Changes to legislation: *Finance Act 2014, Paragraph 4 is up to date with all changes known to be in force on or before 22 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

SCHEDULES

SCHEDULE 16

OIL CONTRACTORS: RING-FENCE TRADE ETC

CTA 2010

4 After Part 8 (oil activities) insert—

"PART 8ZA

OIL CONTRACTORS

CHAPTER 1

INTRODUCTION

Overview of Part

356K(1) This Part is about the corporation tax treatment of oil contractor activities.

(2) Chapter 2 contains basic definitions used in this Part.

(3) Chapter 3 treats oil contractor activities as a separate trade.

(4) Chapter 4 makes provision about the calculation of profits from oil contractor activities.

(5) For the meaning of oil contractor activities, see section 356L.

CHAPTER 2

BASIC DEFINITIONS

"Oil contractor activities" etc

356L(1) The definitions in this section have effect for the purposes of this Part.

(2) "Oil contractor activities" means activities carried on by a company ("the contractor"), which are not oil-related activities (within the meaning of section 274), but are—

(a) exploration or exploitation activities in, or in connection with, which the contractor provides, operates or uses a relevant asset (see section 356LA) in a relevant offshore service, or

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(b) otherwise carried on in, or in connection with, the provision by the contractor of a relevant offshore service.

(3) The contractor provides a "relevant offshore service" if the contractor provides, operates or uses a relevant asset in, or in connection with, the carrying on of exploration or exploitation activities in a relevant offshore area by the contractor or any other associated person.

(4) "Exploration or exploitation activities" means activities carried on in connection with the exploration or exploitation of the seabed and subsoil and their natural resources.

(5) "Relevant offshore area" means—

(a) the territorial sea of the United Kingdom;

(b) the areas designated by Order in Council under section 1(7) of the Continental Shelf Act 1964.

"Relevant asset"

356LA(1) In this Part "relevant asset" means an asset within subsection (2) in respect of which conditions A and B are met.

(2) An asset is within this subsection if it is a structure that—

(a) can be moved from place to place (whether or not under its own power) without major dismantling or modification, and

(b) can be used to—

(i) drill for the purposes of searching for, or extracting, oil, or

(ii) provide accommodation for individuals who work on or from another structure used in a relevant offshore area for, or in connection with, exploration or exploitation activities ("offshore workers").

(3) But an asset is not within subsection (2)(b)(ii) if it is reasonable to suppose that its use to provide accommodation for offshore workers is unlikely to be more than incidental to another use, or other uses, to which the asset is likely to be put.

(4) In subsection (2)—

"oil" means any substance capable of being won under the authority of a licence granted under Part 1 of the Petroleum Act 1998 or the Petroleum (Production) Act (Northern Ireland) 1964;

"structure" includes a ship or other vessel.

(5) Condition A is that the asset, or any part of the asset, is leased (whether by the contractor or not) from an associated person other than the contractor.

(6) Condition B is that the asset is of the requisite value.

(7) The asset is of the "requisite value" if its market value is £2,000,000 or more.

(8) The Treasury may by regulations modify the meaning of "requisite value".

(9) Regulations under subsection (8) may—

(a) amend this section,

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(b) make different provision for different cases or different purposes, and

(c) make incidental, consequential, supplementary or transitional provision or savings.

"Associated person"

356LB (1) For the purposes of this Part each of the following is an "associated person"—

(a) the contractor,

(b) any person who is, or has been, connected with the contractor,

(c) any person who has acted, acts or is to act, together with the contractor to provide a service, and

(d) any person who is connected with a person falling within paragraph (b) or (c).

(2) A person does not act together with the contractor to provide a service by reason only of leasing an asset, to any person, which is provided, operated or used in the service.

"Lease"

356LC In this Part "lease" has the meaning given by section 868 and "leased" and "leasing" are to be construed accordingly.

"Contractor's ring fence profits"

356LD In this Part the "contractor's ring fence profits", in relation to an accounting period, means the contractor's income arising from oil contractor activities for that period.

