

Changes to legislation: There are currently no known outstanding effects for the Oil Taxation Act 1975, Cross Heading: Claim periods and claims. (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)**.

Claim periods and claims

- 1 (1) In relation to any oil field—
 - (a) the first claim period is whichever of the following periods the responsible person elects, namely the period ending at the end of June following the determination of the field or the period ending at the end of December following that determination (including, in either case, an unlimited time prior to that determination);
 - (b) each subsequent claim period is whichever of the following periods the responsible person elects, namely the period of six months or the period of twelve months from the end of the preceding claim period:

Provided that unless and until the responsible person elects the period of six months from the end of any particular claim period, the claim period next after that claim period shall be taken to be the period of twelve months from the end of it.
- (2) An election under this paragraph must be made by notice in writing to the Board.
- 2 (1) A claim under this Schedule for the allowance of any expenditure allowable under section 3 or 4 of this Act for an oil field must be made by the responsible person to the Board and, subject to the provisions of this Part of this Act, must be made in a claim or claims for the claim period in which the expenditure is incurred, but may not be made before the determination of the field or more than [^{F14} years] after the end of the claim period in which the expenditure is incurred.
- (2) A claim under this Schedule for the allowance of any expenditure allowable under section 3 or 4 of this Act for an oil field which was incurred by a person before he became a participator in the field must be made in a claim for the claim period in which he became a participator.
- (3) A claim under this Schedule shall not include any expenditure allowable under section 3 or 4 of this Act which has been included in a claim under Schedule 6 to this Act.
- (4) A claim must state—
 - (a) what part (if any) of the expenditure is claimed as qualifying for supplement under section 2(9)(b)(ii) of this Act; and

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- (b) [^{F2}Subject to paragraph 2A below]the shares in which, in accordance with their respective interests in the oil field, the participators propose to divide between them, for the purposes of paragraph (b) of section 2(9) of this Act, the expenditure allowed on the claim and the amount which will arise under sub-paragraph (ii) of that paragraph if some or all of that expenditure is allowed on the claim as so qualifying.
- (5) Where a claim for the allowance of any expenditure under section 4 of this Act for an oil field was made in relation to any asset for the claim period which, in the case of that asset, is the first relevant claim period (as defined in that section), then any claim with respect to that field made under this Schedule for any subsequent claim period must give all such information as is relevant for the purpose of enabling the Board to carry into effect the provisions of that section in relation to that asset.
- (6) A claim must be in such form as the Board may prescribe and must include a declaration that all statements contained in it are correct to the best of the knowledge and belief of the person making the claim.
- [^{F3}(7) Where—
- (a) the claim period in which any expenditure allowable under section 3 or 4 of this Act for an oil field is incurred coincides with or includes a chargeable period, and
- (b) the Board has extended the period for the delivery of the return that is required under paragraph 5 of Schedule 2 to this Act to be delivered for that chargeable period by the responsible person, and
- (c) the relevant time falls more than [^{F4}2 years] after the end of the claim period, sub-paragraph (1) above shall have effect as if the reference to [^{F5}4 years] after the end of the claim period in which the expenditure is incurred were a reference to two years after the relevant time.
- (8) In sub-paragraph (7) above “the relevant time” means the earlier of—
- (a) the time which, as a result of the extension mentioned in that sub-paragraph, is the latest time for the delivery of the return there mentioned; and
- (b) the time when that return is delivered.]

Textual Amendments

- F1** Words in Sch. 5 para. 2(1) substituted (1.4.2011) by Finance Act 2009 (c. 10), s. 99(2), Sch. 51 para. 23(2); S.I. 2010/867, art. 2(2)
- F2** Words in Sch. 5 para. 2(4)(b) inserted by Finance Act 1991 (c. 31, SIF 63:1), s. 107(1).
- F3** Sch. 5 para. 2(7)(8) inserted (27.9.1999 with application in relation to chargeable periods ending on or after 30.6.1999) by 1999 c. 16, s. 102(4)(8)
- F4** Words in Sch. 5 para. 2(7)(c) substituted (1.4.2011) by Finance Act 2009 (c. 10), s. 99(2), Sch. 51 para. 23(3)(a); S.I. 2010/867, art. 2(2)
- F5** Words in Sch. 5 para. 2(7) substituted (1.4.2011) by Finance Act 2009 (c. 10), s. 99(2), Sch. 51 para. 23(3)(b); S.I. 2010/867, art. 2(2)

