



Energy (Oil and Gas) Profits Levy Act 2022

2022 CHAPTER 40

An Act to make provision for, and in connection with, imposing a charge on ring fence profits of companies. [14th July 2022]

Most Gracious Sovereign

WE, Your Majesty's most dutiful and loyal subjects, the Commons of the United Kingdom in Parliament assembled, towards raising the necessary supplies to defray Your Majesty's public expenses, and making an addition to the public revenue, have freely and voluntarily resolved to give and to grant unto Your Majesty the tax hereinafter mentioned; and do therefore most humbly beseech Your Majesty that it may be enacted, and be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Charge to tax

1 Charge to tax

- (1) If a company carries on a ring fence trade in a qualifying accounting period, a sum equal to 25% of its levy profits for that period is to be charged on the company as if it were an amount of corporation tax chargeable on it.
- (2) The charge is referred to in this Act as “energy (oil and gas) profits levy” (or as “the levy”).
- (3) A qualifying accounting period is an accounting period of a company which—
 - (a) begins on or after 26 May 2022, and
 - (b) ends on or before 31 December 2025,(but see also sections 15 and 16 for provision about a case where a company's accounting period straddles either of those dates).

- (4) A company's levy profits or loss for a qualifying accounting period are the amount which, on the following assumptions, would be determined for corporation tax purposes to be the company's ring fence profits or loss for that period.
- (5) The assumptions are that—
- (a) the company has incurred such additional expenditure (if any) in that period as is provided for by section 2(3),
 - (b) that additional expenditure is allowable as a deduction in calculating the amount of the profits or loss of any ring fence trade of the company for the period,
 - (c) financing costs and decommissioning costs are left out of account in calculating the amount of the profits or loss of any ring fence trade of the company for the period (see also sections 8 and 9),
 - (d) any amount that would otherwise be brought into account under section 301 of CTA 2010 (effect of repayment of petroleum revenue tax) in calculating the amount of the profits or loss of any ring fence trade of the company for the period is left out of account so far as the amount is referable to the decommissioning part of an allowable loss, and
 - (e) no account is to be taken of any provision of Part 4, 5 or 5A of CTA 2010 (loss relief, group relief and group relief for carried forward losses) or of sections 303A to 303D of that Act (use of non-decommissioning losses of ring fence trades).
- (6) For the purposes of subsection (5)(d) an amount of petroleum revenue tax which is repaid as mentioned in section 301(1) of CTA 2010 is referable to the decommissioning part of an allowable loss so far the allowable loss giving rise to the repayment is attributable, on a just and reasonable basis, to expenditure allowable under section 3(1)(i) or (j) of OTA 1975.
- (7) In this Act any reference to the qualifying levy profits or loss of a company for an accounting period are to the levy profits or loss for the period as determined in accordance with subsections (4) and (5).
- (8) If a company makes a qualifying levy loss for an accounting period, relief may be available for some or all of the loss in accordance with—
- (a) Part 1 of Schedule 1 (carry back or forward of qualifying levy losses), or
 - (b) Part 2 of that Schedule (group relief for qualifying levy losses).
- (9) In accordance with section 11, the charging of the levy as if it were an amount of corporation tax is to be taken as applying all enactments applying generally to corporation tax.

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 80% 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).

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.

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).
- (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.

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.

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.
- (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.

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 31 December 2025 is to be left out of account in determining a company's levy profits or loss for any qualifying accounting period.

Financing and decommissioning costs

8 Meaning of “financing costs” etc

- (1) This section applies for the purposes of this Act.
- (2) “Financing costs” means the costs of debt finance.
- (3) In calculating the costs of debt finance for an accounting period of a company the matters to be taken into account include—
 - (a) any costs giving rise to debits in respect of debtor relationships of the company under Part 5 of CTA 2009 (loan relationships), other than debits in respect of exchange losses from such relationships,
 - (b) any exchange gain or loss from a debtor relationship of the company in relation to debt finance,
 - (c) any credit or debit falling to be brought into account in accordance with Part 7 of CTA 2009 (derivative contracts) in relation to debt finance,
 - (d) the financing cost implicit in a payment under a finance lease,
 - (e) if the company is the lessee under a right-of-use lease which is a long funding finance lease, any costs falling, in accordance with generally accepted accounting practice, to be treated in the accounts of the company as interest expenses,
 - (f) if the company is the lessee under a long funding operating lease, the amount deductible in respect of payments under the lease in calculating the profits of

