

SCHEDULES

SCHEDULE 32

Section 101.

PETROLEUM REVENUE TAX: UNRELIEVABLE FIELD LOSSES

Schedule applies where there has been a transfer to which Parts 2 and 3 of Schedule 17 to the Finance Act 1980 do not apply

- 1 (1) This Schedule applies where—
 - (a) there has been a transfer of the whole or part of the interest in an oil field of a participator in the field (see paragraph 4),
 - (b) the transfer is an excluded transfer (see paragraph 2), and
 - (c) an allowable loss has accrued from the field to—
 - (i) the old participator,
 - (ii) the new participator, or
 - (iii) a subsequent new owner (see paragraph 3).
- (2) In this Schedule—

“the loss-maker” means the person to whom the allowable loss accrues;

“the old participator” means the person whose interest is wholly or partly transferred by the transfer and “the new participator” means the person to whom the interest or part is transferred by the transfer;

“the transferred interest” means—

 - (a) where the transfer is of the whole of the old participator’s interest in the field, that interest, and
 - (b) where the transfer is of part of the old participator’s interest in the field, that part.

Meaning of “excluded transfer”

- 2 For the purposes of this Schedule, a transfer of the whole or part of the interest in an oil field of a participator in the field is an “excluded transfer” if—
 - (a) Parts 2 and 3 of Schedule 17 to the Finance Act 1980 (c. 48) do not apply to the transfer, and
 - (b) either—
 - (i) the transfer is made pursuant to an agreement made on or after 7th March 2001, or
 - (ii) the transfer is made pursuant to a conditional agreement made before 7th March 2001 and the condition is satisfied on or after 7th March 2001.

Status: This is the original version (as it was originally enacted).

Meaning of “subsequent new owner”

- 3 For the purposes of this Schedule, a “subsequent new owner” is any participator in the field who has the transferred interest, or any part of the transferred interest, as a result of—
- (a) a transfer by the new participator of the whole or part of the transferred interest, or
 - (b) the combination of such a transfer as is mentioned in paragraph (a) and—
 - (i) a transfer by a subsequent new owner of the whole or part of the transferred interest, or
 - (ii) two or more such transfers as are mentioned in sub-paragraph (i).

Transfers of interests in oil fields: interpretation

- 4 (1) For the purposes of this Schedule, a participator in an oil field transfers the whole or part of his interest in the field whenever as a result of a transaction or event other than—
- (a) the making of an agreement or arrangement of the kind mentioned in paragraph 5 of Schedule 3 to the Oil Taxation Act 1975 (c. 22) (agreement or arrangement for transfer of participator’s rights to associated company), or
 - (b) a re-determination under a unitisation agreement,
- the whole or part of his share in the oil to be won and saved from the field becomes the share or part of the share of another person who is or becomes a participator in the field.
- (2) Paragraph 1(2) of Schedule 17 to the Finance Act 1980 (c. 48) (meaning of “unitisation agreement” and “re-determination”) applies for the purposes of sub-paragraph (1) above as for those of paragraph 1(1) of that Schedule.

Schedule applies in place of section 6(1C) of the Oil Taxation Act 1975

- 5 Where this Schedule makes provision for determining the unrelievable portion of an allowable loss, that portion is determined in accordance with the provisions of this Schedule instead of in accordance with the provisions of section 6(1C) of the Oil Taxation Act 1975.

General rule for determinations under this Schedule of “unrelievable portion” of loss

- 6 (1) The unrelievable portion of the allowable loss is so much of the intermediate unrelieved loss as cannot be relieved under paragraph 7 against relevant profits.
- (2) In this Schedule—
- “the intermediate unrelieved loss” is so much of the allowable loss as cannot be relieved under section 7 of the Oil Taxation Act 1975 against assessable profits accruing from the field to the loss-maker;
 - “relevant profits” means assessable profits—
 - (a) accruing from the field to any participator in the field other than the loss-maker,
 - (b) computed as if the amounts mentioned in section 2(8)(a) of that Act did not include expenditure unrelated to the field except where it has been allowed in pursuance of a claim or election for its allowance received by the Board before 29th November 1994, and

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

(c) reduced (after being so computed) under section 7 of that Act.

