



Finance Act 1980

1980 CHAPTER 48

PART VI

OIL TAXATION

104 Increase of petroleum revenue tax

- (1) In section 1(2) of the Oil Taxation Act 1975 (rate of petroleum revenue tax) for the words " 60 per cent." there shall be substituted the words " 70 per cent ".
- (2) This section has effect in relation to chargeable periods ending after 31st December 1979.

105 Advance payments of tax

- (1) Every participator in an oil field shall when he delivers to the Board the statement which section 1(1)(a) of the Petroleum Revenue Tax Act 1980 requires him to deliver with his return for a chargeable period—
 - (a) deliver to the Board a statement showing whether any, and if so what, amount is payable by him under this section as an advance payment of tax in respect of the field for the next chargeable period; and
 - (b) if any amount is so payable, pay to the Board a sum equal to that amount.
- (2) The statement under subsection (1)(a) above shall be in such form as the Board may prescribe.
- (3) The amount payable by a participator as an advance payment of tax in respect of a field for a chargeable period shall be equal to 15 per cent, of whichever is the greater of—
 - (a) the amount of tax, if any, shown in the statement delivered by him under the said section 1(1)(a) as payable by him in respect of the field for the last chargeable period; and
 - (b) the amount of tax, if any, assessed on him in respect of the field for the last chargeable period but one, less any part of it withheld under paragraph 14 of Schedule 2 to the Oil Taxation Act 1975 (appeals).

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- (4) The Treasury may by an order made by statutory instrument alter the percentage for the time being specified in subsection (3) above, but no order increasing that percentage shall be made unless a draft of the order has been laid before, and approved by a resolution of, the House of Commons.
- (5) The sum paid by a participator as an advance payment of tax in respect of a field for a chargeable period—
- (a) shall, to the extent to which it does not exceed the sum which subsection (1)(b) of section 1 of the said Act of 1980 requires him to pay when delivering his return for that period in respect of the field—
 - (i) discharge his liability to pay the whole or a corresponding part of that sum ; and
 - (ii) be treated for the purposes of subsection (3) of that section as if it were, or were part of, a sum paid by him under subsection (1)(b) of that section ; and
 - (b) shall, to the extent to which it exceeds the sum required to be paid by him as aforesaid, be repaid to him.
- (6) Any amount payable by a participator as an advance payment of tax in respect of a field for a chargeable period and not paid by him shall carry interest at the rate applying under paragraph 15 of Schedule 2 to the said Act of 1975 from two months after the beginning of that period until—
- (a) two months after the end of that period ; or
 - (b) payment of the sum referred to in subsection (5)(a) above,
- whichever is the earlier.
- (7) Where the sum paid by a participator as an advance payment of tax in respect of a field for a chargeable period (including any part of it repaid under subsection (5)(b) above) exceeds the amount of the tax assessed on him in respect of the field for that period (less any part of it withheld under paragraph 14 of the said Schedule 2) he shall be entitled to receive from the Board interest at the rate applying under paragraph 16 of that Schedule—
- (a) on the excess, from—
 - (i) two months after the beginning of that period; or
 - (ii) the date on which that sum was paid,
 whichever is the later, until two months after the end of that period ; and
 - (b) if any of that sum falls to be repaid under subsection (5)(b) above, on the amount repayable (or, if less, the excess mentioned in paragraph (a) above) from—
 - (i) two months after the end of that period ; or
 - (ii) the date on which he delivers the statement which section 1(1)(a) of the said Act of 1980 requires him to deliver with his return for that period, whichever is the later, until repayment.
- (8) Certificates of tax deposit issued by the Treasury under section 12 of the National Loans Act 1968 on terms published on or before 14th May 1979 may be used for making advance payments under this section; and for that purpose those terms shall have effect with the necessary modifications and as if the tax in or towards the payment of which a certificate is used were due two months after the beginning of the chargeable period to which it relates.

- (9) This section shall be construed as one with Part I of the said Act of 1975 and has effect where the chargeable period referred to in subsection (1)(a) above ends on or after 30th June 1981.

106 Transfers of interests in oil fields

Schedule 17 to this Act shall have effect for supplementing and modifying Part I of the Oil Taxation Act 1975 where after the passing of this Act a participator in an oil field transfers the whole or part of his interest in the field.

