Finance Act 2013

2013 CHAPTER 29

PART 2

OIL

Decommissioning relief agreements

80 Decommissioning relief agreements

(1) There are to be paid out of money provided by Parliament any sums which a Minister of the Crown is liable to pay under a decommissioning relief agreement.

(2) A "decommissioning relief agreement" is an agreement which—

(a) is made between a Minister of the Crown and a qualifying company, and

(b) provides that, in such circumstances as are specified in the agreement, if the amount of tax relief in respect of any decommissioning expenditure incurred by that or another qualifying company is less than an amount determined in accordance with the agreement ("the reference amount"), the difference is payable to the company that incurred the expenditure.

(3) "Qualifying company" means—

(a) any company that has at any time carried on a ring fence trade,

(b) any company that is associated with a company carrying on a ring fence trade,

(c) any company that has at any time been associated with a company that was carrying on a ring fence trade at that time, and

(d) in the case of decommissioning expenditure incurred in connection with any plant or machinery, or any land, situated in the UK sector of a cross-boundary field, any company that is a party to a joint operating agreement or unitisation agreement in relation to that field.

(4) For the purposes of subsection (2)(b) the amount of tax relief in respect of any decommissioning expenditure is to be determined in accordance with the agreement; and in making such a determination tax relief in respect of expenditure incurred by the qualifying company that is not decommissioning expenditure may, in such

circumstances as are specified in the agreement, be treated as if it were tax relief in respect of decommissioning expenditure.

(5) A payment made to a company under a decommissioning relief agreement is not to be regarded as income or a gain of the company for any purpose of the Tax Acts.

(6) Section 18(1) of CRCA 2005 (restriction on disclosure by Revenue and Customs officials) does not prevent—

(a) disclosure to a Minister of the Crown for the purpose of enabling the Minister of the Crown to determine the extent of any liability under a decommissioning relief agreement, or

(b) disclosure to a company that has rights under a decommissioning relief agreement for the purpose of enabling the company to determine the reference amount.

(7) In this section—

"company" has the meaning given by section 1121 of CTA 2010,

"cross-boundary field" has the meaning given by section 10(9) of the Petroleum Act 1998,

"decommissioning expenditure" has the meaning given by section 81,

"Minister of the Crown" includes the Treasury,

"ring fence trade" has the same meaning as in Part 8 of CTA 2010 (see section 277 of that Act),

"the UK sector of a cross-boundary field" means that part of a cross-boundary field lying within the UK marine area (as defined by section 42 of the Marine and Coastal Access Act 2009), and

"unitisation agreement" has the meaning given by paragraph 1(2) of Schedule 17 to FA 1980.

(8) Subsections (8) to (9) of section 30 of the Petroleum Act 1998 (which specifies when one body corporate is associated with another) apply for the purposes of this section as they apply for the purposes of that section.

81 Meaning of "decommissioning expenditure"

(1) In section 80 "decommissioning expenditure" means expenditure incurred in connection with—

(a) demolishing any plant or machinery,

(b) preserving any plant or machinery pending its reuse or demolition,

(c) preparing any plant or machinery for reuse,

(d) arranging for the reuse of any plant or machinery, or

(e) the restoration of any land.

(2) It is immaterial for the purposes of subsection (1)(b) whether the plant or machinery is reused, is demolished or is partly reused and partly demolished.

(3) It is immaterial for the purposes of subsection (1)(c) and (d) whether the plant or machinery is in fact reused.

(4) In subsection (1)(e) "restoration" includes landscaping.

(5) The Treasury may by order amend this section.

(6) An order under subsection (5) may include transitional provision and savings.

(7) The power to make an order under subsection (5) is exercisable by statutory instrument.

(8) A statutory instrument containing an order under subsection (5) is subject to annulment in pursuance of a resolution of the House of Commons.

82 Annual report

(1) For each financial year the Treasury must prepare a report containing the information in subsection (2).

(2) The information is—

(a) the number of decommissioning relief agreements entered into in that year,

(b) the total number of decommissioning relief agreements in force at the end of that year,

(c) the number of payments made under any decommissioning relief agreements during that year, and the amount of each payment,

(d) the total number of payments that have been made under any decommissioning relief agreements as at the end of that year, and the total amount of those payments, and

(e) an estimate of the maximum amount liable to be paid under any decommissioning relief agreements.

(3) The report for a financial year must be laid before the House of Commons as soon as is reasonably practicable after the end of that year.

(4) In this section "decommissioning relief agreement" has the same meaning as in section 80.

(5) This section has effect in relation to financial years ending on or after 31 March 2014.

83 Effect of claim on PRT

(1) This section applies where a sum is payable to a company ("the claimant") under a decommissioning relief agreement.

