



# Energy (Oil and Gas) Profits Levy Act 2022

## 2022 CHAPTER 40

### *Relief for investment expenditure*

#### **2 Additional expenditure treated as incurred for purposes of section 1**

- (1) This section applies for the purposes of section 1 if, in a qualifying accounting period, a company has incurred investment expenditure.
- (2) Expenditure is “investment expenditure” so far as—
  - (a) it is capital expenditure, operating expenditure or leasing expenditure,
  - (b) it is incurred for the purposes of oil-related activities,
  - (c) it is not incurred for disqualifying purposes, and
  - (d) it does not consist of financing costs or decommissioning costs.
- (3) For the purposes of section 1 the company is to be treated as if, in addition to the investment expenditure incurred by it in the accounting period, it had incurred in that period expenditure of an amount equal to [<sup>F1</sup>29%] of the amount of that investment expenditure.
- (4) For the purposes of this section, if investment expenditure is incurred partly for the purposes of oil-related activities and partly for other purposes, the expenditure is to be attributed to the oil-related activities on a just and reasonable basis.
- (5) This section needs to be read with section 6 (which prevents recycling etc of assets to generate relief).

#### **Textual Amendments**

- F1** Word in [s. 2\(3\)](#) substituted (1.1.2023 in relation to expenditure incurred on or after 1.1.2023) by [Finance Act 2023 \(c. 1\), s. 2](#)

**Changes to legislation:** There are currently no known outstanding effects for the Energy (Oil and Gas) Profits Levy Act 2022, Cross Heading: Relief for investment expenditure. (See end of Document for details)

#### Commencement Information

**II** S. 2 in force at Royal Assent

### 3 Section 2: meaning of “operating expenditure”

- (1) Expenditure incurred by a company is “operating expenditure” for the purposes of section 2 if—
  - (a) it is incurred for the purpose of increasing—
    - (i) the rate at which oil is extracted or the reserves of oil,
    - (ii) the number of years for which it is economically viable to carry out oil extraction activities or for which a facility can be used for the purposes of those activities, or
    - (iii) the amount of tariff receipts earned by the company in respect of upstream petroleum infrastructure,
  - (b) it is not routine repair or maintenance expenditure, and
  - (c) it is incurred in relation to a facility or an oil well on qualifying matters.
- (2) Expenditure is incurred in relation to a facility on qualifying matters if it is incurred on—
  - (a) the replacement of a valve, pump, pipeline, power generation plant or compressor that is no longer capable of being used for the purposes of oil extraction activities,
  - (b) modifications to increase capacity, or availability, to carry out oil extraction activities, or
  - (c) modifications to enable handling of reduced volumes resulting from reduced operating pressures or handling of different fluid compositions.
- (3) Expenditure is incurred in relation to an oil well on qualifying matters if it is incurred on—
  - (a) water shut off or gas shut off,
  - (b) fracturing, or
  - (c) the removal of sand, salt, scale or hydrates.
- (4) For the purposes of this section, where a company incurs expenditure part of which is operating expenditure and part of which is not, the expenditure is to be apportioned on a just and reasonable basis.
- (5) In this section—
 

“facility” means a platform, a subsea oil well, a platform well, an oil well head or upstream petroleum infrastructure,

“tariff receipts” has the meaning given by section 291A of CTA 2010, and

“upstream petroleum infrastructure” has the meaning given by section 9H of the Petroleum Act 1998.

#### Commencement Information

**I2** S. 3 in force at Royal Assent

#### 4 Section 2: meaning of “leasing expenditure”

- (1) Expenditure incurred by a company is “leasing expenditure” for the purposes of section 2 so far as—
  - (a) it represents payment in return for a mobile production or storage asset being made available under a lease whose term is at least 5 years, and
  - (b) on the date on which the expenditure is incurred, no company has obtained relevant tax relief in respect of the acquisition of the asset.
- (2) But expenditure counts as leasing expenditure only so far as it exceeds the total amount received by the company and its associated companies in respect of any qualifying lease other than—
  - (a) amounts received from the lessee where the parties to the lease are associated companies, or
  - (b) amounts previously set against expenditure under this subsection which would otherwise have counted as leasing expenditure.
- (3) For this purpose a “qualifying lease” means a lease—
  - (a) to which the company or associated company is party as lessee, and
  - (b) in respect of which expenditure is incurred which is, or but for subsection (2) would have counted as, leasing expenditure.
- (4) In addition, if a sublease of an asset is entered into or modified on or after 26 May 2022, expenditure is not leasing expenditure so far as it exceeds the total amount of leasing expenditure incurred in relation to the head lease during the term of the sublease.
- (5) For the purposes of this section expenditure which does not represent payment in return for an asset being made available includes (among other things)—
  - (a) any charge for the provision of any staff or for any services,
  - (b) any amount payable which is, or represents, a profit or premium on the cost of the asset being made available which is paid by the company to an associated company,
  - (c) any amount which, in accordance with generally accepted accounting practice, falls (or would fall) to be shown in the company’s accounts as a finance charge in respect of a lease, or
  - (d) any amount that can be attributed to finance costs by reference to the interest rate implicit in the lease (which is to be taken to be the interest rate that would apply to the lease in accordance with normal commercial criteria, including, in particular, generally accepted accounting practice (if applicable)).
- (6) In this section—
  - “lease” includes sublease and “lessee” includes sublessee,
  - “a mobile production or storage asset” means a mobile asset whose main function is the production or storage of oil, and
  - “relevant tax relief” means—
    - (a) relief as a result of section 2,
    - (b) relief as a result of Chapter 6A of Part 8 of CTA 2010 (supplementary charge: investment allowance), or
    - (c) relief as a result of Chapter 9 of Part 8 of CTA 2010 (supplementary charge: cluster area allowance).

