

Changes to legislation: There are currently no known outstanding effects for the Oil Taxation Act 1975, SCHEDULE 3. (See end of Document for details)

SCHEDULES

SCHEDULE 3

Section 1.

PETROLEUM REVENUE TAX: MISCELLANEOUS PROVISIONS

Definition of sale of oil at arm's length

- 1 (1) For the purposes of this Part of this Act a sale of any oil is a sale at arm's length if, but only if, the following conditions are satisfied with respect to the contract of sale, that is to say—
- (a) the contract price is the sole consideration for the sale;
 - (b) the terms of the sale are not affected by any commercial relationship (other than that created by the contract itself) between the seller or any person connected with the seller and the buyer or any person connected with the buyer; and
 - (c) neither the seller nor any person connected with him has, directly or indirectly, any interest in the subsequent resale or disposal of the oil or any product derived therefrom.
- (2) [^{F1}Section 1122 of CTA 2010] (connected persons) shall apply for the purposes of the preceding sub-paragraph.

Textual Amendments

- F1** Words in Sch. 3 para. 1(2) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 1 para. 165(2)** (with Sch. 2)

Modifications etc. (not altering text)

- C1** Definition applied for purposes of [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), s. 493(3)

[^{F2}Determination of market value: the notional delivery day for a quantity of oil

Textual Amendments

- F2** Sch. 3 para. 1A and cross-heading inserted (with effect in accordance with s. 147(1)(2) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), s. 146(1)

- 1A (1) This paragraph has effect for determining, for the purposes of this Schedule, the day which is the “notional delivery day” in the case of any particular quantity of oil of any particular kind whose market value falls to be determined in accordance with the provisions of this Schedule in the case of any chargeable period.
- (2) The notional delivery day need not be a day in the chargeable period.
- (3) In the case of a quantity of oil which, at the end of the chargeable period,—

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- (a) has neither been disposed of nor relevantly appropriated in the period, or
 - (b) has been disposed of but not delivered in the period,
- the notional delivery day is the last business day of the chargeable period.

(4) In the case of—

- (a) a quantity of oil won and disposed of which is delivered on a day in the chargeable period, or
- (b) a quantity of oil—
 - (i) relevantly appropriated on a day in the chargeable period, but
 - (ii) not disposed of in the chargeable period,

the notional delivery day is to be determined in accordance with sub-paragraphs (5) to (7) below.

(5) If that oil is—

- (a) oil transported by ship from the place of extraction to a place in the United Kingdom or elsewhere, or
- (b) oil transported by pipeline to a place in the United Kingdom and loaded on to a ship there,

and there is a loading slot for it (see sub-paragraph (8)), the notional delivery day is the middle day of the loading slot.

(6) If sub-paragraph (5) above does not apply to that oil, then—

- (a) if it is oil delivered on a day in the chargeable period, the notional delivery day is the date of the delivery, or
- (b) if it is oil relevantly appropriated on a day in the chargeable period, the notional delivery day is the date of the appropriation.

(7) The Treasury may by regulations make provision for or in connection with substituting as the notional delivery day in such circumstances as may be prescribed—

- (a) in the case of oil transported by ship from the place of extraction to a place in the United Kingdom or elsewhere, the date of completion of load, or
- (b) in the case of oil transported by pipeline to a place in the United Kingdom and loaded on to a ship there, the date of the bill of lading.

(8) The “loading slot” for any oil is the period of three days within which the loading of the oil on to the ship is or was to take place—

- (a) as duly published by the operator of the facility at which that loading is or was to take place (unless paragraph (b) below applies), or
- (b) as subsequently finally duly varied to give effect to any modifications duly notified to that operator by the participator concerned.

(9) In sub-paragraph (8) above, “duly” means in accordance with the arrangements for the time being governing the time and manner of—

- (a) publication, or variation, of the final loading schedule for the calendar month in which loading is or was to take place, or
- (b) notification of modifications to that schedule,

and, in any case, before the end of the calendar month immediately preceding that in which loading is to take place.

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- (10) If the Treasury consider that, for the purpose of defining “loading slot”, any period of days for the time being specified by or under this Act as the period of days within which loading of oil on to a ship is to take place is, or is to be, no longer appropriate, they may by regulations make provision for, or in connection with,—
- (a) varying the number of days in the period,
 - (b) determining the day that is to be the notional delivery day if the number, as varied, is an even number.

The power conferred by this sub-paragraph includes power to make amendments to, or modifications of, this Schedule.]