(3) In sub-paragraph (2) “expenditure unrelated to the field” has the meaning given by section 6(9) of that Act.

Loss to be relieved against other participators' profits

- 7
- (1) The intermediate unrelieved loss shall (but only for the purposes of determinations under this Schedule) be relieved against relevant profits accruing to a different owner.
 - (2) The provisions of paragraphs 8 to 10 apply for the purposes of relieving the intermediate unrelieved loss under this paragraph.
 - (3) In this paragraph and paragraph 8, a “different owner” means any participator in the field who—
 - (a) has the loss-maker’s interest at any time (whether before or after the transfer) when the loss-maker does not have that interest, or
 - (b) has a part of the loss-maker’s interest at any time (whether before or after the transfer) when the loss-maker does not have that part.
 - (4) In sub-paragraph (3) “the loss-maker’s interest” means—
 - (a) if the loss-maker is the old participator or the new participator, the transferred interest;
 - (b) if the loss-maker is a subsequent new owner and at any time (whether before or after the transfer) has the whole of the transferred interest, that interest; and
 - (c) if the loss-maker is a subsequent new owner and paragraph (b) does not apply, the aggregate of each part of the transferred interest that at any time (whether before or after the transfer) is a part that the loss-maker has.

Extent to which losses to be relieved

- 8
- (1) Where the interest in the field of a different owner is the transferred interest, the intermediate unrelieved loss is to be relieved against the whole of any relevant profits accruing to the different owner.
 - (2) Where the interest in the field of a different owner is part of the transferred interest, the corresponding part (but only that part) of the intermediate unrelieved loss is to be relieved against the whole of any relevant profits accruing to the different owner.
 - (3) Where—
 - (a) a different owner’s interest in the field includes the transferred interest, but
 - (b) the transferred interest is only part of the different owner’s interest in the field,the intermediate unrelieved loss is to be relieved against the corresponding part (but no other part) of any relevant profits accruing to the different owner.
 - (4) Sub-paragraph (5) applies where—
 - (a) a different owner’s interest in the field includes part only of the transferred interest (“the owned part of the transferred interest”), and
 - (b) the owned part of the transferred interest is only part of the different owner’s interest in the field.

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

- (5) Only the part of the intermediate unrelieved loss corresponding to the owned part of the transferred interest is to be relieved, and it is to be relieved against (but only against) the part of any relevant profits accruing to the different owner that corresponds to the part which the owned part of the transferred interest forms of the different owner's interest in the field.

Profits not to be utilised more than once

- 9 The intermediate unrelieved loss may not be relieved against relevant profits to the extent that those profits have already been utilised for the purposes of paragraph 7.

Relieving different losses against the same profits

- 10 (1) Where intermediate unrelieved losses accruing to each of two or more persons fall to be relieved under paragraph 7 against the same relevant profits, such a loss accruing to a person who last had the transferred interest (or part of it) at an earlier time shall be so relieved before one accruing to a person who last had the interest (or part) at a later time.
- (2) Where—
- (a) two or more persons each last had a part of the transferred interest at the same time, and
 - (b) intermediate unrelieved losses accruing to each of them fall to be relieved under paragraph 7 against the same relevant profits,
- those losses shall be so relieved in such a manner as ensures that the same proportion of each is so relieved.
- (3) In this paragraph, references to an intermediate unrelieved loss accruing to a person are to the intermediate unrelieved loss in respect of an allowable loss accruing to the person.

Construction as one with Part 1 of the Oil Taxation Act 1975

- 11 This Schedule shall be construed as one with Part 1 of the Oil Taxation Act 1975 (c. 22).