CHAPTER 3

DEEMED SEPARATE TRADE

Oil contractor activities treated as separate trade

356M If the contractor carries on oil contractor activities as part of a trade, those activities are treated for the purposes of the charge to corporation tax on income as a separate trade, distinct from all other activities carried on by the contractor as part of the trade.

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CHAPTER 4

CALCULATION OF PROFITS

Hire of relevant assets

Restriction on hire etc of relevant assets to be brought into account

356N (1) This section applies if the contractor makes, or is to make, one or more payments under a lease of—

(a) a relevant asset, or

(b) part of a relevant asset.

(2) The total amount that may be brought into account in respect of the payments for the purposes of calculating the contractor's ring fence profits in an accounting period is limited to the hire cap.

(3) The "hire cap" is an amount equal to the relevant percentage of TC for the accounting period, subject to subsection (4).

(4) If payments in relation to which subsection (2) or section 285A(2) (restriction on hire for company carrying on a ring fence trade under Part 8) applies are also made, or to be made, by one or more other companies in respect of the relevant asset or part, the "hire cap" is to be such proportion of the amount mentioned in subsection (3) as is just and reasonable, having regard (in particular) to the amounts of the payments made, or to be made, by the contractor and each other company.

(5) Subject to subsection (7), the "relevant percentage" is—

$$\frac{\text{UROS}}{\text{TU}} \times 7.5\%$$

where—

UROS is the number of days in the accounting period that the relevant asset is provided, operated or used in a relevant offshore service, and

TU is the number of days in the accounting period that the relevant asset is provided, operated or used (whether or not in a relevant offshore service).

(6) Accordingly, the relevant percentage is zero if the relevant asset is not provided, operated or used in the accounting period.

(7) If the accounting period is less than 12 months, the relevant percentage is to be proportionally reduced.

(8) TC is—

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$$\mathrm{OC} + \mathrm{CE}$$

(9) Unless subsection (11) applies, OC is the sum of—

(a) any consideration given for the acquisition of the relevant asset or part when it was first acquired by an associated person, and

(b) any expenses incurred by an associated person in connection with that acquisition (other than the costs of financing the acquisition).

This is subject to subsections (12) and (13).

(10) Subsection (11) applies if the relevant asset or part—

(a) is leased by an associated person from a person who is not an associated person, and

(b) has never been owned by an associated person.

(11) OC is the sum of—

(a) the consideration that it is reasonable to suppose would have been given for the acquisition of the relevant asset or part, if it had been acquired by an associated person by way of a bargain at arm's length at the time it was first leased as mentioned in subsection (10)(a), and

(b) the expenses (other than the costs of financing the acquisition) that it is reasonable to suppose would have been incurred by an associated person in connection with such an acquisition.

This is subject to subsections (12) and (13).

(12) If the relevant asset or part was first acquired by an associated person, or (as the case may be) first leased as mentioned in subsection (10)(a), before the beginning of the accounting period, OC does not include any part of the consideration mentioned in subsection (9)(a) or (as the case may be) (11)(a) that it is reasonable to attribute to anything that no longer forms part of the relevant asset or part at the beginning of the accounting period.

(13) If the relevant asset or part was first acquired by an associated person, or (as the case may be) first leased as mentioned in subsection (10)(a), in the accounting period, OC for the accounting period is—

$$\mathrm{OC} \times \frac{D - \mathrm{DBA}}{D}$$

where—

D is the total number of days in the accounting period,

DBA is the number of days in the accounting period before the day on which the relevant asset or part was first acquired or first leased, and

OC is the amount given by subsection (9) or (as the case may be) (11).

(14) CE is capital expenditure on the relevant asset or part (other than capital expenditure in respect of its acquisition or the acquisition of a lease of it) incurred by an associated person—

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(a) after it was first acquired by an associated person or (as the case may be) was first leased as mentioned in subsection (10)(a), and
(b) before the end of the accounting period.

This is subject to subsections (15) and (16).

(15) CE does not include any capital expenditure mentioned in subsection (14) that is—
(a) incurred before the beginning of the accounting period, and
(b) not reflected in the state or nature of the relevant asset or part at the beginning of the accounting period.