Modifications etc. (not altering text)

- C1** See Oil Taxation Act 1983 (c. 56), s. 3(6)
- C2** See Finance Act 1982 (c. 39), s. 135(1)(c) in relation to any case where oil was won before the date of determination

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- C3** See Finance (No. 2) Act 1979 (c. 47), s. 19(4) where more than one rate of uplift applies; Finance Act 1981 (c. 35), s. 111(6)
- C4** See Oil Taxation Act 1983 (c. 56), s. 5(7)

- [F6] 2A** (1) This paragraph applies if—
- (a) a current participator (“the defaulter”) has defaulted on a liability under—
 - (i) a relevant agreement, or
 - (ii) an abandonment programme,
 to make a payment towards abandonment expenditure, and
 - (b) a current or former participator (“the contributing participator”) pays an amount in or towards meeting the whole or part of the default (“a default payment”).
- (2) If a claim is made under this Schedule for the allowance of the abandonment expenditure, the amount of the default payment is to be attributed to the contributing participator for the purposes of paragraphs 2(4)(b) and 3(1)(c).
- (3) But the amount attributed under sub-paragraph (2) may not exceed—
- (a) so much of the sum in default as the contributing participator is required to meet in accordance with—
 - (i) the relevant agreement, or
 - (ii) the abandonment programme, or
 - (b) such other amount as the participator may be required to meet in accordance with a direction given under Part 4 of the Petroleum Act 1998.
- (4) Sub-paragraph (2) is subject to paragraph 2B.
- (5) In determining the amount which is to be attributed to the contributing participator under sub-paragraph (2), account shall be taken of the whole of the defaulter's interest in the relevant oil field.
- (6) But in determining the share of the abandonment expenditure to be attributed to the defaulter under paragraph 2(4)(b), the amount which would be attributed by reference to the defaulter's interest in the relevant oil field is to be reduced or (as the case may be) extinguished by the deduction of the aggregate of—
- (a) the amount attributed to the contributing participator under sub-paragraph (2), and
 - (b) any other amounts attributed under sub-paragraph (2) to other current or former participators who make default payments in respect of the defaulter's default.

Textual Amendments

- F6** Sch. 5 paras. 2A-2C substituted for Sch. 5 para. 2A (with effect in accordance with s. 103(2) of the amending Act) by Finance Act 2008 (c. 9), s. 103(1)

Modifications etc. (not altering text)

- C5** Sch. 5 para. 2A definitions applied by Finance Act 1991 (c. 31, SIF 63:1), s.108(1).

- 2B** (1) No amount is to be attributed to a contributing participator under paragraph 2A(2) unless the following conditions are all met.

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- (2) The first condition is that the contributing participator is not connected with the defaulter, applying [F7 section 1122 of CTA 2010] (connected persons) for the purposes of this sub-paragraph.
- (3) The second condition is that, at the end of the claim period for which the claim is made, the defaulter still has an interest in the relevant oil field which, under paragraph 2(4)(b), falls to be taken into account in determining the shares in the abandonment expenditure.
- (4) The third condition is that the relevant participators have taken all reasonable steps by way of legal remedy—
 - (a) to secure that the defaulter meets the whole of the liability referred to in paragraph 2A(1)(a), and
 - (b) to enforce any guarantee or other security provided in respect of that liability.
- (5) In sub-paragraph (4) “relevant participators” means—
 - (a) each current participator (other than the defaulter), and
 - (b) each former participator who makes a default payment in respect of the defaulter's default.

Textual Amendments

- F6** Sch. 5 paras. 2A-2C substituted for Sch. 5 para. 2A (with effect in accordance with s. 103(2) of the amending Act) by [Finance Act 2008 \(c. 9\), s. 103\(1\)](#)
- F7** Words in [Sch. 5 para. 2B\(2\)](#) 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. 167](#) (with [Sch. 2](#))