Definition of market value of oil

- 2 [F³(1) [F⁴Except in the case of light gases] the market value of [F⁵any particular quantity of oil of any kind on any day] shall be determined for the purposes of this Part of this Act in accordance with this paragraph [and, accordingly, references in the following provisions of this paragraph to oil do not apply to light gases].]
- [F⁶(1A) This paragraph makes different provision according to whether the oil is—
- (a) Category 1 oil of any kind, or
 - (b) Category 2 oil of any kind.
- (1B) For the purposes of this Act—
- (a) Category 1 oil is oil of any of one or more kinds specified as such in regulations made for the purpose by the Board;
 - (b) Category 2 oil is oil of any other kind.
- (1C) The Board may specify oil of any particular kind as Category 1 oil only if they are satisfied that reports of prices for sales of oil of that kind are published and widely available (whether or not on payment of a fee).]
- [F⁷(2) The market value of any particular quantity of Category 1 oil of any kind is the price for which that quantity of oil of that kind might reasonably have been expected to be sold under a contract of sale that meets the following conditions—
- (a) the contract is for the sale of the oil at arm's length to a willing buyer;
 - (b) the contract is for delivery of a single standard cargo of the oil;
 - (c) the contract specifies a period of three days within which loading of the oil is to take place and that period includes the notional delivery day for the actual oil;
 - (d) the contract requires the oil to have been subjected to appropriate initial treatment before delivery;
 - (e) the contract requires the oil to be delivered—
 - (i) in the case of oil extracted in the United Kingdom, at the place of extraction; or
 - (ii) in the case of oil extracted from strata in the sea bed and subsoil of the territorial sea of the United Kingdom or of a designated area, at the place in the United Kingdom or another country at which the seller could reasonably be expected to deliver it or, if there is more than one such place, the one nearest to the place of extraction.

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The terms as to payment which are to be implied in the contract are those which are customarily contained in contracts for the sale at arm's length of oil of the kind in question.

- (2AA) The market value of any particular quantity of Category 2 oil of any kind is the price for which that quantity of oil of that kind might reasonably have been expected to be sold under a contract of sale that meets the following conditions—
- (a) the contract is for the sale of the oil at arm's length to a willing buyer;
 - (b) the contract provides for delivery of the oil on the notional delivery day for the actual oil or within such period that includes that day as is normal under a contract at arm's length for the sale of oil of that kind (or, if there is more than one such period, the shortest of them);
 - (c) the contract is made on a date such that the period between that date and the notional delivery day for the actual oil is the normal period between contract and delivery in the case of a contract at arm's length for the sale of oil of that kind (or, if there is more than one such period, the shortest of them);
 - (d) the contract requires the oil to have been subjected to appropriate initial treatment before delivery;
 - (e) the contract requires the oil to be delivered—
 - (i) in the case of oil extracted in the United Kingdom, at the place of extraction; or
 - (ii) in the case of oil extracted from strata in the sea bed and subsoil of the territorial sea of the United Kingdom or of a designated area, at the place in the United Kingdom or another country at which the seller could reasonably be expected to deliver it or, if there is more than one such place, the one nearest to the place of extraction.

The terms as to payment which are to be implied in the contract are those which are customarily contained in contracts for the sale at arm's length of oil of the kind in question.]

[^{FS}(2E) For the purposes of sub-paragraph (2) or (2AA) above, the price of any quantity of Category 1 or Category 2 oil of any kind shall be determined in such manner, on the basis of such information, and by reference to such factors, as may be prescribed for oil of that Category and kind in regulations made by the Board.

- (2F) The provision that may be made by regulations under subsection (2E) above includes provision for or in connection with any or all of the following—
- (a) determining the price by reference to prices, or an average of prices, for sales of oil (whether or not oil of the Category or kind in question, and whether the prices are prices under actual contracts, prices that are published and widely available (whether on payment of a fee or otherwise) or prices ascertained or determined in some other way);
 - (b) the prices to be taken into account;
 - (c) the descriptions of contracts to be taken into account;
 - (d) the method to be used for determining an average of prices;
 - (e) the day or days, or period or periods, by reference to which prices, or any average of prices, is to be determined;
 - (f) the application of a prescribed price differential, in cases where the price of oil of one kind falls to be determined in whole or in part by reference to prices for oil of some other kind.

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(2G) Sub-paragraph (2I) below has effect if, or in so far as, the Board are satisfied that it is impracticable or inappropriate to determine for the purposes of sub-paragraph (2) or (2AA) above the price of any oil in accordance with the provisions of regulations for the time being in force under sub-paragraph (2E) above.

(2H) For that purpose it is immaterial whether the impracticability or inappropriateness is by virtue of—

- (a) an insufficiency of contracts or published prices that satisfy the conditions,
- (b) an insufficiency of information relating to such contracts or published prices, or
- (c) the nature of the market for oil of the kind in question,

or for any other reason.

