

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

SCHEDULES

SCHEDULE 5

ALLOWANCE OF EXPENDITURE (OTHER THAN ABORTIVE EXPLORATION EXPENDITURE)

Modifications etc. (not altering text)

C1 Sch. 5 excluded by [Finance Act 1991 \(c. 31, SIF 63:1\)](#), [s. 108\(6\)](#).

Appeals

- 5 (1) If—
- (a) the amount or total of the amounts stated under sub-paragraph (1)(a) of paragraph 4 above in the notice or notices given by the Board under that paragraph on a claim, or the amount or total of the amounts so stated under sub-paragraph (1)(b) of that paragraph, is less than the amount claimed; or
 - (b) the shares so stated under sub-paragraph (1)(c) of that paragraph in the notice or latest of the notices so given differ from the shares stated under paragraph 2(4)(b) above in the claim,
- the responsible person may [^{F1}appeal] by notice in writing given to the Board not more than three years after the making of the claim ^{F2}...; but the bringing of an appeal under this paragraph shall not affect the operation of any notice so given by the Board.
- (2) On an appeal [^{F3}that is notified to the tribunal] against a decision on a claim brought on the ground mentioned in sub-paragraph (1)(b) above, and in any proceedings arising out of such an appeal, any participator in the oil field to which the claim relates shall be entitled to [^{F4}be a party].
 - (3) An appeal against a decision on a claim may at any time [^{F5}before it is notified to the tribunal] be abandoned by a notice in writing given to the Board by the responsible person.
 - (4) On an appeal [^{F6}that is notified to the tribunal] against a decision on a claim, the [^{F7}tribunal] may vary the decision appealed against whether or not the variation is to the advantage of all or any of the participators in the oil field to which the claim relates.
- [^{F8}(5) The provisions of paragraphs 14A to 14I of Schedule 2 shall apply to appeals under this paragraph subject to any necessary modifications.]

Textual Amendments

F1 Word in Sch. 5 para. 5(1) inserted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 77\(2\)\(a\)](#)

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- F2** Words in Sch. 5 para. 5(1) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 77\(2\)\(b\)](#)
- F3** Words in Sch. 5 para. 5(2) inserted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 77\(3\)\(a\)](#)
- F4** Words in Sch. 5 para. 5(2) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 77\(3\)\(b\)](#)
- F5** Words in Sch. 5 para. 5(3) inserted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 77\(4\)](#)
- F6** Words in Sch. 5 para. 5(4) inserted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 77\(5\)\(a\)](#)
- F7** Word in Sch. 5 para. 5(4) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 77\(5\)\(b\)](#)
- F8** Sch. 5 para. 5(5) inserted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 77\(6\)](#)

Modifications etc. (not altering text)

- C1** See [Finance \(No. 2\) Act 1979 \(c. 47\)](#), [s. 19](#) where more than one rate of uplift applies

- 6 (1) Where the responsible person gives notice of appeal against a decision on a claim on one or both of the grounds mentioned in paragraph 5(1)(a) above and, before the appeal is determined by the [^{F9}tribunal], the Board and the responsible person agree on—
- (a) the amount of the expenditure that ought to be allowed on the claim; or
 - (b) the amount, if any, of the expenditure claimed which ought to be so allowed as qualifying for supplement under section 2(9)(b)(ii) of this Act,
- the appropriate amount (if any) of the expenditure claimed or, as the case may be, claimed as so qualifying shall be treated for the purposes of this Part of this Act as having been allowed by the Board on the claim, and as having been so allowed on the date on which the notice of appeal was given.
- For the purposes of this sub-paragraph the appropriate amount (if any) of the expenditure claimed or, as the case may be, claimed as so qualifying, is an amount thereof equal to the excess, if any, of the amount so agreed on over the corresponding amount or the total of the corresponding amounts allowed by the notice or notices previously given by the Board under paragraph 3 above.
- (2) Where the responsible person gives notice of appeal against a decision on a claim on the ground mentioned in paragraph 5(1)(b) above and, before the appeal is determined by the [^{F10}tribunal], the Board and the responsible person agree on the shares in which the amount of any expenditure allowed on the claim, or so allowed as qualifying for supplement under section 2(9)(b)(ii) of this Act, ought to be divided between the participators for the purposes of section 2(9)(b) of this Act, the shares so agreed on shall be deemed to be the shares stated in any notice previously given by the Board under paragraph 3 above on the claim, and shall apply in the case of any part of the expenditure claimed, or claimed as so qualifying, which is by virtue of this or the following paragraph treated as having been allowed on the claim;
- (3) Where the Board and the responsible person agree on the matter mentioned in sub-paragraph (1)(a), sub-paragraph (1)(b) or sub-paragraph (2) above in the circumstances there mentioned, the corresponding ground of appeal shall be treated as having been abandoned; and where by virtue of this sub-paragraph all the grounds of the appeal fall to be so treated, the appeal itself shall be treated as having been abandoned.