(16) If any capital expenditure mentioned in subsection (14) is incurred on a day in the accounting period, the amount of CE for the accounting period in respect of that capital expenditure is—

$$\text{CEA} \times \frac{D - \text{DBI}}{D}$$

where—

D is the total number of days in the accounting period,

DBI is the number of days in the accounting period before the day on which that capital expenditure is incurred, and

CEA is the amount of that capital expenditure.

Restriction on hire: further provision

356NA(1) The Treasury may by regulations modify the "relevant percentage" for the purposes of section 356N or 285A.

(2) Regulations under subsection (1) may—
(a) amend section 356N or section 285A,
(b) make different provision for different cases or different purposes, and
(c) make incidental, consequential, supplementary or transitional provision or savings.

(3) To the extent that, by virtue of section 356N, payments within subsection (1) of that section cannot be brought into account for the purposes of calculating the contractor's ring fence profits in an accounting period, the payments may be—
(a) allowed as a deduction from the contractor's total profits for the accounting period, or
(b) treated as a surrenderable amount of the contractor for the accounting period for the purposes of Part 5 (group relief) (see section 99(7)) as if they were a trading loss,

subject to subsection (4).

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(4) No deduction may be made by virtue of subsection (3) from total profits so far as they are contractor's ring fence profits or ring fence profits for the purposes of Part 8.

(5) If an associated person enters into arrangements the main purpose or one of the main purposes of which is to secure that section 356N(2) does not apply in relation to one or more payments to any extent, that provision applies in relation to the payments to the extent it would not otherwise do so.

(6) In subsection (5) "arrangements" includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable).

Loan relationships

Restriction on debits to be brought into account

356NB(1) Debits may not be brought into account for the purposes of Part 5 of CTA 2009 (loan relationships) in respect of the contractor's loan relationships in any way that results in a reduction of what would otherwise be the contractor's ring fence profits, but this is subject to subsections (2) to (4).

(2) Subsection (1) does not apply so far as a loan relationship is in respect of money borrowed by the contractor which has been—

(a) used to meet expenditure incurred by the contractor in carrying on oil contractor activities, or

(b) appropriated to meeting expenditure to be so incurred by the contractor.

(3) Subsection (1) does not apply, in the case of debits falling to be brought into account as a result of section 329 of CTA 2009 (pre-loan relationship and abortive expenses) in respect of a loan relationship that has not been entered into, so far as the relationship would have been one entered into for the purpose of borrowing money to be used or appropriated as mentioned in subsection (2).

(4) Subsection (1) does not apply, in the case of debits in respect of a loan relationship to which Chapter 2 of Part 6 of CTA 2009 (relevant non-lending relationships) applies, so far as—

(a) the payment of interest under the relationship is expenditure incurred as mentioned in subsection (2)(a), or

(b) the exchange loss arising from the relationship is in respect of a money debt on which the interest payable (if any) is, or would be, such expenditure.

(5) If a debit—

(a) falls to be brought into account for the purposes of Part 5 of CTA 2009 in respect of a loan relationship of the contractor, but

(b) as a result of this section cannot be brought into account in a way that results in any reduction of what would otherwise be the contractor's ring fence profits,

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the debit is to be brought into account for those purposes as a non-trading debit despite anything in section 297 of that Act.

(6) References in this section to a loan relationship, in relation to the borrowing of money, do not include a relationship to which Chapter 2 of Part 6 of CTA 2009 (relevant non-lending relationships) applies.

Restriction on credits to be brought into account

356NC(1) Credits in respect of exchange gains from the contractor's loan relationships may not be brought into account for the purposes of Part 5 of CTA 2009 (loan relationships) in any way that results in an increase of what would otherwise be the contractor's ring fence profits, but this is subject to subsections (2) to (4).

(2) Subsection (1) does not apply so far as a loan relationship is in respect of money borrowed by the contractor which has been—

(a) used to meet expenditure incurred by the contractor in carrying on oil contractor activities, or

(b) appropriated to meeting expenditure to be so incurred by the contractor.

(3) Subsection (1) does not apply, in the case of credits falling to be brought into account as a result of section 329 of CTA 2009 (pre-loan relationship and abortive expenses) in respect of a loan relationship that has not been entered into, so far as the relationship would have been one entered into for the purpose of borrowing money to be used or appropriated as mentioned in subsection (2).

