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## SCHEDULES

VALID FROM 22/07/2004

### [<sup>F1</sup>SCHEDULE 19B

#### PETROLEUM EXTRACTION ACTIVITIES: EXPLORATION EXPENDITURE SUPPLEMENT

##### Textual Amendments

**F1** Sch. 19B inserted (22.7.2004) by Finance Act 2004 (c. 12), s. 286(3), Sch. 38

#### PART 4

##### POST-COMMENCEMENT SUPPLEMENT

###### *Supplement in respect of a post-commencement period*

- 15 (1) A qualifying company which incurs a qualifying E&A loss (see paragraph 17) in a post-commencement period may claim supplement under this Part of this Schedule (“post-commencement supplement”) in respect of—
- (a) that period, or
  - (b) any subsequent accounting period in which it carries on its ring fence trade.
- (2) Any post-commencement supplement allowed on a claim in respect of a post-commencement period shall be treated for the purposes of the Corporation Tax Acts (other than this Part of this Schedule) as if it were a loss—
- (a) incurred in carrying on the ring fence trade in that period,
  - (b) which falls in whole to be set off under section 393 against trading income from the ring fence trade in succeeding accounting periods.
- (3) Paragraph 74 of Schedule 18 to the Finance Act 1998 (company tax returns etc: time limit for claims for group relief) shall apply in relation to a claim for post-commencement supplement as it applies in relation to a claim for group relief.

###### *Amount of post-commencement supplement for a post-commencement period*

- 16 (1) The amount of the post-commencement supplement for any post-commencement period in respect of which a claim under paragraph 15 is made is the relevant percentage for that period of the reference amount for that period.
- (2) If the post-commencement period is a period of less than twelve months, the amount of the supplement for the period (apart from this sub-paragraph) shall be reduced proportionally.

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- (3) Paragraphs 19 to 24 have effect for the purpose of determining the reference amount for a post-commencement period.

*Ring fence losses and qualifying E&A losses*

- 17 (1) Where—
- (a) in any post-commencement period (“the period of the loss”) a qualifying company carrying on a ring fence trade incurs a loss in the trade, and
  - (b) some or all of the loss falls to be set off under section 393 against trading income from the trade in succeeding accounting periods,
- so much of the loss as falls to be so set off is a “ring fence loss” of the company.
- (2) In determining for the purposes of this Part of this Schedule how much of a loss incurred in a ring fence trade falls to be set off as mentioned in sub-paragraph (1) (b), it shall be assumed that every claim is made that could be made by the company under section 393A to set losses incurred in the ring fence trade against ring fence profits of earlier post-commencement periods.
- (3) So much of a ring fence loss as is attributable to qualifying E&A allowances for the period of the loss is a “qualifying E&A loss”.
- (4) A ring fence loss is attributable to qualifying E&A allowances to the extent that the amount of the ring fence loss does not exceed the amount of the qualifying E&A allowances for the period of the loss.
- (5) But a claim for post-commencement supplement may include an election for a ring fence loss to be treated—
- (a) as attributable to qualifying E&A allowances for the period of the loss to such lesser extent as may be specified in the election, or
  - (b) as not attributable to such allowances.
- (6) “Qualifying E&A allowances”, in the case of an accounting period, means allowances for that period under Part 6 of the Capital Allowances Act in respect of qualifying E&A expenditure incurred by the company (including any pre-commencement supplement treated under paragraph 9(2) as such an allowance).
- (7) This paragraph has effect for the purposes of this Part of this Schedule.

*Ring fence losses and non-qualifying losses*

- 18 (1) So much of a ring fence loss as is not a qualifying E&A loss is a non-qualifying loss.
- (2) Where—
- (a) a loss was incurred by a qualifying company in its ring fence trade in an accounting period ending on or before 31st December 2003, and
  - (b) some or all of that loss falls to be set off under section 393 against profits of that trade in accounting periods ending on or after that date,
- so much of the loss as falls to be so set off is a ring fence loss and that loss is a non-qualifying loss.
- (3) This paragraph has effect for the purposes of this Part of this Schedule.

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*Special rule for straddling periods*

- [<sup>F2</sup>18A(1) This paragraph applies in any case where the period of the loss in which a ring fence loss is incurred is the deemed accounting period under paragraph 3(3) ending before 1st January 2006.
- (2) The following assumption shall be made for the purpose of calculating the amount of the qualifying E&A loss and the amount of the non-qualifying loss.
  - (3) The assumption is that the loss made in the trade is taken to be the loss incurred in the accounting period beginning before 1st January 2006 and ending on or after that date (disregarding paragraph 3(3)).
  - (4) The amount of the non-qualifying loss (found in accordance with that assumption) is then reduced (but not below nil) by the following amount.
  - (5) The amount is the amount of the ring fence loss in the deemed accounting period beginning on 1st January 2006 determined under paragraph 18 of Schedule 19C for the purposes of Part 4 of that Schedule.]