107 Transmedian fields

- (1) The Oil Taxation Acts shall have effect in accordance with this section where provision is made by an agreement between the government of the United Kingdom and the government of another country for—
- (a) the exploitation as a single unit of oil in strata in the sea bed and subsoil of an area consisting of—
 - (i) an oil field within the meaning of Part I of the Oil Taxation Act 1975 ;
 - and
 - (ii) a sector under the jurisdiction of the other country; and
 - (b) the apportionment of the oil between—
 - (i) the participators in that field ; and
 - (ii) the persons who are, or have rights, interests or obligations of, licensees in respect of that sector under the law of the other country.
- (2) The share of a participator in the oil won from the oil field shall be determined as if the oil won from the field consisted of so much of the oil won from the area as a whole as is apportioned to the participators in accordance with the agreement; and in section 10(3) (b) of the said Act of 1975 (restriction of allowable expenditure) and paragraphs 5(2) (a) and 7 of Schedule 2 to that Act (returns and information as to oil won from the field) references to oil won from the field shall be construed as references to so much of the oil won from the area as a whole as is so apportioned.
- (3) Subject to subsection (2) above—
- (a) the oil field shall be deemed to include the sector mentioned in subsection (1) (a)(ii) above ;
 - (b) that sector shall be deemed to be a designated area; and
 - (c) references to oil shall include references to any substance that would be oil within the meaning of the Said Act of 1975 if the enactments mentioned in section 1(1) extended to that sector;
- but paragraph (a) above does not affect section 10(3) (a) of that Act or paragraph 4 of Schedule 2 to that Act (appointment of responsible person), and paragraph (b) above does not affect section 5(1)(b) of that Act (abortive exploration expenditure) or operate so as to apply section 38(4) of the Finance Act 1973 (taxation of non-residents engaged in activities in designated areas) to the persons referred to in subsection (1) (b)(ii) above.
- (4) Where under the agreement there is a re-determination of the apportionment mentioned in subsection (1)(b) above and in consequence thereof the participators in the field receive a repayment in respect of expenditure which has been allowed for the field under section 3 of the said Act of 1975, the total amount of expenditure allowable

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under that section and section 4 of that Act for the field in the claim period in which the repayment is received shall be reduced by the amount of the repayment; and paragraph 6 of Schedule 4 to that Act (recovery of deductions from allowable expenditure) shall have effect as if the foregoing provisions of this subsection were relevant provisions within the meaning of that paragraph.

- (5) Where there is such a re-determination as is mentioned in subsection (4) above and in consequence thereof the participators in the field receive a repayment in respect of expenditure which—
- (a) was incurred in acquiring, bringing into existence or enhancing the value of an asset or an interest in an asset; and
 - (b) falls to be taken into account for the purposes of a computation under section 4(7) of the said Act of 1975,
- then, for the purposes of any such computation for the claim period in which the repayment is received and every subsequent claim period, the amount of that expenditure shall be treated as reduced by the amount of the repayment.
- (6) In subsections (4) and (5) above references to a repayment include references to a credit or set-off.
- (7) In this section " the Oil Taxation Acts " means the Oil Taxation Act 1975, any other enactment relating to petroleum revenue tax and the provisions of the Income Tax Acts and Corporation Tax Acts in their application to oil extraction activities and oil rights within the meaning of Part II of the said Act of 1975.
- (8) This section has effect whether the agreement mentioned in subsection (1) above is made before or after the passing of this Act and applies in relation to a chargeable period ending before the coming into force of this Act as well as to a chargeable period ending later.

108 Gas banking schemes

- (1) Subject to the provisions of this section, the Board may by regulations made by statutory instrument modify the operation of the Oil Taxation Acts in their application to cases where—
- (a) a gas banking scheme is in force between the participators in two or more oil fields; and
 - (b) the participators in those fields elect that the modifications prescribed by the regulations shall apply.
- (2) Subject to subsection (3)(a) below, a gas banking scheme for the purposes of this section is any scheme which provides for the transfer of oil consisting of gas won from one of the oil fields to which the scheme applies to or to the order of the participators in another of those fields in consideration wholly or mainly of the subsequent transfer of oil consisting of gas won from the other field to or to the order of the participators in the first-mentioned field.
- (3) Regulations under this section may—
- (a) prescribe additional conditions required to be satisfied for a scheme to constitute a gas banking scheme, including conditions requiring the gas to be of a description specified in the regulations;

- (b) prescribe conditions subject to which, and the manner in which, an election may be made under this section and the time for which any such election is to continue in force; and
 - (c) contain such incidental, supplementary or transitional provisions as appear to the Board to be necessary or expedient.
- (4) The foregoing provisions of this section shall apply to an international gas banking scheme as they apply to a gas banking scheme within the meaning of those provisions except that only the participators in the oil field or oil fields to which the scheme applies need make the election referred to in subsection (1)(b) above; and for the purposes of this section an international gas banking scheme is any scheme which—
- (a) applies to areas that include both one or more oil fields and one or more areas under the jurisdiction of a country other than the United Kingdom; and
 - (b) would be a gas banking scheme within the meaning of the foregoing provisions if all the areas were oil fields and all the persons who are, or have rights, interests or obligations of, licensees in respect of those areas were participators.
- (5) Regulations under this section may be made so as to apply only to gas banking schemes other than international gas banking schemes or so as to apply only to the latter; and regulations applying to a scheme of either description may differ from those applying to the other.
- (6) No regulations shall be made under this section unless a draft of the regulations has been laid before, and approved by a resolution of, the House of Commons.
- (7) In this section "the Board", "oil", "oil field" and " participator " have the same meaning as in Part I of the Oil Taxation Act 1975 and " the Oil Taxation Acts " has the same meaning as in section 107 above.