- the lessee for corporation tax purposes (after first making against any such amount any reductions falling to be made as a result of section 379 of CTA 2010 (lessee under long funding operating lease)), and
- (g) any other costs arising from what would be considered in accordance with generally accepted accounting practice to be a financing transaction.
- (4) If an amount representing the whole or part of a payment falling to be made by a company—
- (a) falls (or would fall) to be treated as a finance charge, or an interest expense, under a finance lease for the purposes of accounts which relate to that company and one or more other companies and are prepared in accordance with generally accepted accounting practice, but
- (b) is not so treated in the accounts of the company,
- the amount is to be treated as a financing cost within subsection (3)(d).
- (5) If—
- (a) in calculating the qualifying levy profits or loss of a company for an accounting period, an amount falls to be left out of account as a result of subsection (3)(d), but
- (b) the whole or any part of that amount is repaid,
- the repayment is also to be left out of account in calculating the qualifying levy profits or loss of the company for any qualifying accounting period.
- (6) In this section “finance lease” means a lease which—
- (a) under generally accepted accounting practice—
- (i) falls (or would fall) to be treated, in the accounts of the lessee or a person connected with the lessee, as a finance lease or loan, or
- (ii) is comprised in arrangements which fall (or would fall) to be so treated, or
- (b) if the lease is a right-of-use lease—
- (i) would fall to be treated in those accounts as a finance lease, or
- (ii) is comprised in arrangements which would fall to be so treated,
- were the lessee or person connected with the lessee required under generally accepted accounting practice to determine whether the lease falls, or arrangements fall, to be so treated.
- (7) For the purposes of applying subsection (6)(b), the lessee and any person connected with the lessee are to be treated as being companies which are incorporated in a part of the United Kingdom.
- (8) In this section—
- “accounts”, in relation to a company, includes accounts which—
- (a) relate to two or more companies of which that company is one, and
- (b) are drawn up in accordance with generally accepted accounting practice,
- “debtor relationship” has the meaning given by section 302(6) of CTA 2009,
- “exchange gains” and “exchange losses” are to be read in accordance with section 475 of CTA 2009,
- “lease” means any arrangements which provide for an asset to be leased or otherwise made available by a person to another person (“the lessee”), and

“long funding finance lease”, “long funding operating lease” and “right-of-use lease” have the meanings given in Part 2 of CAA 2001 (see section 70YI(1) of that Act).

9 Meaning of “decommissioning costs”

- (1) This section applies for the purposes of this Act.
- (2) “Decommissioning costs” means any expenditure which—
 - (a) is decommissioning expenditure or site restoration expenditure, and
 - (b) qualifies for a capital allowance.
- (3) In this section “decommissioning expenditure” means expenditure incurred in connection with—
 - (a) demolishing plant or machinery,
 - (b) preserving plant or machinery pending its reuse or demolition,
 - (c) preparing plant or machinery for reuse, or
 - (d) arranging for the reuse of plant or machinery,
 and the expression “plant or machinery” has the same meaning here as it has in Part 2 of CAA 2001.
- (4) In determining whether expenditure is incurred on preserving plant or machinery pending its reuse or demolition, it does not matter whether the plant or machinery is reused, is demolished or is partly reused and partly demolished.
- (5) In determining whether expenditure is incurred on preparing plant or machinery for reuse, or on arranging for the reuse of plant or machinery, it does not matter whether the plant or machinery is in fact reused.
- (6) In this section “site restoration expenditure” means expenditure which is incurred on the restoration of—
 - (a) the site of a source to the working of which the ring fence trade concerned relates (or related), or
 - (b) land used in connection with working such a source.
- (7) For this purpose “restoration” includes the matters set out in section 416ZA(7) of CAA 2001.