*Changes to legislation: There are currently no known outstanding effects for the Energy (Oil and Gas) Profits Levy Act 2022, Cross Heading: Relief for investment expenditure. (See end of Document for details)*

- (7) For the purposes of this section, where a company incurs expenditure part of which represents payment in return for a mobile production or storage asset and part of which does not, the expenditure is to be apportioned on a just and reasonable basis.

#### Commencement Information

**I3** S. 4 in force at Royal Assent

## 5 Section 2: meaning of “disqualifying purposes”

- (1) Expenditure is incurred for disqualifying purposes for the purposes of section 2 so far as it arises directly or indirectly in connection with, or otherwise in consequence of, any avoidance arrangements.
- (2) For this purpose arrangements are “avoidance arrangements” if—
- (a) the main purpose, or one of the main purposes, of the arrangements is to secure a relevant levy advantage, and
  - (b) it is reasonable, taking account of all the relevant circumstances—
    - (i) to conclude that the arrangements are, or include steps that are, contrived, abnormal or lacking a genuine commercial purpose, or
    - (ii) to regard the arrangements as circumventing the intended limits relating to the relief under section 2(3) or as otherwise exploiting shortcomings in this Act.
- (3) For this purpose “a relevant levy advantage” includes—
- (a) relief or increased relief from the levy,
  - (b) repayment or increased repayment of the levy,
  - (c) avoidance or reduction of a charge to the levy or an assessment to the levy,
  - (d) avoidance of a possible assessment to the levy,
  - (e) deferral of a payment of the levy or advancement of a repayment of the levy, and
  - (f) avoidance of an obligation to deduct or account for the levy.
- (4) In this section “arrangements” includes any transaction, series of transactions, scheme or arrangement, whether or not legally enforceable.

#### Commencement Information

**I4** S. 5 in force at Royal Assent

## 6 Recycling etc of assets to generate relief

- (1) Expenditure incurred at any time by a company on the acquisition of an asset is not to count as investment expenditure for the purposes of section 2 if—
- (a) expenditure was incurred previously by the company or another company in acquiring, leasing, bringing into existence or enhancing the value of the asset, and
  - (b) any of that expenditure has been taken into account, or would on the applicable assumption have been taken into account, for the purposes of the levy.

---

**Changes to legislation:** There are currently no known outstanding effects for the Energy (Oil and Gas) Profits Levy Act 2022, Cross Heading: Relief for investment expenditure. (See end of Document for details)

---

- (2) The cases to which this section applies include (for example)—
- (a) any case where the asset acquired is an interest in an oil field, and
  - (b) any case where the asset is acquired in connection with a transfer to the company of an interest in an oil field (whether or not the asset is acquired at the time of the transfer).
- (3) In this section—
- (a) any reference to expenditure incurred by a company in leasing an asset is to expenditure incurred by it under an agreement under which the asset was leased to the company,
  - (b) any reference to the applicable assumption in the case of any expenditure incurred at any time is to the assumption that this Act were fully in force and applied to expenditure incurred at that time, and
  - (c) any reference to an interest in an oil field is to the whole or part of the equity in an oil field.

---

**Commencement Information**

**I5** S. 6 in force at Royal Assent

## 7 When investment expenditure is incurred

- (1) In determining for the purposes of this Act when a company has incurred investment expenditure—
- (a) in the case of capital expenditure, section 5 of CAA 2001 (when capital expenditure is incurred) applies as it applies for the purposes of that Act, and
  - (b) in the case of operating expenditure or leasing expenditure, the expenditure is treated as incurred on the date on which it is paid.
- (2) Any investment expenditure which is (or is treated as) incurred before 26 May 2022 or after [<sup>F2</sup>31 March 2028] is to be left out of account in determining a company's levy profits or loss for any qualifying accounting period.

---

**Textual Amendments**

**F2** Words in s. 7(2) substituted (10.1.2023) by [Finance Act 2023 \(c. 1\), s. 3\(2\)\(a\)](#)

---

**Modifications etc. (not altering text)**

**C1** [S. 7](#) applied (1.1.2023 in relation to expenditure incurred on or after 1.1.2023) by [Finance Act 2023 \(c. 1\), s. 2\(2\)](#)

---

**Commencement Information**

**I6** S. 7 in force at Royal Assent

**Changes to legislation:**

There are currently no known outstanding effects for the Energy (Oil and Gas) Profits Levy Act 2022, Cross Heading: Relief for investment expenditure.