- 2C (1) An amount attributed under paragraph 2A(2) is—
- (a) in the case of a current participator, to be an addition to the share of the abandonment expenditure referable to the current participator's interest in the oil field, or
 - (b) in the case of a former participator, to be the share of the abandonment expenditure referable to the former participator's interest in the oil field.
- (2) In paragraphs 2A and 2B and this paragraph—
- “abandonment expenditure” means expenditure which is allowable for an oil field by virtue of section 3(1)(i) or (j);
- “abandonment programme” means an abandonment programme approved under Part 4 of the Petroleum Act 1998 (including any such programme as revised);
- “current participator” means a person who is, by virtue of paragraph (a), [F8 (aa),] (b) or (c) of the definition in section 12, a participator in the relevant oil field in the chargeable period in which the abandonment expenditure is incurred;
- “former participator” means a person who—
- (a) is not a current participator, but
 - (b) was, by virtue of paragraph (a), [F9 (aa),] (b) or (c) of the definition in section 12, a participator in the relevant oil field in any chargeable period before the chargeable period in which the abandonment expenditure is incurred;

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“relevant agreement” has the meaning given by section 104(5)(a) of the Finance Act 1991;

“relevant oil field” means the oil field to which the abandonment expenditure relates;

“sum in default” means the amount of the payment which the defaulter is liable to make as mentioned in paragraph 2A(1)(a), [^{F10}less so much of that payment as has been made by the defaulter]

- (3) For the purposes of paragraph 2A, a current participator is to be regarded as defaulting on a liability to make a payment towards abandonment expenditure if the following conditions are met.
- (4) The first condition is that the current participator has failed to make the payment in full on the due day.
- (5) The second condition is that—
- (a) any of the payment remains unpaid on the sixtieth day after the due day, or
 - (b) before that sixtieth day, the current participator's interest in a relevant licence becomes liable under the relevant agreement to be sold or forfeited, in whole or in part, by reason of the failure to meet the liability.
- (6) In sub-paragraphs (4) and (5) “due day” means the day on which the payment towards abandonment expenditure becomes due under the relevant agreement or the abandonment programme.]

Textual Amendments

- F6** Sch. 5 paras. 2A-2C substituted for Sch. 5 para. 2A (with effect in accordance with s. 103(2) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [s. 103\(1\)](#)
- F8** Word in Sch. 5 para. 2C(2) inserted (with effect in accordance with Sch. 42 para. 4 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 42 para. 3\(a\)](#)
- F9** Word in Sch. 5 para. 2C(2) inserted (with effect in accordance with Sch. 42 para. 4 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 42 para. 3\(b\)](#)
- F10** Words in [Sch. 5 para. 2C\(2\)](#) substituted (with effect in accordance with Sch. 31 para. 23 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 31 para. 4](#)

- 3 (1) The Board shall by notice in writing to the responsible person inform him of their decision on the claim, stating in the notice—
- (a) the amount of the expenditure allowed by them on the claim;
 - (b) the amount, if any, of that expenditure allowed by them on the claim as qualifying for supplement under section 2(9)(b)(ii) of this Act; and
 - (c) the shares determined by the Board to be the shares in which, in the opinion of the Board, the amount stated under (a) above or, as the case may be, the aggregate of that amount and an amount equal to the relevant percentage of the amount stated under (b) above, is divisible between the participators for the purposes of section 2(9)(b) of this Act;
- and where the decision relates to part only of the expenditure claimed, or claimed as so qualifying, the Board shall give a further notice or notices in relation to the remainder.
- (2) In this paragraph “the relevant percentage” means the percentage mentioned in the said section 2(9)(b)(ii).

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Modifications etc. (not altering text)

- C6** See Finance (No. 2) Act 1979 (c. 47), s. 19(4) where more than one rate of uplift applies; Finance Act 1981 (c. 35), s. 111(6)
- C7** See Finance (No. 2) Act 1979 (c. 47), s. 19 where more than one rate of uplift applies

- 4 If, in a case where sub-paragraph (5) of paragraph 2 above requires a claim made for a particular claim period to give all such information as is relevant for the purpose there mentioned in relation to an asset, a claim satisfying the requirements of that sub-paragraph is not made within twelve months after the end of that period, then, in carrying into effect the provisions of section 4 of this Act in relation to that asset for that claim period, the Board may proceed according to the best of their judgment, and may make any adjustments under any of the provisions mentioned in paragraph 6(2) of Schedule 4 to this Act accordingly.

Modifications etc. (not altering text)

- C8** See Oil Taxation Act 1983 (c. 56), s. 5(7)

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