(2I) Where this sub-paragraph has effect, the price is to be determined—

- (a) so far as it is practicable and appropriate to do so by reference to other contracts or published prices (whether or not relating to oil of the same kind) and in accordance with the principles set out in the regulations for determining an average of prices; and
- (b) so far as it is not practicable or appropriate to determine it as mentioned in paragraph (a) above, in such other manner as appears to the Board to be appropriate in the circumstances.]

^{F9}(3)

[^{F10}(3A) Where all or any of the oil whose market value falls to be ascertained in accordance with [^{F11}sub-paragraph (1) and sub-paragraph (2) or (2AA) above] has been subjected to initial treatment before being disposed of or relevantly appropriated, the appropriate initial treatment referred to in [^{F12}sub-paragraph (2)(d) or (2AA)(d) above] shall, as respects that oil, include the whole of that treatment.]

(4) The provisions of [^{F13}sub-paragraphs (2) and (2AA)] above shall apply for the ascertainment of the market value of oil in any case mentioned in paragraph 2(2) of Schedule 2 to this Act as they apply in relation to the corresponding case mentioned in those provisions.

[^{F14}(5) In this paragraph “prescribed” means specified in, or determined in accordance with, regulations.]

Textual Amendments

- F3** Sch. 3 para. 2(1)(2)(a)-(d) and part of (e) substituted for Sch. 3 para. 2(1)(2)(a) and part of (b) by [Finance Act 1987 \(c. 16\), s. 62\(3\)](#), [Sch. 11 para. 1\(2\)\(3\)](#) for chargeable periods ending after 31 December 1986
- F4** Words in Sch. 3 para. 2(1) inserted (3.5.1994) by [1994 c. 9, s. 236\(1\)](#), [Sch. 23 para. 3\(1\)\(a\)](#) (with saving in [s. 236\(2\)](#))
- F5** Words in Sch. 3 para. 2(1) substituted (with effect in accordance with [s. 147\(1\)\(2\)](#) of the amending Act) by [Finance Act 2006 \(c. 25\), s. 146\(3\)](#)
- F6** Sch. 3 para. 2(1A)-(1C) inserted (with effect in accordance with [s. 147\(1\)\(2\)](#) of the amending Act) by [Finance Act 2006 \(c. 25\), s. 146\(4\)](#)
- F7** Sch. 3 para. 2(2)(2AA) substituted for Sch. 3 para. 2(2) (with effect in accordance with [s. 147\(1\)\(2\)](#) of the amending Act) by [Finance Act 2006 \(c. 25\), s. 146\(5\)](#)
- F8** Sch. 3 para. 2(2E)-(2I) substituted for Sch. 3 para. 2(2A)-(2D) (with effect in accordance with [s. 147\(1\)\(2\)](#) of the amending Act) by [Finance Act 2006 \(c. 25\), s. 146\(6\)](#)

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- F9** Sch. 3 para. 2(3) repealed (with effect in accordance with s. 147(1)(2) of the amending Act) by [Finance Act 2006 \(c. 25\), s. 146\(7\)](#), **Sch. 26 Pt. 5**
- F10** Sch. 3 para. 2(3A) inserted by [Finance Act 1980 \(c. 48\), s. 109\(6\)](#) in relation to chargeable periods ending after 31 December 1979
- F11** Words in Sch. 3 para. 2(3A) substituted (with effect in accordance with s. 147(1)(2) of the amending Act) by [Finance Act 2006 \(c. 25\), s. 146\(8\)\(a\)](#)
- F12** Words in Sch. 3 para. 2(3A) substituted (with effect in accordance with s. 147(1)(2) of the amending Act) by [Finance Act 2006 \(c. 25\), s. 146\(8\)\(b\)](#)
- F13** Words in Sch. 3 para. 2(4) substituted (with effect in accordance with s. 147(1)(2) of the amending Act) by [Finance Act 2006 \(c. 25\), s. 146\(9\)](#)
- F14** Sch. 3 para. 2(5) inserted (with effect in accordance with s. 147(1)(2) of the amending Act) by [Finance Act 2006 \(c. 25\), s. 146\(10\)](#)

Modifications etc. (not altering text)

- C2** See [Finance Act 1982 \(c. 39\), s. 134](#) and Sch. 18; [Finance Act 1986 \(c. 41\), s. 109](#)
- C3** Sch. 3 para. 2 applied (with modifications) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), ss. 225G\(6\)\(7\), 225J\(6\)\(7\)](#) (as inserted (for the tax year 2010-11 and subsequent tax years) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 1 para. 2](#) (with [Sch. 9 paras. 1-9, 22](#)))
- C4** Sch. 3 para. 2 applied (with modifications) (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\), s. 285\(6\)\(7\)](#) (with [Sch. 2](#))
- C5** Sch. 3 para. 2 applied (with modifications) (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\), s. 282\(6\)\(7\)](#) (with [Sch. 2](#))

[^{F15}2A (1) Paragraph 2 above shall have effect in accordance with this paragraph where the oil whose market value falls to be ascertained at any time in accordance with sub-paragraphs [^{F16}(1) to [^{F17}(2I)]] of that paragraph ^{F18} ... consists of or includes gas.