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Textual Amendments

- F9** Word in Sch. 5 para. 6(1) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 78**
- F10** Word in Sch. 5 para. 6(2) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 78**

Modifications etc. (not altering text)

- C2** See [Finance \(No. 2\) Act 1979 \(c. 47\)](#), s. 19 where more than one rate of uplift applies

- 7 (1) Where^[F11], on an appeal under paragraph 5 above ^[F12]that is notified to the tribunal, the tribunal determines] that any amount or part of an amount in dispute is allowable under section 3 or 4 of this Act or qualifies for supplement under section 2(9)(b)(ii) of this Act, the following provisions of this paragraph shall apply;
- (2) Subject to paragraph 8(2) below, the said amount or part shall be treated for the purposes of this Part of this Act as having been allowed on the claim to which the appeal relates, and as having been so allowed on the date on which the notice of appeal was given.
- (3) There shall be made in any computation made under section 2 of this Act, and in any assessment to tax or determination, all such adjustments as are necessary in consequence of the determination of the ^[F13]tribunal].

Textual Amendments

- F11** Punctuation in Sch. 5 para. 7(1) inserted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 79(2)(a)**
- F12** Words in Sch. 5 para. 7(1) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 79(2)(b)**
- F13** Word in Sch. 5 para. 7(3) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 79(3)**

Modifications etc. (not altering text)

- C3** See [Oil Taxation Act 1983 \(c. 56\)](#), s. 3(6)
- C4** See [Finance \(No. 2\) Act 1979 \(c. 47\)](#), s. 19 where more than one rate of uplift applies

- 8 (1) Where—
- ^[F14](a) an appeal is made against a determination by the tribunal on an appeal under paragraph 5 above; and]
- (b) in the proceedings on the ^[F15]appeal so made], or in any proceedings arising out of those proceedings, any matter which was determined by the ^[F16]tribunal] on ^[F17]the appeal under paragraph 5 above] is finally determined otherwise than in accordance with their determination on that appeal,
- the following provisions of this paragraph shall apply.
- (2) Any expenditure allowable under section 3 or 4 of this Act, which, if the decision of the Board on the claim to which the appeal under paragraph 5 above related had been in accordance with the final determination of that matter, would have been allowed by that decision, or allowed by it as qualifying for supplement under section 2(9)(b)(ii) of this Act, shall be treated for the purposes of this Part of this Act as having

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been allowed by the Board on the claim to the extent that it has not been previously allowed on the claim, and as having been so allowed to that extent on the date on which the original notice of appeal was given under paragraph 5 above.

- (3) There shall be made in any computation made under section 2 of this Act and in any assessment to tax or determination all such adjustments or further adjustments as are necessary in consequence of the final determination.
- (4) Any tax which becomes payable in consequence of any adjustment made under subparagraph (3) above in an assessment for a chargeable period shall carry interest at the [^{F18}rate applicable under section 178 of the Finance Act 1989] from [^{F19}two months] after the end of that period to the date of payment.
- (5) For the purposes of this paragraph a matter shall not be deemed to be finally determined in any such proceedings as are mentioned in subparagraph (1)(b) above until a determination thereof made in any such proceedings can no longer be varied or overruled by the order of any court [^{F20}or the tribunal].

Textual Amendments

- F14** Sch. 5 para. 8(1)(a) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 80(2)**
- F15** Words in Sch. 5 para. 8(1)(b) substituted (1.9.1994) by S.I. 1994/1813, reg. 2(1), **Sch. 1 para. 19(b)(i)**
- F16** Word in Sch. 5 para. 8(1)(b) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 80(3)**
- F17** Words in Sch. 5 para. 8(1)(b) substituted (1.9.1994) by S.I. 1994/1813, reg. 2(1), **Sch. 1 para. 19(b)(ii)**
- F18** Words substituted by [Finance Act 1989 \(c. 26\)](#), **s. 179(1)(4)** and S.I. 1989 No. 1298 (C. 44) for periods beginning on or after 18 August 1989
- F19** Words substituted by [Petroleum Revenue Tax Act 1980 \(c. 1, SIF 63:1\)](#), **s. 2** in relation to tax charged for any period ending on or after 31 December 1979
- F20** Words in Sch. 5 para. 8(5) added (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 80(4)**