109 Fractionation

- (1) The Oil Taxation Act 1975 shall be amended as follows.
- (2) In the definition of "initial treatment" in section 12(1) for paragraph (b) there shall be substituted—
- “(b) separating oil so won and consisting of gas from other oil so won; or
 - (c) separating oil so won and consisting of gas of a kind that is transported and sold in normal commercial practice from other oil so won and consisting of gas; or
 - (d) liquifying oil so won and consisting of gas of such a kind as aforesaid for the purpose of transporting it; or
 - (e) subjecting oil so won to any process of which the purpose is to secure that oil disposed of crude has the quality that is normal for oil so disposed of from the field.”
- (3) In paragraph (i) of that definition for the words "paragraph (a) or (b) of this definition " there shall be substituted the words " any of paragraphs (a) to (e) of this definition ".
- (4) For paragraph (ii) of that definition there shall be substituted—
- “(ii) any activity carried on as part of, or in association with, the refining of oil not consisting of gas or any activity the sole or

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main purpose of which is to achieve a chemical reaction in respect of oil consisting of gas; or”.

(5) After the definition of " production purposes " in section 12(1) there shall be inserted—
“refining ", in relation to oil, does not include subjecting it to initial treatment and " refined " and " refinery " shall be construed accordingly;”.

(6) In paragraph 2 of Schedule 3 (definition of market value of oil) after sub-paragraph (3) there shall be inserted—

“(3A) Where all or any of the oil whose market value falls to be ascertained in accordance with sub-paragraphs (1) and (2) above has been subjected to initial treatment before being disposed of or relevantly appropriated, the appropriate initial treatment referred to in sub-paragraph (2)(a) above shall, as respects that oil, include the whole of that treatment.”

(7) After the said paragraph 2 there shall be inserted—

“2A (1) Paragraph 2 above shall have effect in accordance with this paragraph where the oil whose market value falls to be ascertained at any time in accordance with subparagraphs (1) and (2) of that paragraph, or in accordance with those sub-paragraphs as modified by sub-paragraph (3) of that paragraph, consists of or includes gas.

(2) Sub-paragraph (2)(a) of paragraph 2 above shall not apply to so much of the oil as consists of gas unless—

- (a) it has been subjected to initial treatment before being disposed of or relevantly appropriated; or
- (b) it has, after being disposed of or relevantly appropriated, been subjected to initial treatment by or on behalf of the participator in question or by or on behalf of a person who is connected with him within the meaning of section 533 of the Taxes Act;

and where oil consisting of gas has, whether before or after being disposed of or relevantly appropriated, been subjected to initial treatment by or on behalf of the participator in question or by or on behalf of a person who is connected with him as aforesaid the appropriate initial treatment referred to in sub-paragraph (2 (a) of paragraph 2 above shall include the treatment to which it has been so subjected.

(3) Where the initial treatment mentioned in sub-paragraph (2) above includes treatment in order to separate gas of one or more kinds which are transported and sold in normal commercial practice, the market value of the gas of each such kind which is separated shall be ascertained in accordance with sub-paragraphs (1) and (2) of paragraph 2 as if that were the only oil whose market value fell to be ascertained at the time in question (with sub-paragraph (2)(b) of paragraph 2 applying accordingly.)

(4) Where the oil consists of or includes natural gas within the meaning of the Energy Act 1976, it shall be assumed for the purposes of paragraph 2—

- (a) that any consent given under section 8 or 9 of that Act for the supply or use of the gas applies to the supply of the gas under the contract mentioned in sub-paragraph (2) of that paragraph and to the use of the gas supplied under it; and

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- (b) that no consent is required under those sections for that supply or use if no such consent would be required if that contract were in fact made by the participator in question.”
- (8) Subject to the following provisions of this section, this section has effect—
 - (a) as respects Part I of the Oil Taxation Act 1975, in relation to chargeable periods (within the meaning of that Part) ending after 31st December 1979 ; and
 - (b) as respects Part II of that Act, in relation to chargeable periods (within the meaning of that Part) ending after that date.
- (9) Expenditure shall not by virtue of this section be allowable under section 3 of the said Act of 1975 unless it was incurred after the said 31st December or would have been allowable under section 4 of that Act but for the proviso to subsection (1) of that section.
- (10) For the purposes of section 4 of the said Act of 1975 expenditure incurred in acquiring, bringing into existence or enhancing the value of an asset which before the passing of this Act was used for the purpose of any process which, if this Act had been in force, would by virtue of this section have constituted initial treatment of oil won from an oil field shall be treated as having been incurred on the date when the asset was first so used; and for the purposes of that section (but not of the foregoing provisions of this subsection) the use of the asset in connection with the field shall be treated as having begun—
 - (a) on 1st January 1980; or
 - (b) the date on which the asset was first used for that purpose,whichever is the later.
- Subsection (13) of the said section 4 shall apply for the purposes of this subsection.
- (11) For the purpose of attributing capital allowances and balancing charges to the part of a trade which by virtue of section 13(1) of the said Act of 1975 is treated as a separate trade the definition of " oil extraction activities " in section 19(1) of that Act shall be deemed always to have had effect as if the reference in it to initial treatment were a reference to initial treatment within the meaning of Part I of that Act as amended by this section.