Qualifying levy losses

10 Relief for qualifying levy losses

Schedule 1 makes provision about relief for qualifying levy losses.

Management and administration etc

11 Application of corporation tax provisions

- (1) The provisions of section 1(1) relating to the charging of a sum as if it were an amount of corporation tax are to be taken as applying all enactments applying generally to corporation tax.

- (2) But this is subject to—
 - (a) the provisions of the Corporation Tax Acts,
 - (b) any necessary modifications, and
 - (c) subsection (5).
- (3) The enactments mentioned in subsection (1) include—
 - (a) those relating to returns of information and the supply of accounts, statements and reports,
 - (b) those relating to the assessing, collecting and receiving of corporation tax,
 - (c) those conferring or regulating a right of appeal, and
 - (d) those concerning administration, penalties, interest on unpaid tax and priority of tax in cases of insolvency under the law of any part of the United Kingdom.
- (4) Accordingly—
 - (a) TMA 1970 is to have effect as if any reference to corporation tax included a sum chargeable on a company under section 1(1) as if it were an amount of corporation tax, and
 - (b) the enactments referred to in subsection (3)(a) to (d) apply for the purposes of the levy subject to any modifications necessary to take account of the provision made by Schedule 1 or by any other provision of this Act,but nothing in this subsection is to be taken to limit subsections (1) to (3).
- (5) In the Corporation Tax (Treatment of Unrelieved Surplus Advance Corporation Tax) Regulations 1999 (SI 1999/358) or any further regulations made under section 32 of FA 1998 (unrelieved surplus advance corporation tax)—
 - (a) references to corporation tax do not include a sum chargeable on a company under section 1(1) as if it were corporation tax, and
 - (b) references to profits charged to corporation tax do not include qualifying levy profits.

12 Requirement to provide information about payments

- (1) This section applies if—
 - (a) the levy is chargeable on a company (“the chargeable company”) for a qualifying accounting period, and
 - (b) a payment is made (whether or not by the company) that is wholly or partly in respect of the levy.
- (2) The responsible company must give notice to an officer of Revenue and Customs, on or before the date the payment is made, of the amount of the payment that is in respect of the levy.
- (3) The “responsible company” is—
 - (a) in a case where the chargeable company is party to relevant group payment arrangements, the company that is, under those arrangements, to discharge the liability of the chargeable company to pay the levy for the accounting period, and
 - (b) in any other case, the chargeable company.

- (4) “Relevant group payment arrangements” means arrangements under section 59F(1) of TMA 1970 (arrangements for paying corporation tax on behalf of group members) that relate to the accounting period.
- (5) The requirement in subsection (2) is to be treated, for the purposes of Part 7 of Schedule 36 to FA 2008 (information and inspection powers: penalties), as a requirement in an information notice.
- (6) This section is subject to any provision to the contrary in regulations under section 59E of TMA 1970 (further provision as to when corporation tax is due and payable).

13 Adjustments

- (1) This section applies if there is any alteration in a company’s ring fence profits or loss for an accounting period after this Act has effect in relation to the profits or loss.
- (2) Any necessary adjustments to the operation of this Act (whether in relation to the profits or loss or otherwise) are to be made.

Final provisions

14 Consequential provision

Schedule 2 contains amendments of enactments that are consequential on the provision made by this Act.