[Sub-paragraphs (2) and (3) below also apply where the market value of any light ^{F19}(1A) gases falls to be ascertained under paragraph 3A below.]

(2) [^{F20}Sub-paragraph (2)(d) or (as the case may be) (2AA)(d) of paragraph 2 above][^{F21}or, as the case may require, sub-paragraph (2)(b) of paragraph 3A below] shall not apply to so much of the oil as consists of gas unless—

- (a) it has been subjected to initial treatment before being disposed of or relevantly appropriated; or
- (b) it has, after being disposed of or relevantly appropriated, been subjected to initial treatment by or on behalf of the participator in question or by or on behalf of a person who is connected with him within the meaning of [^{F22}section 1122 of CTA 2010];

and where oil consisting of gas has, whether before or after being disposed of or relevantly appropriated, been subjected to initial treatment by or on behalf of the participator in question or by or on behalf of a person who is connected with him as aforesaid the appropriate initial treatment referred to in sub-paragraph [^{F16}(2)(d)][^{F23}or (2AA)] of paragraph 2 above [^{F21}or, as the case may require, sub-paragraph (2)(b) of paragraph 3A below] shall include the treatment to which it has been so subjected.

(3) Where the initial treatment mentioned in sub-paragraph (2) [^{F24}or (2AA)] above includes treatment in order to separate gas of one or more kinds which are transported and sold in normal commercial practice, the market value of the gas of each such kind which is separated shall be ascertained in accordance with sub-paragraphs [^{F16}(1) to [^{F25}(2I)]] of paragraph 2 [^{F26}or, as the case may require, in accordance with paragraph

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3A below] as if that were the only oil whose market value fell to be ascertained at the time in question^{F27}

^{F28}(4)]

Textual Amendments

- F15** Sch. 3 para. 2A inserted by [Finance Act 1980 \(c. 48\)](#), **s. 109(7)** in relation to chargeable periods ending after 31 December 1979
- F16** Words substituted by [Finance Act 1987 \(c. 16\)](#), **s. 62(3)** and Sch. 11 para. 2 for chargeable periods ending after 31 December 1986
- F17** Word in Sch. 3 para. 2A(1) substituted (with effect in accordance with s. 147(1)(2) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), **Sch. 18 para. 8(2)(a)**
- F18** Words in Sch. 3 para. 2A(1) repealed (with effect in accordance with s. 147(1)(2) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), **Sch. 18 para. 8(2)(b)**, **Sch. 26 Pt. 5(1)**
- F19** Sch. 3 para. 2A(1A) inserted (3.5.1994) by 1994 c. 9, s. 236(1), **Sch. 23 para. 3(2)** (with saving in s. 236(2))
- F20** Words in Sch. 3 para. 2A(2) substituted (with effect in accordance with s. 147(1)(2) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), **Sch. 18 para. 8(3)(a)**
- F21** Words in Sch. 3 para. 2A(2) inserted (3.5.1994) by 1994 c. 9, s. 236(1), **Sch. 23 para. 3(3)** (with saving in s. 236(2))
- F22** Words in Sch. 3 para. 2A(2)(b) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 1 para. 165(3)** (with Sch. 2)
- F23** Words in Sch. 3 para. 2A(2) inserted (with effect in accordance with s. 147(1)(2) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), **Sch. 18 para. 8(3)(b)**
- F24** Words in Sch. 3 para. 2A(3) inserted (with effect in accordance with s. 147(1)(2) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), **Sch. 18 para. 8(4)(a)**
- F25** Word in Sch. 3 para. 2A(3) substituted (with effect in accordance with s. 147(1)(2) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), **Sch. 18 para. 8(4)(b)**
- F26** Words in Sch. 3 para. 2A(3) inserted (3.5.1994) by 1994 c. 9, s. 236(1), **Sch. 23 para. 3(4)** (with saving in s. 236(2))
- F27** Words in Sch. 3 para. 2A(3) repealed (with effect in accordance with s. 147(1)(2) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), **Sch. 18 para. 8(4)(c)**, **Sch. 26 Pt. 5(1)**
- F28** Sch. 23 para. 2A(4) repealed (3.5.1994) by 1994 c. 9, ss. 236(1), 258, **Sch. 23 para. 3(5)**, **Sch. 26 Pt. VI Note 1** (with saving in s. 236(2))

Modifications etc. (not altering text)

- C6** See [Finance Act 1982 \(c. 39\)](#), **s. 134** and Sch. 18; [Finance Act 1986 \(c. 41\)](#), **s. 109**

Aggregate market value of oil for purposes of section 2(5)

- ^{F293} (1) For the purposes of subsection (5) of section 2 of this Act, the aggregate market value of any oil falling within paragraph (b) or (c) of that subsection is arrived at as follows.
- (2) In the case of oil falling within paragraph (b) of that subsection and delivered as there mentioned in the chargeable period in question—
 - (a) for each delivery, find (in accordance with paragraph 2 above (read, where applicable, with paragraph 2A above)) the market value of the quantity of oil delivered, and
 - (b) aggregate the market values so found.