Modifications etc. (not altering text)

- C5** See [Oil Taxation Act 1983 \(c. 56\)](#), **s. 3(6)**
- C6** A rate of 12 per cent. prescribed by S.I. 1979 No. 1687 was extended to Sch. 5 para. 8(4) by [Petroleum Revenue Tax Act 1980 \(c. 1, SIF 63:1\)](#), **s. 2(3)** from 1 January 1980, reduced to 8 per cent. by S.I. 1982 No. 1587 from 1 December 1982 and increased to 11 per cent. by S.I. 1985 No. 563 from 1 May 1985. See also S.I. 1989 No. 1297 for regulations made and interest rates set under [Finance Act 1989 \(c. 26\)](#), **s. 178**

[^{F219} (1) If ^{F22}... it appears to the Board that the relevant amount was incorrectly stated [^{F23}in a notice of a decision under paragraph 3 above given to the responsible person for an oil field], the Board may before the expiry of [^{F24}the permitted period] serve on the responsible Person a notice stating what appears to the Board to be the correct amount (referred to below as “the notice of variation”).

^{F25}(1A)

^{F25}(1B)

^{F25}(1C)

- (2) In this paragraph “the relevant amount”, in relation to a notice of a decision on a claim under paragraph 3 above, means any one or more of the following—

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- (a) the amount of expenditure allowed on the claim;
- (b) the amount of that expenditure allowed as qualifying for supplement under section 2(9)(b)(ii) of this Act;
- (c) where different percentages were stated in that notice to apply to different parts of that expenditure for the purpose of calculating the supplement, each of those parts of that expenditure.

^{F26}(2A)

[In this paragraph “permitted period” means the period of 4 years beginning with the ^{F27}(2B) date on which the notice of the decision under paragraph 3 was given (but see sub-paragraph (2C)).

(2C) Where the relevant amount was overstated in the notice of decision as a result of an inaccuracy in a statement or declaration made by the responsible person (or a person acting on behalf of the responsible person) in connection with the claim—

- (a) if the inaccuracy was careless, the permitted period is extended to 6 years, and
- (b) if the inaccuracy was deliberate, the permitted period is extended to 20 years.]

(3) The responsible person may, by notice in writing given to the Board not more than thirty days after the notice of variation was served on him, appeal ^{F28}... against the notice of variation.

(4) A notice of appeal under sub-paragraph (3) shall state the grounds on which the appeal is brought.

(5) An appeal under this paragraph may at any time [^{F29}before it is notified to the tribunal] be abandoned by notice in writing given to the Board by the responsible person.

(6) A notice of variation may be withdrawn at any time before it becomes effective.

(7) In any case where—

- (a) the responsible person gives notice of appeal against a notice of variation, and
- (b) before the appeal is determined by the [^{F30}tribunal], the Board and the responsible person agree as to what the relevant amount ought to be,

the notice of variation shall have effect subject to such modifications as may be necessary to give effect to that agreement; and thereupon the appeal shall be treated as having been abandoned.

(8) On an appeal [^{F31}that is notified to the tribunal] against a notice of variation the [^{F32}tribunal] may vary the notice, quash the notice or dismiss the appeal; and the notice may be varied whether or not the variation is to the advantage of all or any of the participators in the oil field in question.

(9) Where a notice of variation relating to a decision on a claim becomes effective, the relevant amount shall be taken for the purposes of this Part of this Act as having been reduced or increased, as the case may require, on the date on which notice of the decision was given, by such amount as may be necessary to give effect to that notice, and the Board may make such computations under section 2 of this Act and such assessments or determinations or such amendments of assessments or determinations as may be necessary in consequence of that reduction or increase.

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- (10) A notice of variation becomes effective for the purposes of this paragraph either—
- (a) on the expiry of the period during which notice of appeal against the notice of variation may be given^{F33}... under sub-paragraph (3) above without such notice of appeal being given; or
 - (b) where such notice of appeal is given, when the notice of variation can no longer be varied or quashed by the [^{F34}tribunal] or by the order of any court.