15 Transitional provision for accounting periods straddling 26 May 2022

- (1) In the case of an accounting period (a “straddling period”) beginning before 26 May 2022 and ending on or after that date—
 - (a) this Act is to apply as if so much of the straddling period as falls before that date, and so much of the straddling period as falls on or after that date, were separate accounting periods, and
 - (b) the company’s levy profits or loss determined for the straddling period (on the assumption that the whole of that period were a qualifying accounting period) are apportioned to the two separate accounting periods in accordance with section 17.
- (2) In the case of a straddling period, the Instalment Payments Regulations 1998 are to apply separately—
 - (a) in relation to the levy, and
 - (b) in relation to any other tax chargeable on the company.
- (3) In their application as a result of subsection (2)(a), the Instalment Payments Regulations 1998 are to have effect in relation to the levy as if—
 - (a) the deemed accounting period treated under subsection (1)(a) as beginning on 26 May 2022 were an accounting period for the purposes of those Regulations, and
 - (b) the levy were chargeable for that period.
- (4) Any reference in the Instalment Payments Regulations 1998 to the total liability of a company is accordingly to be read—

- (a) in their application as a result of subsection (2)(a), as a reference to the levy, and
 - (b) in their application as a result of subsection (2)(b), as a reference to the amount that would be the company's total liability for the straddling period if the levy were left out of account.
- (5) For the purposes of the Instalment Payments Regulations 1998—
 - (a) a company is to be regarded as a large company as respects the deemed accounting period under subsection (1)(a) only if it is a large company for those purposes as respects the straddling period, and
 - (b) any question whether a company is a large company as respects the straddling period is to be determined as it would have been determined apart from section 1.

16 Transitional provision for accounting periods straddling 31 December 2025

- (1) In the case of an accounting period (a “straddling period”) beginning on or before 31 December 2025 and ending after that date—
 - (a) this Act is to apply as if so much of the straddling period as falls on or before that date, and so much of the straddling period as falls after that date, were separate accounting periods, and
 - (b) the company's levy profits or loss determined for the straddling period (on the assumption that the whole of that period were a qualifying accounting period) are apportioned to the two separate accounting periods in accordance with section 17.
- (2) In the case of a straddling period, the Instalment Payments Regulations 1998 are to apply separately—
 - (a) in relation to the levy, and
 - (b) in relation to any other tax chargeable on the company.
- (3) In their application as a result of subsection (2)(a), the Instalment Payments Regulations 1998 are to have effect in relation to the levy as if—
 - (a) the deemed accounting period treated under subsection (1)(a) as ending on 31 December 2025 were an accounting period for the purposes of those Regulations, and
 - (b) the levy were chargeable for that period.
- (4) Any reference in the Instalment Payments Regulations 1998 to the total liability of a company is accordingly to be read—
 - (a) in their application as a result of subsection (2)(a), as a reference to the levy, and
 - (b) in their application as a result of subsection (2)(b), as a reference to the amount that would be the company's total liability for the straddling period if the levy were left out of account.
- (5) For the purposes of the Instalment Payments Regulations 1998—
 - (a) a company is to be regarded as a large company as respects the deemed accounting period under subsection (1)(a) only if it is a large company for those purposes as respects the straddling period, and

- (b) any question whether a company is a large company as respects the straddling period is to be determined as it would have been determined apart from section 1.

17 Rules for apportioning profits or loss to separate accounting periods

- (1) This section determines for the purposes of sections 15 and 16 how a company's levy profits or loss for the straddling period are to be apportioned to the two separate accounting periods mentioned in section 15 or 16 (as the case may be).
- (2) The profits or loss are to be apportioned as if any claim to a capital allowance were made for whichever of the separate accounting periods is the period in which the capital expenditure was incurred (applying section 5 of CAA 2001 for this purpose).
- (3) Subject to that, the receipts, expenses, assets and liabilities of the ring fence trade are to be apportioned between the two separate accounting periods on a just and reasonable basis.