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- (3) In the case of oil falling within paragraph (c) of that subsection and appropriated as there mentioned in the chargeable period in question—
- (a) for each appropriation, find (in accordance with paragraph 2 above (read, where applicable, with paragraph 2A above)) the market value of the quantity of oil appropriated, and
 - (b) aggregate the market values so found.]

Textual Amendments

F29 Sch. 3 para. 3 substituted (with effect in accordance with s. 147(1)(2) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), [Sch. 18 para. 9](#)

[^{F30} Definition of market value of light gases]

Textual Amendments

F30 SCh. 3: Crossheading and para. 3A inserted (3.5.1994) by [1994 c. 9, s. 236\(1\)](#), [Sch. 23 para. 4](#) (with saving in [s. 236\(2\)](#))

- [^{F31}3A (1) The market value of any light gases for the purposes of this Part of this Act is the price at which, having regard to all the circumstances relevant to the disposal or appropriation in question, light gases of that kind might reasonably have been expected to be sold under a contract of sale satisfying the conditions specified in sub-paragraph (2) below.
- (2) The conditions referred to in sub-paragraph (1) above are that—
- (a) the contract is for the sale of the gases at arm's length to a willing buyer;
 - (b) the contract requires the gases to have been subjected to appropriate initial treatment before delivery; and
 - (c) the contract requires the gases to be delivered—
 - (i) in the case of gases extracted in the United Kingdom, at the place of extraction; or
 - (ii) in the case of gases extracted from strata in the sea bed and subsoil of the territorial sea of the United Kingdom or of a designated area, at the place in the United Kingdom or another country at which the seller could reasonably be expected to deliver the gases or, if there is more than one such place, the one nearest to the place of extraction.
- (3) If the circumstances referred to in sub-paragraph (1) above are such that the price referred to in that sub-paragraph might reasonably be expected to include—
- (a) any such payments as are referred to in subsection (2) of section 114 of the Finance Act 1984 (treatment of certain payments relating to gas sales), or
 - (b) any capacity payments, as defined in subsection (5) of that section,
- section 114 of the Finance Act 1984 shall apply accordingly in relation to the notional contract specified in sub-paragraph (1) above as it applies in relation to an actual contract.

[The circumstances referred to in sub-paragraph (1) above include—

^{F32}(3A)

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- (a) the timing of the making, and of any subsequent variations, of the actual contract or other arrangements under which the disposal or appropriation was made;
 - (b) the terms of that contract or, as the case may be, of those arrangements, and the terms of any such variations; and
 - (c) the extent to which the circumstances to which regard is to be had by virtue of paragraphs (a) and (b) above are circumstances that might reasonably have been expected to exist in the case of a contract satisfying the conditions specified in sub-paragraph (2) above.]
- (4) This paragraph has effect subject to sub-paragraphs (2) and (3) of paragraph 2A above.]

Textual Amendments

- F31** Sch. 3 para. 3A inserted (3.5.1994) by 1994 c. 9, s. 236(1), **Sch. 23 para. 4** (with saving in s. 236(2))
- F32** Sch. 3 para. 3A(3A) inserted (*retrospectively*) by 1998 c. 36, s. 152(1)

Modifications etc. (not altering text)

- C7** Sch. 3 para. 3A applied (with modifications) by **Income Tax (Trading and Other Income) Act 2005 (c. 5), ss. 225G(6)(7), 225J(6)(7)** (as inserted (for the tax year 2010-11 and subsequent tax years) by **Taxation (International and Other Provisions) Act 2010 (c. 8), s. 381(1), Sch. 1 para. 2** (with **Sch. 9 paras. 1-9, 22**))
- C8** Sch. 3 para. 3A applied (with modifications) (with effect in accordance with s. 1184(1) of the amending Act) by **Corporation Tax Act 2010 (c. 4), s. 285(6)(7)** (with **Sch. 2**)
- C9** Sch. 3 para. 3A applied (with modifications) (with effect in accordance with s. 1184(1) of the amending Act) by **Corporation Tax Act 2010 (c. 4), s. 282(6)(7)** (with **Sch. 2**)

Oil delivered in place of royalties to be disregarded for certain purposes

- 4 Oil delivered to the [F33 OGA] under the terms of a licence granted under [F34 Part I of the Petroleum Act 1998] shall be disregarded for the purposes of section 2(5) of this Act and for the purposes of the references in section 8(3) and (4) of this Act to a participator's share of the oil won and saved from an oil field in a chargeable period.