(4) Subsection (1) does not apply, in the case of credits in respect of a loan relationship to which Chapter 2 of Part 6 of CTA 2009 (relevant non-lending relationships) applies, so far as—

(a) the payment of interest under the relationship is expenditure incurred as mentioned in subsection (2)(a), or

(b) the exchange gain arising from the relationship is in respect of a money debt on which the interest payable (if any) is, or would be, such expenditure.

(5) If a credit—

(a) falls to be brought into account for the purposes of Part 5 of CTA 2009 in respect of a loan relationship of the contractor, but

(b) as a result of this section cannot be brought into account in a way that results in any increase of what would otherwise be the contractor's ring fence profits,

the credit is to be brought into account for those purposes as a non-trading credit despite anything in section 297 of that Act.

(6) Section 356NB(6) applies for the purposes of this section.

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Relief

Management expenses

356ND No deduction under section 1219 of CTA 2009 (expenses of management of a company's investment business) is to be allowed from the contractor's ring fence profits.

Losses

356NE Relief in respect of a loss incurred by the contractor may not be given under section 37 (relief for trade losses against total profits) against the contractor's ring fence profits except so far as the loss arises from oil contractor activities.

Group relief

356NF (1) On a claim for group relief made by a claimant company in relation to a surrendering company, group relief may not be allowed against the claimant company's contractor's ring fence profits except so far as the claim relates to losses incurred by the surrendering company that arose from oil contractor activities.

(2) In section 105 (restriction on surrender of losses etc within section 99(1)(d) to (g)) the references to the surrendering company's gross profits of the surrender period do not include the company's relevant contractor's ring fence profits for that period.

(3) The company's "relevant contractor's ring fence profits" for that period are—

(a) if for that period there are no qualifying charitable donations made by the company that are allowable under Part 6 (charitable donations relief), the company's contractor's ring fence profits for that period, or

(b) otherwise, so much of the contractor's ring fence profits of the company for that period as exceeds the amount of the qualifying charitable donations made by the company that are allowable under section 189 for that period.

(4) In this section "claimant company" and "surrendering company" are to be read in accordance with Part 5 (group relief) (see section 188).

Capital allowances

356NG A capital allowance may not to any extent be given effect under section 259 or 260 of CAA 2001 (special leasing) by deduction from the contractor's ring fence profits."

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:
Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Sch. 31 para. 2(3)(b) inserted by 2017 c. 32 Sch. 14 para. 45(2)(a)(iii)
- Sch. 31 para. 2(4A) inserted by 2017 c. 32 Sch. 14 para. 45(2)(c)
- Sch. 31 para. 3(1A) inserted by 2017 c. 32 Sch. 14 para. 45(3)(b)
- Sch. 31 para. 5(b) inserted by 2017 c. 32 Sch. 14 para. 45(4)(c)
- Sch. 31 para. 2(3)(a) words inserted by 2017 c. 32 Sch. 14 para. 45(2)(a)(ii)
- Sch. 31 para. 5(a) words inserted by 2017 c. 32 Sch. 14 para. 45(4)(b)
- Sch. 31 para. 2(3)(a) words renumbered as Sch. 31 para. 2(3)(a) by 2017 c. 32 Sch. 14 para. 45(2)(a)(i)
- Sch. 31 para. 5(a) words renumbered as Sch. 31 para. 5(a) by 2017 c. 32 Sch. 14 para. 45(4)(a)
- Sch. 32 para. 1(2)(b) inserted by 2017 c. 32 Sch. 14 para. 46(2)(a)(iii)
- Sch. 32 para. 1(3A) inserted by 2017 c. 32 Sch. 14 para. 46(2)(c)
- Sch. 32 para. 1(2)(a) words inserted by 2017 c. 32 Sch. 14 para. 46(2)(a)(ii)
- Sch. 32 para. 1(2)(a) words renumbered as Sch. 32 para. 1(2)(a) by 2017 c. 32 Sch. 14 para. 46(2)(a)(i)