18 Interpretation

- (1) In this Act—

“associated company” has the same meaning as in Part 8 of CTA 2010 (see section 271),
 “decommissioning costs” has the meaning given by section 9,
 “energy (oil and gas) profits levy” has the meaning given by section 1,
 “financing costs” has the meaning given by section 8,
 “investment expenditure” has the meaning given by section 2,
 “leasing expenditure” has the meaning given by section 4,
 “the levy” means the energy (oil and gas) profits levy,
 “levy profits” or “levy loss” has the meaning given by section 1,
 “oil” has the same meaning as in Part 8 of CTA 2010 (see section 278),
 “oil extraction activities” has the same meaning as in Part 8 of CTA 2010 (see section 272),
 “oil field” has the same meaning as in Part 8 of CTA 2010 (see section 278),
 “oil-related activities” has the same meaning as in Part 8 of CTA 2010 (see section 274),
 “operating expenditure” has the meaning given by section 3,
 “qualifying accounting period” has the meaning given by section 1,
 “qualifying levy loss” has the meaning given by section 1,
 “qualifying levy profits” has the meaning given by section 1,
 “ring fence profits” has the same meaning as in Part 8 of CTA 2010 (see section 276), and
 “ring fence trade” has the same meaning as in Part 8 of CTA 2010 (see section 277).

- (2) In this Act—

“CAA 2001” means the Capital Allowances Act 2001,
 “CTA 2009” means the Corporation Tax Act 2009,
 “CTA 2010” means the Corporation Tax Act 2010,
 “FA”, followed by a year, means the Finance Act of that year,

“the Instalment Payments Regulations 1998” means the Corporation Tax (Instalment Payments) Regulations 1998 ([SI 1998/3175](#)),

“OTA 1975” means the Oil Taxation Act 1975, and

“TMA 1970” means the Taxes Management Act 1970.

19 Short title

This Act may be cited as the Energy (Oil and Gas) Profits Levy Act 2022.

SCHEDULES

SCHEDULE 1

Section 10

RELIEFS

PART 1

CARRY BACK OR FORWARD OF QUALIFYING LEVY LOSSES

Carry back of qualifying levy losses to earlier qualifying accounting periods

- 1 (1) This paragraph applies if—
 - (a) in a qualifying accounting period, a company carrying on a ring fence trade makes a qualifying levy loss in the period (“the loss-making period”), and
 - (b) the company was carrying on the trade in an earlier qualifying accounting period.
- (2) The company may make a claim for relief for the loss under this paragraph.
- (3) If the company makes a claim, the relief is given by deducting the loss from the company’s qualifying levy profits of previous qualifying accounting periods so far as they fall (wholly or partly) within the period of 12 months ending immediately before the loss-making period begins.
- (4) The amount of a deduction to be made under sub-paragraph (3) for any accounting period is the amount of the loss so far as it cannot be deducted under that sub-paragraph for a subsequent accounting period.
- (5) The company’s claim must be made—
 - (a) within the period of two years after the end of the loss-making period, or
 - (b) within such further period as an officer of Revenue and Customs may allow.
- (6) If, for an accounting period, deductions under sub-paragraph (3) are to be made for qualifying levy losses of different accounting periods, the deductions are to be made in the order in which the losses were made (starting with the earliest loss).
- 2 (1) This paragraph applies if an accounting period falls partly within the period of 12 months mentioned in paragraph 1(3).
- (2) The amount of the deduction for the loss for the accounting period is not to exceed an amount equal to the overlapping proportion of the company’s qualifying levy profits of that period.
- (3) The overlapping proportion is the same as the proportion that the part of the accounting period falling within the period of 12 months bears to the whole of the accounting period.

- 3 (1) Relief under paragraph 1 is not available for a loss made in a ring fence trade unless for the loss-making period, the trade is carried on—
- (a) on a commercial basis, and
 - (b) with a view to the making of a profit in the trade or so as to afford a reasonable expectation of making such a profit.
- (2) If during the loss-making period there is a change in the way in which the trade is carried on, it is treated as having been carried on throughout that period in the way in which it is being carried on by the end of that period.
- 4 (1) This paragraph applies if—
- (a) a company ceases to carry on a ring fence trade in a qualifying accounting period, and
 - (b) the company has made a terminal qualifying levy loss in the trade.
- (2) Paragraphs 1(3) and 2(1) and (3) have effect in relation to the terminal qualifying levy loss as if the references to 12 months were references to 3 years.
- (3) The following are terminal qualifying levy losses made in the trade—
- (a) the whole of any qualifying levy loss made by the company in the trade in a qualifying accounting period that begins during the final 12 months, and
 - (b) the overlapping proportion of any qualifying levy loss made by the company in the trade in a qualifying accounting period that ends, but does not begin, during the final 12 months.
- (4) The overlapping proportion is the same as the proportion that the part of the accounting period falling within the final 12 months bears to the whole of the accounting period.
- (5) “The final 12 months” means the period of 12 months ending when the company ceases to carry on the trade.
- (6) This paragraph does not apply if—
- (a) on the company ceasing to carry on the trade, any of the activities of the trade begin to be carried on by a person who is not (or by persons any or all of whom are not) chargeable to the levy, and
 - (b) the company’s ceasing to carry on the trade arises directly or indirectly in connection with, or otherwise in consequence of, arrangements the main purpose, or one of the main purposes, of which is to secure that the preceding provisions of this paragraph apply in relation to a loss by reason of the cessation.
- (7) For this purpose “arrangements” includes any transaction, series of transactions, scheme or arrangement, whether or not legally enforceable.