Textual Amendments

- F33** Word in Sch. 3 para. 4 substituted (1.10.2016) by **The Petroleum (Transfer of Functions) Regulations 2016 (S.I. 2016/898), regs. 1(2), 4(9)**
- F34** Words in Sch. 3 para. 4 substituted (15.2.1999) by 1998 c. 17, s. 50, **Sch. 4 para. 7(7)** (with **Sch. 3 para. 5(1)**); S.I. 1999/161, **art. 2(1)**

Effect of transfer to an associated company of participator's rights etc. in connection with an oil field or relevant licence

- 5 (1) This paragraph applies to any agreement or other arrangement between a participator in an oil field and a company associated with the participator whereby—
- (a) ownership of all or any of the participator's share of the oil won and saved from the field is transferred to the company; and
 - (b) the company obtains or assumes all or any of the participator's other rights, interests and obligations in connection with the field or any relevant licence.

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- (2) As regards any chargeable period in which a participator in an oil field is a party to an arrangement to which this paragraph applies, the other party to the arrangement shall be treated for all purposes of this Part of this Act (except this paragraph) and for the purposes of [^{F35}sections 299 to 301 of CTA 2010] as having been a participator in the field at all times when the actual participator was such a participator (including times before the arrangement was made), and shall be assessable and chargeable to tax and entitled to make any claim under this Part of this Act, and any deduction or claim under [^{F35}sections 299 to 301 of CTA 2010], accordingly.
- (3) Where a participator in an oil field is or has been a party to an arrangement to which this paragraph applies then for all purposes of this Part of this Act—
- (a) anything done by or in relation to the participator in connection with the field or any relevant licence shall be treated as being or having been done by or, as the case may be, in relation to the other party to the arrangement; and
 - (b) all rights, interests or obligations of the participator in connection with the field or any relevant licence shall be treated as being or having been rights, interests or obligations of the other party.
- (4) Where a participator in an oil field is or has been a party to an arrangement to which this paragraph applies, then, if any tax or interest payable under this Part of this Act by the other party to the arrangement is not paid within thirty days after the date on which it becomes payable, the Board may by notice in writing require the participator to pay that tax or interest; and where such a notice is served on the participator, the tax or interest in question shall be payable by him forthwith, but without prejudice to the Board’s right to recover it from the other party.
- (5) For the purposes of this paragraph “company” means any body corporate, and a participator in an oil field and another company are associated with one another if—
- (a) the participator has control over or is under the control of the other company; or
 - (b) the participator and the other company are both under the control of the same person or persons;
- and in this sub-paragraph “control” has the meaning given by [^{F36}section 1124 of CTA 2010].

Textual Amendments

F35 Words in Sch. 3 para. 5(2) substituted (with effect in accordance with s. 1184(1) of the amending Act) by *Corporation Tax Act 2010* (c. 4), s. 1184(1), **Sch. 1 para. 165(4)** (with Sch. 2)

F36 Words in Sch. 3 para. 5(5) substituted (with effect in accordance with s. 1184(1) of the amending Act) by *Corporation Tax Act 2010* (c. 4), s. 1184(1), **Sch. 1 para. 165(5)** (with Sch. 2)

Modifications etc. (not altering text)

C10 See *Finance Act 1981* (c. 35), s. 128(1) and Sch. 16 para. 14; *Finance Act 1982* (c. 39), s. 139(6), **Sch. 19 para. 20**

Oil owned by a person other than a participator in the oil field from which it was won

- 6 (1) Where a proportion of a participator’s share in the oil won and saved from an oil field (as distinct from a specific quantity of oil comprised in that share) is owned by [^{F37}a person (in this paragraph referred to as “the owner”) who is not a participator

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and] who acquired it (whether directly or indirectly) under an agreement to which paragraph 5 above does not apply, the following provisions of this paragraph shall have effect.

- (2) For the purposes of this Part of this Act the oil acquired by the owner under the agreement shall be treated in every case as having been disposed of to him by the participator otherwise than in a sale at arm's length.
- (3) Where any oil which the owner owns in right of the agreement is in pursuance of the agreement—
 - (a) delivered to the owner by the participator; or
 - (b) delivered to a third person by the participator acting on behalf of the owner, the delivery shall for the purposes of this Part of this Act be regarded as a delivery by the participator although he does not own the oil.
- (4) This sub-paragraph applies to all such oil (if any) as, being owned by the owner in right of the agreement, is in any chargeable period delivered by the participator as mentioned in the preceding sub-paragraph and would accordingly, apart from the following sub-paragraph, fall to be brought into account under section 2(5)(b) of this Act in computing the assessable profit or allowable loss accruing to the participator in that period (in the following sub-paragraph referred to as “the relevant period”).
- (5) If on a claim made by the participator within two months after the end of the relevant period—
 - (a) it is shown that some or all of the oil to which sub-paragraph (4) above applies has been disposed of by or on behalf of the owner crude in sales at arm's length; and
 - (b) the Board are satisfied that the oil with respect to which it is so shown includes the whole of so much of the oil to which that sub-paragraph applies as has been so disposed of,

then, in computing the assessable profit or allowable loss accruing to the participator in the relevant period, the oil with respect to which it is so shown shall be brought into account by reference to the price received or receivable for it by the owner instead of by reference to its market value.

