

*Changes to legislation: There are currently no known outstanding effects for the Oil Taxation Act 1975, Paragraph 13B. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 2

#### MANAGEMENT AND COLLECTION OF PETROLEUM REVENUE TAX

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

- C1** See Oil Taxation Act 1983 (c. 56), **Sch. 4 para. 14** for application of Sch. 2 to tax chargeable only by virtue of the provisions of s. 12 and Sch. 4 of that Act

*<sup>F1</sup>Cases in which HMRC not liable to give effect to a claim*

##### Textual Amendments

- F1** Sch. 2 paras. 13A-13F and cross-headings inserted (1.4.2011) by Finance (No. 3) Act 2010 (c. 33), s. 28(2), **Sch. 12 para. 10**

- 13B (1) HMRC are not liable to give effect to a claim under paragraph 13A if or to the extent that the claim falls within a case described in this paragraph.
- (2) Case A is where the amount paid, or liable to be paid, is excessive by reason of—
- a mistake in a claim, election or notice or a nomination under Schedule 10 to FA 1987, or
  - a mistake consisting of making or giving, or failing to make or give, a claim, election or notice or a nomination under Schedule 10 to FA 1987.
- (3) Case B is where the participator—
- has or could have sought relief by making a claim for expenditure to be allowed under section 3 or 4 (allowance of expenditure), or
  - is or will be able to seek relief by taking other steps under the Oil Taxation Acts.
- (4) Case C is where the participator—
- could have sought relief by taking such steps within a period that has now expired, and
  - knew, or ought reasonably to have known, before the end of that period that such relief was available.
- (5) Case D is where the claim is made on grounds that—
- have been put to a court or tribunal in the course of an appeal by the participator relating to the amount paid or liable to be paid, or
  - have been put to HMRC in the course of an appeal by the participator relating to that amount that is treated as having been determined by a tribunal (by virtue of paragraph 14(9) (settling of appeals by agreement)).

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- (6) Case E is where the participator knew, or ought reasonably to have known, of the grounds for the claim before the latest of the following—
- (a) the date on which an appeal by the participator relating to the amount paid, or liable to be paid, in the course of which the ground could have been put forward (a “relevant appeal”) was determined by a court or tribunal (or is treated as having been so determined),
  - (b) the date on which the participator withdrew a relevant appeal to a court or tribunal, and
  - (c) the end of the period in which the participator was entitled to make a relevant appeal to a court or tribunal.
- (7) Case F is where the amount in question was paid or is liable to be paid—
- (a) in consequence of proceedings enforcing the payment of that amount brought against the participator by HMRC, or
  - (b) in accordance with an agreement between the participator and HMRC settling such proceedings.
- (8) Case G is where—
- (a) the amount paid, or liable to be paid, is excessive by reason of a mistake in calculating the participator's liability to tax, and
  - (b) liability was calculated in accordance with the practice generally prevailing at the time.
- [ Case G does not apply where the amount paid, or liable to be paid, is tax which has<sup>F2</sup>(9) been charged contrary to EU law.
- (10) For the purposes of sub-paragraph (9), an amount of tax is charged contrary to EU law if, in the circumstances in question, the charge to tax is contrary to—
- (a) the provisions relating to the free movement of goods, persons, services and capital in Titles II and IV of Part 3 of the Treaty on the Functioning of the European Union, or
  - (b) the provisions of any subsequent treaty replacing the provisions mentioned in paragraph (a).]]

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**Textual Amendments**

**F2** Sch. 2 para. 13B(9)(10) inserted (with effect in accordance with s. 231(5) of the amending Act) by Finance Act 2013 (c. 29), s. 231(2)

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There are currently no known outstanding effects for the Oil Taxation Act 1975, Paragraph 13B.