Carry forward of qualifying levy losses to subsequent qualifying accounting period

- 5 (1) This paragraph applies if in a qualifying accounting period a company carrying on a ring fence trade makes a qualifying levy loss in the period.
- (2) Relief for the loss is given to the company under this paragraph.
- (3) The relief is given for that part of the loss (“the unrelieved loss”) for which no relief is given under any other provision of this Schedule.

(4) For the purposes of the levy—

- (a) the unrelieved loss is carried forward to subsequent qualifying accounting periods (so long as the company continues to carry on the ring fence trade), and
- (b) the qualifying levy profits of the ring fence trade of any such period are reduced by the unrelieved loss so far as that loss is not used under this paragraph to reduce profits of an earlier period.

PART 2

GROUP RELIEF FOR QUALIFYING LEVY LOSSES

Introduction

6 (1) This Part of this Schedule—

- (a) allows a company (“the surrendering company”) to surrender a qualifying levy loss it has for a qualifying accounting period to another company (“the claimant company”) that is part of the same group, and
- (b) enables the claimant company to claim relief from the levy for that loss.

(2) The relief mentioned in sub-paragraph (1) is referred to in this Schedule as “levy group relief”.

7 In this Part of this Schedule, in relation to a qualifying levy loss that a company has for an accounting period—

“surrender period” means a qualifying accounting period for which the surrendering company has the loss, and

“surrenderable amounts” means a qualifying levy loss so far as eligible for surrender under this Part of this Schedule.

Surrender of company’s losses for an accounting period

8 If—

- (a) a surrendering company has a qualifying levy loss for a surrender period, and
 - (b) the company is part of a group,
- the surrendering company may surrender the loss.

Claims for levy group relief

9 (1) This paragraph applies in relation to the surrendering company’s surrenderable amounts for the surrender period under paragraph 8.

(2) The claimant company may make a claim for levy group relief for a qualifying accounting period (“the claim period”) in relation to those amounts (in whole or in part) if—

- (a) the surrendering company consents to the claim,
- (b) there is a period (“the overlapping period”) that is common to the claim period and the surrender period, and

- (c) at a time during the overlapping period the surrendering company and the claimant company are part of the same group.
- (3) More than one company may make a claim for levy group relief in relation to any surrenderable amounts (but the giving of that relief in relation to any claim is subject to the provisions of this Part of this Schedule).
- (4) Paragraph 70(3) and (4) of Schedule 18 to FA 1998 apply for the purposes of any consent given under this paragraph.

Giving of levy group relief

- 10 (1) If a claimant company makes a claim under paragraph 9, the relief is to be given by way of deduction from the company's qualifying levy profits for the claim period.
- (2) The amount of the deduction is—
 - (a) an amount equal to the surrendering company's surrenderable amounts for the surrender period, or
 - (b) if the claim is in relation to only part of those amounts, an amount equal to that part.
- (3) The deduction under this paragraph is to be made after any relief under paragraph 1.