**Textual Amendments**

**F2** Sch. 19B para. 18A inserted (19.7.2006) by Finance Act 2006 (c. 25), s. 154(9)

*The pool of qualifying E&A losses and the pool of non-qualifying losses*

- 19 (1) For the purpose of determining the amount of any post-commencement supplement, a qualifying company shall be taken at all times in its post-commencement periods to have—
- (a) a continuing pool of the company's non-qualifying losses (the “non-qualifying pool”), and
  - (b) a continuing mixed pool of the company's qualifying E&A losses and post-commencement supplement (the “qualifying pool”).
- (2) A pool continues even if the amount in it is nil.

*The non-qualifying pool*

- 20 (1) The non-qualifying pool consists of the company's non-qualifying losses, allocated to the pool in accordance with sub-paragraph (2).
- (2) A non-qualifying loss is allocated to the pool by adding the amount of the non-qualifying loss to the pool in the period of the loss.
  - (3) In the case of a non-qualifying loss incurred in an accounting period ending on or before 31st December 2003, the period of the loss shall be taken for the purposes of sub-paragraph (2) to be the first accounting period of the company that ends on or after 1st January 2004.
  - (4) The amount in the non-qualifying pool is subject to reductions in accordance with the following provisions of this Part of this Schedule.

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- (5) Where a reduction in the amount in the non-qualifying pool falls to be made in any accounting period—
- (a) the reduction is to be made after the addition to the pool of any non-qualifying loss allocated to the pool in that period in accordance with sub-paragraph (2), and
  - (b) references to the amount in the non-qualifying pool shall be construed accordingly.

*The qualifying pool*

- 21 (1) The qualifying pool consists of—
- (a) the company's qualifying E&A losses, allocated to the pool in accordance with sub-paragraph (2)(a), and
  - (b) the company's post-commencement supplement, allocated to the pool in accordance with sub-paragraph (2)(b).
- (2) The allocation of qualifying E&A losses and post-commencement supplement to the pool is as follows—
- (a) the amount of a qualifying E&A loss is added to the pool in the period of the loss, and
  - (b) if any post-commencement supplement is allowed on a claim in respect of a post-commencement period, the amount of that supplement is added to the pool in that period.
- (3) The amount in the qualifying pool is subject to reductions in accordance with the following provisions of this Part of this Schedule.
- (4) Where a reduction in the amount in the qualifying pool falls to be made in any accounting period, the reduction is to be made—
- (a) after the addition to the pool of the amount of any qualifying E&A losses allocated to the pool in that period in accordance with sub-paragraph (2)(a), but
  - (b) before determining, and adding to the pool, the amount of any supplement claimed in respect of the period,
- and references to the amount in the pool shall be construed accordingly.

*Reductions in respect of utilised ring fence losses*

- 22 (1) If one or more ring fence losses are set off under section 393 against any profits of a post-commencement period, reductions shall be made in that period in accordance with this paragraph.
- (2) The amount in the non-qualifying pool shall be reduced (but not below nil) by setting against it a sum equal to the total amount so set off.
- (3) If any of that sum remains after being so set against the amount in the non-qualifying pool, the amount in the qualifying pool shall be reduced (but not below nil) by setting against it so much of that sum as so remains.

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*Reductions in respect of unrelieved group ring fence profits*

- 23 (1) If there is an amount of unrelieved group ring fence profits for a post-commencement period, reductions shall be made in that period in accordance with this paragraph.
- (2) In the following provisions of this paragraph, references to the remaining amount in a pool are references to so much (if any) of the amount in the pool as remains after making any reductions that fall to be made in accordance with paragraph 22.
- (3) The remaining amount in the non-qualifying pool shall be reduced (but not below nil) by setting against it a sum equal to the aggregate of the amounts of unrelieved group ring fence profits for the period.
- (4) If any of that sum remains after being so set against the remaining amount in the non-qualifying pool, the remaining amount in the qualifying pool shall be reduced (but not below nil) by setting against it so much of that sum as so remains.

*The reference amount for a post-commencement period*

- 24 For the purposes of this Part of this Schedule the reference amount for a post-commencement period is so much of the amount in the qualifying pool as remains after making any reductions required by paragraph 22 or 23.]

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