Textual Amendments

F37 Words substituted by [Finance Act 1977 \(c. 36\), s. 54\(2\)](#)

[^{F38} Effect of certain transactions between participators

Textual Amendments

F38 Sch. 3 para. 6A inserted by [Finance Act 1977 \(c. 36\), s. 54](#)

- 6A Where the whole or part of the share of a participator (“the transferor”) of oil won from an oil field became the share, or part of the share, of another participator (“the transferee”) in pursuance of an agreement between them under which the transferor undertook to remain responsible for carrying out the transferee’s obligations in connection with the field so far as they relate to the transferred share or part, then, for the purposes of this Part of this Act—

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- (a) the shares of the transferor and the transferee of oil won from the field shall be taken to be the same as they would have been if the transfer had not occurred, and
- (b) any oil comprised in the transferred share or part and taken up by or on the authority of the transferee in pursuance of the agreement shall be regarded as being disposed of and delivered to him by the transferor at the time when it is taken up.]

Exclusion from section 2(4)(b) and (5)(d) of offshore oil in transit to place of first landing^{F39}. . .

Textual Amendments

F39 Words in the heading to Sch. 3 para. 7 repealed (16.7.1992 with effect in accordance with ss. 55(3), 74(5) of the amending Act) by Finance (No. 2) Act 1992 (c. 48), ss. 55(3), 74, 82, Sch. 15 para. 4(2)(a), Sch. 18 Pt. VIII

- 7 In computing the assessable profit or allowable loss accruing to a participator in a chargeable period from an oil field, the market value of any oil won as mentioned in section 3(1)(f) of this Act—
- (a) shall not be taken into account under section 2(4)(b) of this Act if and to the extent that at the end of the preceding chargeable period the oil was in the course of being transported to the place where it was first landed in the United Kingdom [^{F40}or to the place referred to in section 3(1)(f)(ii) of this Act]; and
 - (b) shall not be taken into account under section 2(5)(d) of this Act if and to the extent that at the end of the first-mentioned chargeable period the oil was in the course of being so transported.

Textual Amendments

F40 Words in Sch. 3 para. 7(a) inserted (16.7.1992 with effect in accordance with s. 74(5) of the amending Act) by Finance (No. 2) Act 1992 (c. 48), ss. 74, 82, Sch. 15 para. 4(2)(b).

Certain subsidised expenditure to be disregarded

- 8 (1) Expenditure shall not be regarded for any of the purposes of this Part of this Act as having been incurred by any person in so far as it has been or is to be met directly or indirectly by the Crown or by any government or public or local authority, whether in the United Kingdom or elsewhere, or by any person other than the first-mentioned person, [^{F41}unless it is so met by a grant made under Part I of the ^{M1}Industry Act 1972 or a grant made under an enactment of the Parliament of Northern Ireland or Measure of the Northern Ireland Assembly and declared by order of the Treasury under section 84 of the ^{M2}Capital Allowances Act 1968 to correspond to a grant made under the said Part I].

[^{F42}(1A) But sub-paragraph (1) above does not apply to any expenditure for which the relevant participator is liable that has been or is to be met directly or indirectly out of a payment made by the guarantor under an abandonment guarantee.

(1B) In sub-paragraph (1A) above—

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“abandonment guarantee” has the same meaning as it has for the purposes of section 3 of this Act (see section 104 of the Finance Act 1991), and “the guarantor” and “the relevant participator” have the same meaning as in section 104 of that Act.]

(2) In considering, for the purposes of this paragraph, how far any expenditure has been or is to be met directly or indirectly by the Crown or by any authority or person other than the person incurring the expenditure, there shall be left out of account any insurance or compensation payable in respect of the loss or destruction of any asset.

[^{F43}(3) This paragraph is subject to paragraph 11A (transfers of interests in oil fields: post-transfer decommissioning expenditure).]