^{F35}(11)

[For the purposes of this section, an inaccuracy in a statement or declaration made^{F36}(12) by the responsible person (or a person acting on behalf of the responsible person) is careless if it is due to a failure by the person to take reasonable care.

- (13) An inaccuracy in a statement or declaration made by the responsible person (or a person acting on behalf of the responsible person) is to be treated as careless if—
- (a) the responsible person, the person who acted on behalf of the responsible person or any person who becomes the responsible person for the oil field after the statement or declaration is made discovers the inaccuracy some time after it is made, and
 - (b) that person fails to take reasonable steps to inform Her Majesty's Revenue and Customs.]]

Textual Amendments

- F21** Sch. 5 para. 9 added by [Finance Act 1983 \(c. 49\), s. 40\(1\)](#)
- F22** Words in Sch. 5 para. 9(1) omitted (1.4.2011) by virtue of [Finance Act 2009 \(c. 10\), s. 99\(2\), Sch. 51 para. 24\(2\)\(a\)](#); [S.I. 2010/867, art. 2\(2\)](#)
- F23** Words in Sch. 5 para. 9(1) substituted (1.4.2011) by [Finance Act 2009 \(c. 10\), s. 99\(2\), Sch. 51 para. 24\(2\)\(b\)](#); [S.I. 2010/867, art. 2\(2\)](#)
- F24** Words in Sch. 5 para. 9(1) substituted (1.4.2011) by [Finance Act 2009 \(c. 10\), s. 99\(2\), Sch. 51 para. 24\(2\)\(c\)](#); [S.I. 2010/867, art. 2\(2\)](#)
- F25** Sch. 5 para. 9(1A)-(1C) omitted (1.4.2011) by virtue of [Finance Act 2009 \(c. 10\), s. 99\(2\), Sch. 51 para. 24\(3\)](#); [S.I. 2010/867, art. 2\(2\)](#)
- F26** Sch. 5 para. 9(2A) omitted (1.4.2011) by virtue of [Finance Act 2009 \(c. 10\), s. 99\(2\), Sch. 51 para. 24\(3\)](#); [S.I. 2010/867, art. 2\(2\)](#)
- F27** Sch. 5 para. 9(2B)(2C) inserted (1.4.2011) by [Finance Act 2009 \(c. 10\), s. 99\(2\), Sch. 51 para. 24\(4\)](#); [S.I. 2010/867, art. 2\(2\)](#)
- F28** Words in Sch. 5 para. 9(3) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\), art. 1\(2\), Sch. 1 para. 81\(2\)](#)
- F29** Words in Sch. 5 para. 9(5) inserted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\), art. 1\(2\), Sch. 1 para. 81\(3\)](#)
- F30** Word in Sch. 5 para. 9(7) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\), art. 1\(2\), Sch. 1 para. 81\(4\)](#)
- F31** Words in Sch. 5 para. 9(8) inserted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\), art. 1\(2\), Sch. 1 para. 81\(5\)\(a\)](#)
- F32** Word in Sch. 5 para. 9(8) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\), art. 1\(2\), Sch. 1 para. 81\(5\)\(b\)](#)
- F33** Words in Sch. 5 para. 9(10)(a) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\), art. 1\(2\), Sch. 1 para. 81\(6\)](#)
- F34** Word in Sch. 5 para. 9(10)(b) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\), art. 1\(2\), Sch. 1 para. 81\(7\)](#)

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F35 Sch. 5 para. 9(11) omitted (1.4.2011) by virtue of Finance Act 2009 (c. 10), s. 99(2), **Sch. 51 para. 24(5)**; S.I. 2010/867, art. 2(2)

F36 Sch. 5 para. 9(12)(13) inserted (1.4.2011) by Finance Act 2009 (c. 10), s. 99(2), **Sch. 51 para. 24(6)**; S.I. 2010/867, art. 2(2)

Modifications etc. (not altering text)

C7 See Oil Taxation Act 1983 (c. 56), s. 14 in relation to the re-opening of decisions for claim periods ending on or after 30 June 1982

C8 Sch. 5 para. 9 modified (3.5.1994) by 1994 c. 9, ss. 231, 232(8)(a), 234, Sch. 22 paras. 9(4), 10, 11

[^{F37}10 In this Schedule “tribunal” means the First-tier Tribunal or, where determined by or under Tribunal Procedure Rules, the Upper Tribunal.]

Textual Amendments

F37 Sch. 5 para. 10 inserted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 1 para. 82**

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