of the matter in question.

(3) If, within the acceptance period, the participator notifies HMRC of acceptance of the offer, HMRC must review the matter in question in accordance with paragraph 14E.

(4) If the participator does not give HMRC such a notification within the acceptance period, HMRC's view of the matter in question is to be treated as if it were contained in an agreement in writing under paragraph 14(9) for the settlement of that matter.

(5) Sub-paragraph (4) does not apply to the matter in question if, or to the extent that, the participator notifies the appeal to the tribunal under paragraph 14H.

(6) HMRC may not notify the participator of an offer to review the matter in question (and, accordingly, HMRC shall not be required to conduct a review) if—

- (a) HMRC have already given a notification under this paragraph in relation to the matter in question,
- (b) the participator has given a notification under paragraph 14B in relation to the matter in question, or
- (c) the participator has notified the appeal to the tribunal under paragraph 14D.

(7) In this paragraph “acceptance period” means the period of 30 days beginning with the date of the document by which HMRC notify the participator of the offer to review the matter in question.

Notifying appeal to the tribunal

14D.—(1) This paragraph applies if notice of appeal has been given to HMRC.

(2) The participator may notify the appeal to the tribunal.

(3) If the participator notifies the appeal to the tribunal, the tribunal is to decide the matter in question.

(4) Sub-paragraphs (2) and (3) do not apply in a case where—

- (a) HMRC have given a notification of their view of the matter in question under paragraph 14B, or
- (b) HMRC have given a notification under paragraph 14C in relation to the matter in question.

(5) In a case falling within sub-paragraph (4)(a) or (b), the participator may notify the appeal to the tribunal, but only if permitted to do so by paragraph 14G or 14H.

Nature of review etc

14E.—(1) This paragraph applies if HMRC are required by paragraph 14B or 14C to review the matter in question.

(2) The nature and extent of the review are to be such as appear appropriate to HMRC in the circumstances.

(3) For the purpose of sub-paragraph (2), HMRC must, in particular, have regard to steps taken before the beginning of the review—

- (a) by HMRC in deciding the matter in question, and
- (b) by any person in seeking to resolve disagreement about the matter in question.

(4) The review must take account of any representations made by the participator at a stage which gives HMRC a reasonable opportunity to consider them.

(5) The review may conclude that HMRC's view of the matter in question is to be—

- (a) upheld,

- (b) varied, or
- (c) cancelled.

(6) HMRC must notify the participator of the conclusions of the review and their reasoning within—

- (a) the period of 45 days beginning with the relevant day, or
- (b) such other period as may be agreed.

(7) In sub-paragraph (6) “relevant day” means—

- (a) in a case where the participator required the review, the day when HMRC notified the participator of HMRC’s view of the matter in question,
- (b) in a case where HMRC offered the review, the day when HMRC received notification of the participator’s acceptance of the offer.

(8) Where HMRC are required to undertake a review but do not give notice of the conclusions within the time period specified in sub-paragraph (6), the review is to be treated as having concluded that HMRC’s view of the matter in question (see paragraphs 14B(2) and 14C(2)) is upheld.

(9) If sub-paragraph (8) applies, HMRC must notify the participator of the conclusion which the review is treated as having reached.

Effect of conclusions of review

14F.—(1) This paragraph applies if HMRC give notice of the conclusions of a review (see paragraph 14E(6) and (9)).

(2) The conclusions are to be treated as if they were an agreement in writing under paragraph 14(9) for the settlement of the matter in question.

(3) Sub-paragraph (2) does not apply to the matter in question if, or to the extent that, the participator notifies the appeal to the tribunal under paragraph 14G.

Notifying appeal to tribunal after review concluded

14G.—(1) This paragraph applies if—

- (a) HMRC have given notice of the conclusions of a review in accordance with paragraph 14E, or
- (b) the period specified in paragraph 14E(6) has ended and HMRC have not given notice of the conclusions of the review.

(2) The participator may notify the appeal to the tribunal within the post-review period.

(3) If the post-review period has ended, the participator may notify the appeal to the tribunal only if the tribunal gives permission.

(4) If the participator notifies the appeal to the tribunal, the tribunal is to determine the matter in question.

(5) In this paragraph “post-review period” means—

- (a) in a case falling within sub-paragraph (1)(a), the period of 30 days beginning with the date of the document in which HMRC give notice of the conclusions of the review in accordance with paragraph 14E(6), or
- (b) in a case falling within sub-paragraph (1)(b), the period that—

- (i) begins with the day following the last day of the period specified in paragraph 14E(6), and

Changes to legislation: There are currently no known outstanding effects for the The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, Paragraph 75. (See end of Document for details)

- (ii) ends 30 days after the date of the document in which HMRC give notice of the conclusion of the review in accordance with paragraph 14E(9).

Notifying appeal to tribunal after review offered but not accepted

14H.—(1) This paragraph applies if—

- (a) HMRC have offered to review the matter in question (see paragraph 14C), and
 - (b) the participator has not accepted the offer.
- (2) The participator may notify the appeal to the tribunal within the acceptance period.
- (3) But if the acceptance period has ended, the participator may notify the appeal to the tribunal only if the tribunal gives permission.
- (4) If the participator notifies the appeal to the tribunal, the tribunal is to determine the matter in question.
- (5) In this paragraph “acceptance period” has the same meaning as in paragraph 14C.

Interpretation of paragraphs 14A to 14H

14I.—(1) In paragraphs 14A to 14H—

- (a) “matter in question” means the matter to which an appeal relates;
 - (b) a reference to a notification is a reference to a notification in writing.
- (2) In paragraphs 14A to 14H, a reference to the participator includes a person acting on behalf of the participator except in relation to—
- (a) notification of HMRC’s view under paragraph 14B(2);
 - (b) notification by HMRC of an offer of review (and of their view of the matter) under paragraph 14C;
 - (c) notification of the conclusions of a review under paragraph 14E(6); and
 - (d) notification of the conclusions of a review under paragraph 14E(9).
- (3) But if a notification falling within sub-paragraph (2) is given to the participator, a copy of the notification may also be given to a person acting on behalf of the participator.”.

Commencement Information

II Sch. 1 para. 75 in force at 1.4.2009, see **art. 1(2)**

Changes to legislation:

There are currently no known outstanding effects for the The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, Paragraph 75.