Textual Amendments

- F41** Words repealed by [Finance Act 1982 \(c. 39\)](#), **ss. 137(1)(7), 157(6)** and Sch. 19 Part IX in respect of relevant expenditure incurred after 9 March 1982 where the grant concerned is paid after that date
- F42** Sch. 3 para. 8(1A)(1B) inserted (with effect in accordance with Sch. 31 para. 23 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), **Sch. 31 para. 3**
- F43** Sch. 3 para. 8(3) inserted (12.2.2019) by [Finance Act 2019 \(c. 1\)](#), **s. 38(3)**

Modifications etc. (not altering text)

- C11** See [Finance Act 1981 \(c. 35\)](#), **s. 118(5)**

Marginal Citations

- M1** 1972 c. 63.
- M2** 1968 c. 3.

Election to have amounts mentioned in section 2(9)(b) and (c) spread

^{F44}9

Textual Amendments

- F44** Sch. 3 para. 9 omitted (with effect in accordance with Sch. 45 para. 1(5) of the amending Act) by virtue of [Finance Act 2009 \(c. 10\)](#), **Sch. 45 para. 1(2)**

^{F45}10

Textual Amendments

- F45** Sch. 3 para. 10 omitted (with effect in accordance with Sch. 45 para. 1(5) of the amending Act) by virtue of [Finance Act 2009 \(c. 10\)](#), **Sch. 45 para. 1(2)**

Restriction of amount of reduction under section 8(1)

11 Where—

- (a) a claim under Schedule 5 or 6 to this Act is made after the relevant time; and
- (b) the reduction which would, apart from this paragraph, fall to be made under subsection (1) of section 8 of this Act for any chargeable period is greater

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than it would have been if the expenditure and other amounts allowed on the claim had been claimed before and allowed at the relevant time, then, if the Board so direct, the reduction made under that subsection for that chargeable period shall be only what it would have been if the expenditure and other amounts allowed on the claim had been claimed before and allowed at the relevant time.

In this paragraph “the relevant time” means the end of twelve months from the end of the claim period to which the claim mentioned in sub-paragraph (a) above relates.

[^{F46}Transfers of interests in oil fields: post-transfer decommissioning expenditure

Textual Amendments

F46 Sch. 3 para. 11A and cross-heading inserted (12.2.2019) by [Finance Act 2019 \(c. 1\), s. 38\(2\)](#)

- 11A (1) This paragraph applies if—
- (a) there is, for the purposes of Schedule 17 to FA 1980, a transfer by a participant in an oil field of the whole or part of an interest in the field, and
 - (b) on or after 1 November 2018, the OGA gives consent for the transfer.
- (2) Paragraph 8(1) (certain subsidised expenditure to be disregarded) does not apply to any decommissioning expenditure that—
- (a) is incurred by the new participant, and
 - (b) has been, or is to be, met directly or indirectly out of a payment made by the old participant.
- (3) Sub-paragraph (4) applies if, at the end of the transfer period, the old participant is no longer a licensee or a participant in respect of any licensed area wholly or partly included in the oil field.
- (4) Decommissioning expenditure that is incurred by the old participant, after the end of the transfer period, is to be treated for the purposes of this Act as having been incurred by the new participant (and paragraph 8(1) does not apply to any such expenditure).
- (5) If the old participant has transferred the whole or part of another interest in the oil field to the new participant, but the condition in sub-paragraph (1)(b) was not met in respect of the transfer, references in sub-paragraphs (2) and (4) to decommissioning expenditure are references to such proportion of that expenditure as is just and reasonable.
- (6) In this paragraph—
- (a) “decommissioning expenditure” means—
 - (i) expenditure that is incurred, in relation to the oil field mentioned in sub-paragraph (1)(a), for a purpose within section 3(1)(i) or (j) (decommissioning or restoration), and
 - (ii) is allowable under that section;
 - (b) “the old participant”, “the new participant” and “the transfer period” have the same meaning as in Schedule 17 to FA 1980 (see paragraph 1(3) of that Schedule).
- (7) If there is, for the purposes of Schedule 17 to FA 1980, a subsequent transfer of the whole or part of an interest in the oil field mentioned in sub-paragraph (1)

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(a), references in this paragraph to “the old participator” include references to each participator whose interest, or part of it, in the oil field is the subject of a transfer to which this paragraph applies.]

[^{F47}Power to make regulations under this Schedule

Textual Amendments

F47 Sch. 3 para. 12 and cross-heading inserted (with effect in accordance with s. 147(1)(2) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), [Sch. 18 para. 10](#)

- 12 (1) Any power to make regulations under this Schedule is exercisable by statutory instrument.
- (2) A statutory instrument containing regulations under this Schedule may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the House of Commons.
- (3) Any power to make regulations under this Schedule includes power—
- (a) to make different provision for different Categories or kinds of oil or for different cases, or
 - (b) to make incidental, consequential, supplemental, or transitional provision or savings.]

Changes to legislation:

There are currently no known outstanding effects for the Oil Taxation Act 1975, SCHEDULE 3.