Limitation on amount of levy group relief to be given

- 11 (1) Paragraph 10(2) is subject to the limitation in sections 138 to 142 of CTA 2010 (general limitation on amount of group relief to be given) as if those sections applied to levy group relief as they apply to group relief under Part 5 of that Act.
- (2) For the purposes of sub-paragraph (1)—
 - (a) section 138 of CTA 2010 (limitation on amount of group relief applying to all claims) has effect as if in paragraph (b) for the words “total profits” there were substituted “qualifying levy profits”,
 - (b) section 140 of CTA 2010 (unrelieved part of claimant company's available total profits) has effect as if—
 - (i) in subsections (1) to (4) (and in the heading), for the words “total profits” (in each place) there were substituted “qualifying levy profits”,
 - (ii) for subsection (7) there were substituted—

“(7) In this section references to the claimant company's “available qualifying levy profits” are references to its qualifying levy profits (within the meaning of the Energy (Oil and Gas) Profits Levy Act 2022) after the deduction of any relief given under paragraph 1 of Schedule 1 to that Act.”

, and
 - (iii) subsection (8) were omitted, and
 - (c) section 142 of CTA 2010 (meaning of the “overlapping period”) has effect as if—
 - (i) in subsection (1) for the words in parenthesis there were substituted “(see paragraph 9(2)(b) of Schedule 1 to the Energy (Oil and Gas) Profits Levy Act 2022)”, and

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- (ii) in subsection (3), for the words from “group relief condition is the” to the end there were substituted “requirement in paragraph 9(2)(c) of Schedule 1 to the Energy (Oil and Gas) Profits Levy Act 2022”.

Arrangements for transfer of companies

- 12 Sections 154 and 155A to 156 of CTA 2010 (arrangements for transfer of member of group of companies etc) apply for the purposes of this Part of this Schedule as they apply for the purposes of Part 5 of that Act but as if the references in sections 155A(1) and 155B(1) to “or 155(3)” were omitted.

Payments for relief

- 13 (1) This paragraph applies if—
- (a) a surrendering company and a claimant company have an agreement between them in relation to qualifying levy losses of the surrendering company (“the agreed loss amounts”),
 - (b) relief under this Part of this Schedule is given to the claimant company in relation to the agreed loss amounts, and
 - (c) as a result of the agreement the claimant company makes a payment to the surrendering company that does not exceed the total amount of the agreed loss amounts.
- (2) The payment is not to be taken into account in calculating the qualifying levy profits or loss of either company under section 1.
- 14 An amount which is, as a result of paragraph 13, not to be taken account in calculating qualifying levy profits or loss under section 1—
- (a) is also not to be taken into account in calculating profits or loss for corporation tax purposes, and
 - (b) is not to be regarded for those purposes as a distribution.

Meaning of “company” and “group”

- 15 In this Part of this Schedule “company” means any body corporate.
- 16 For the purposes of this Part of this Schedule, two companies are part of the same group if—
- (a) one is the 75% subsidiary of the other, or
 - (b) both are 75% subsidiaries of a third company.

PART 3

GENERAL PROVISION

Prohibition on claiming relief more than once for the same amount

- 17 Relief from the levy is not to be given more than once for the same amount, whether—
- (a) by giving levy group relief and by giving some other relief (for any accounting period) to the surrendering company, or

- (b) by giving levy group relief more than once.

Change in company ownership

- 18 Part 14 of CTA 2010 (change in company ownership) applies, with any necessary modifications, in relation to relief under any provision of this Schedule as it applies in relation to the corresponding relief from corporation tax.

Transfers of trade without a change of ownership

- 19 Chapter 1 of Part 22 of CTA 2010 applies, with any necessary modifications, in relation to relief under any provision of this Schedule as it applies in relation to the corresponding relief from corporation tax.