(2) Subsection (3) applies where the reference amount is calculated by reference to what the claimant's assessable profit in any chargeable period would be if any expenditure incurred by it were used to reduce its profit in a particular way (rather than in any way that it has in fact been used).

(3) For the purposes of petroleum revenue tax—

(a) the expenditure is treated as having been used to reduce the claimant's profit in that way (rather than in any way that it has in fact been used), and

(b) the claimant is treated as if it had received the tax relief it would receive if its profit were reduced in that way (so no repayment of tax is to be made by virtue of this subsection).

(4) Subsection (5) applies where the reference amount is calculated by reference to what any other company's assessable profit in any chargeable period would be if any expenditure incurred by the claimant—

(a) had been incurred by the other company, and

(b) were used to reduce the other company's profit in a particular way.

(5) For the purposes of petroleum revenue tax—

(a) the expenditure is treated as incurred by the other company (and not the claimant),

(b) the expenditure is treated as having been used by the other company to reduce its profit in that way, and

(c) the other company is treated as if it had received the tax relief it would receive if its profit were reduced in that way (so no repayment of tax is to be made by virtue of this subsection).

(6) In this section—

"assessable profit" and "chargeable period" have the same meaning as in Part 1 of OTA 1975,

"company" has the meaning given by section 1121 of CTA 2010,

"decommissioning relief agreement" has the same meaning as in section 80, and

"the reference amount" means the reference amount (within the meaning of that section) that relates to the sum mentioned in subsection (1).

84 Terminal losses accruing by virtue of another's default

(1) This section applies where—

(a) a company defaults on a liability under—

(i) a relevant agreement, or

(ii) an abandonment programme,

to make a payment towards decommissioning expenditure in respect of an oil field,

(b) in consequence of the default, another company ("the other company") that has rights under a decommissioning relief agreement at the time of the default incurs decommissioning expenditure in respect of that oil field, and

(c) but for paragraph 15 of Schedule 17 to FA 1980 (terminal losses), a sum (or a sum of a greater amount) would be payable to the other company under the decommissioning relief agreement.

(2) Paragraph 15 of Schedule 17 to FA 1980 does not apply in relation to any allowable loss accruing to the other company from that oil field.

(3) Any allowable unrelievable field loss (within the meaning of section 6 of OTA 1975) that—

(a) consists of the unrelieved portion of an allowable loss within subsection (2), and

(b) would (in the absence of this subsection) arise as a result of subsection (2),

is not to be regarded as arising.

(4) Nothing in this section affects the operation of section 83(3) or (5).

(5) In this section—

"abandonment programme" means an abandonment programme approved under Part 4 of the Petroleum Act 1998 (including such a programme as revised),

"company" has the meaning given by section 1121 of CTA 2010,

"decommissioning expenditure" has the same meaning as in section 80,

"decommissioning relief agreement" has the same meaning as in that section,

"oil field" has the same meaning as in OTA 1975,

"relevant agreement" has the meaning given by section 104(5)(a) of FA 1991, and

"unrelieved portion", in relation to an allowable loss, is to be read in accordance with section 6 of OTA 1975.

85 Claims under agreement not to affect oil allowance

(1) This section applies where—

(a) a company defaults on a liability under—

(i) a relevant agreement, or

(ii) an abandonment programme,

to make a payment towards decommissioning expenditure in respect of an oil field,

(b) in consequence of the default, another company that has rights under a decommissioning relief agreement at the time of the default incurs decommissioning expenditure in respect of that oil field, and

(c) by virtue of section 83, any expenditure incurred by that company (whether or not that decommissioning expenditure) is treated as having been used by that company or any other company ("the affected company") to reduce its assessable profit in a chargeable period in a particular way.

(2) If, in the absence of section 83, the assessable profit accruing to the affected company from an oil field in that chargeable period would be reduced under section 8(1) of OTA 1975, the amount of the oil allowance for the oil field utilised by the affected company in that chargeable period for the purposes of section 8 of that Act is to be determined as if section 83 did not apply.

(3) In this section—

"abandonment programme" means an abandonment programme approved under Part 4 of the Petroleum Act 1998 (including such a programme as revised),

"company" has the meaning given by section 1121 of CTA 2010,

"decommissioning expenditure" has the same meaning as in section 80,

"decommissioning relief agreement" has the same meaning as in that section,

"oil field" has the same meaning as in OTA 1975, and

"relevant agreement" has the meaning given by section 104(5)(a) of FA 1991.

Status:
Point in time view as at 17/07/2013.

Changes to legislation:
There are currently no known outstanding effects for the Finance Act 2013, Cross Heading: Decommissioning relief agreements.