Counteracting tax advantage involving qualifying levy losses

- 20 (1) A levy advantage arising by reference to a qualifying levy loss that would (in the absence of this paragraph) arise directly or indirectly in connection with, or otherwise in consequence of, disqualifying arrangements is to be counteracted by the making of such adjustments as are just and reasonable.
- (2) For this purpose arrangements are “disqualifying” if—
 - (a) the main purpose, or one of the main purposes, of the arrangements is to obtain a levy advantage by reference to a qualifying levy loss, 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 of relief provided by this Schedule or as otherwise exploiting shortcomings in this Act.
- (3) Any adjustments required to be made under this paragraph (whether or not by an officer of Revenue and Customs) may be made by way of—
 - (a) an assessment,
 - (b) the modification of an assessment,
 - (c) amendment or disallowance of a claim,or otherwise.
- (4) For the purposes of this paragraph “a 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.
- (5) In this paragraph “arrangements” includes any transaction, series of transactions, scheme or arrangement, whether or not legally enforceable.

SCHEDULE 2

Section 14

CONSEQUENTIAL AMENDMENTS

TMA 1970

- 1 (1) Part 5A of TMA 1970 (payment of tax) is amended as follows.
- (2) In section 59E (further provision as to when corporation tax is due and payable), in subsection (11) after paragraph (e) insert—
 - “(f) to any sum chargeable on a company under section 1 of the Energy (Oil and Gas) Profits Levy Act 2022 as if it were an amount of corporation tax chargeable on the company.”
- (3) In section 59F (arrangements for paying corporation tax on behalf of group members), in subsection (6)—
 - (a) omit “and” at the end of paragraph (c), and
 - (b) after paragraph (d) insert “, and
 - (c) to any sum chargeable on a company under section 1 of the Energy (Oil and Gas) Profits Levy Act 2022 as if it were an amount of corporation tax chargeable on the company.”

FA 1998

- 2 (1) Schedule 18 to FA 1998 (company tax returns, assessments and related matters) is amended as follows.
- (2) In paragraph 1 (meaning of “tax”)—
 - (a) omit the “and” at the end of the paragraph beginning “section 33 of the Finance Act 2022”, and
 - (b) at the end insert “, and

section 1 of the Energy (Oil and Gas) Profits Levy Act 2022.”
- (3) After paragraph 7A insert—

“Energy (oil and gas) profits levy

 - 7B (1) A company which has made any qualifying levy profits or loss in an accounting period must include in its company tax return for the accounting period a statement of—
 - (a) the qualifying levy profits or loss, and
 - (b) any relief which the company is given for that period under Schedule 1 to the Energy (Oil and Gas) Profits Levy Act 2022.
 - (2) Terms used in the Energy (Oil and Gas) Profits Levy Act 2022 have the same meaning in this paragraph as in that Act.”
- (4) In paragraph 8(1) (calculation of tax payable), under the heading “Third step”, at the end insert—

“5. Any amount chargeable by virtue of section 1 of the Energy (Oil and Gas) Profits Levy Act 2022.”

Instalment Payments Regulations 1998

- 3 (1) The Instalment Payments Regulations 1998 are amended as follows.
- (2) In regulation 3 (large and very large companies), in paragraph (9), at the end insert “and apart from the provision made by the Energy (Oil and Gas) Profits Levy Act 2022”.
- (3) In regulation 5AZB, in the heading, for “and adjusted ring fence profits” substitute “, adjusted ring fence profits and levy profits”.
- (4) In regulation 5A (instalment payments —ring fence profits and adjusted ring fence profits)—
- (a) in paragraph (1)—
- (i) for “and supplementary charge” substitute “, supplementary charge and energy (oil and gas) profits levy”, and
- (ii) for “and adjusted ring fences profits” substitute “, adjusted ring fence profits and levy profits”, and
- (b) in paragraph (9), after “the appropriate decimal” insert—
- ““energy (oil and gas) profits levy” has the same meaning as in the Energy (Oil and Gas) Profits Levy Act 2022;
- “levy profits” has the same meaning as in the Energy (Oil and Gas) Profits Levy Act 2022;”.

CTA 2010

- 4 In section 270 of CTA 2010 (overview of Part 8: oil activities), in subsection (1), at the end insert “but also needs to be read with the Energy (Oil and Gas) Profits Levy Act 2022 (which imposes a tax in relation to ring fence profits)”.