

SCHEDULES

SCHEDULE 17

Section 106.

TRANSFERS OF INTERESTS IN OIL FIELDS

PART I

PRELIMINARY

Interpretation

- 1 (1) For the purposes of this Schedule a participator in an oil field transfers the whole or part of his interest in the field whenever as a result of a transaction or event other than—
- (a) the making of an agreement or arrangement of the kind mentioned in paragraph 5 of Schedule 3 to the Oil Taxation Act 1975 ; or
 - (b) a re-determination under a unitisation agreement,
- the whole or part of his share in the oil to be won and saved from the field becomes the share or part of the share of another person who is or becomes a participator in the field.
- (2) In sub-paragraph (1) above a " unitisation agreement" means an agreement for the exploitation of—
- (a) an oil field falling within two or more licensed areas; or
 - (b) any such area as is mentioned in subsection (1)(a) of section 107 of this Act,
- and a "re-determination" means, in a case within paragraph (a) above, a re-determination of the apportionment of oil from the field as between the different licensed areas and, in a case within paragraph (b) above, a re-determination of the apportionment mentioned in subsection (1)(b) of that section.
- (3) In this Schedule " the old participator " means the participator whose interest is wholly or partly transferred, " the new participator " means the person to whom it is transferred and " the transfer period " and " the transfer year " mean respectively the chargeable period and the calendar year in which the transfer takes place.
- 2 This Schedule shall be construed as one with Part I of the said Act of 1975, and any reference in this Schedule to a section or Schedule not otherwise identified is a reference to that section or Schedule of that Act.

Notice of transfer

- 3 (1) The old and new participators shall within two months after the end of the transfer period deliver to the Board a notice in such form and containing such particulars with respect to the transfer as the Board may prescribe.
- (2) Where as a result of the same transaction or event—

Status: This is the original version (as it was originally enacted).

- (a) the whole or part of the interest of two or more persons in an oil field becomes the interest or part of the interest of another person; or
- (b) parts of a participator's interest in an oil field are transferred to two or more other persons,

a single notice relating to all the transfers shall be given under this paragraph by all the old participators and new participators, and in relation to any such notice references in paragraphs 4 and 5 below to the old and new participators shall be construed accordingly.

Exclusion of transfer rules

- 4 (1) Parts II and III of this Schedule shall not apply in relation to a transfer if the old and new participators make an application in that behalf in the notice under paragraph 3 above and the Board consider that those provisions would not materially affect the total tax chargeable in respect of the field.
- (2) The Board shall give notice of their decision under this paragraph to the old and new participators.

Partial transfers

- 5 (1) Where the transfer is of part of the old participator's interest in the field the notice under paragraph 3 above shall state what the old and new participators propose should be the corresponding part of the amounts to be transferred to the new participator under paragraphs 6, 7 and 8 below and of the old participator's share of oil to be treated as that of the new participator under paragraph 9 below; and subject to the following provisions of this paragraph, the corresponding part shall for the purposes of those provisions be taken to be such part as is determined by the Board and specified in a notice given to the old and new participators.
- (2) If the corresponding part determined by the Board differs from that proposed by the old and new participators they or any of them may by notice in writing given to the Board not more than three months after the notice given by the Board under sub-paragraph (1) above appeal to the Special Commissioners; but the bringing of an appeal shall not affect the operation of the notice given by the Board.
- (3) The old participator or the new participator shall, whether or not himself the appellant, be entitled to appear and be heard on the appeal and in any proceedings arising out of it.
- (4) An appeal may be abandoned by notice in writing to the Board ; and if before an appeal is determined the old and new participators agree with the Board on what should be the corresponding part referred to above the Board's notice under subsection (1) above shall have effect as if that were the part specified in it.
- (5) Where the corresponding part referred to above as specified in the Board's notice under sub-paragraph (1) is varied on appeal, the Board's notice shall have effect as if the varied part had been specified in it; and all such assessments or determinations or adjustments shall be made as are necessary in consequence of the variation.

PART II

TRANSFER OF OLD PARTICIPATOR'S EXPENDITURE RELIEF, LOSSES AND EXEMPTIONS

Unused expenditure relief

- 6 (1) There shall be transferred to the new participator the whole or, if the transfer is of part of the old participator's interest in the field, a corresponding part of any amount which—
- (a) would, apart from this paragraph, fall to be taken into account under section 2(9)(b) in computing the assessable profit or allowable loss accruing to the old participator from the field in the transfer period or a later chargeable period; and
 - (b) is attributable to expenditure allowed to the old participator under Schedule 5 in accordance with his interest in the field before the transfer.
- (2) If the whole of the old participator's interest in the field is transferred in the transfer period (whether to one new participator or partly to one and partly to another or others) there shall be transferred to the new participator the whole or, as the case may be, to each of them a corresponding part, of any amount which—
- (a) would, apart from this paragraph, fall to be taken into account under section 2(9)(c) in computing the assessable profit or allowable loss accruing to the old participator from the field in the transfer period or a later chargeable period; and
 - (b) is attributable to expenditure incurred by the old participator before the transfer and allowed to him under Schedule 6.
- (3) Any amount transferred to the new participator under this paragraph shall, instead of being taken into account as mentioned in sub-paragraph (1)(a) or (2)(a) above, be taken into account in computing the assessable profit or allowable loss accruing to the new participator from the field.

Unused losses

- 7 (1) There shall be transferred to the new participator the whole or, if the transfer is of part of the old participator's interest in the field, a corresponding part of any loss which the Board have determined under Schedule 2 has accrued to the old participator from the field in any chargeable period before the transfer period to the extent that it has not been relieved against assessable profits accruing to him in the transfer period or an earlier chargeable period.
- (2) Any amount of a loss transferred to the new participator under this paragraph may be relieved under section 7 against assessable profits accruing to the new participator in the transfer period or a later chargeable period and shall not be set off against assessable profits of the old participator.

Accumulated capital expenditure

- 8 (1) There shall be transferred to the new participator the whole or, if the transfer is of part of the old participator's interest in the field, a corresponding part of the amount which under section 9(3) is the old participator's accumulated capital expenditure at the end of the last calendar year before the transfer year or, if the transfer is not in the first chargeable period in the transfer year, the amount which under section 9(3)

Status: This is the original version (as it was originally enacted).

would have been the old participator's accumulated capital expenditure at the end of that chargeable period if it had been a calendar year.

- (2) Subject to paragraph 18 below, any amount transferred under this paragraph shall be treated for the purposes of section 9(3) as, or as part of, the new participator's accumulated capital expenditure at the end of the transfer year and later calendar years and not as, or as part of, the old participator's accumulated capital expenditure at the end of any such year

Excluded oil

- 9 For the purpose of determining under section 10(1)(b) what oil is to be disregarded in computing a participator's gross profit or loss attributable to oil won from the field after the transfer there shall be treated as if it were the new participator's, and not the old participator's, the whole or, if the transfer is of part of the old participator's interest in the field, a corresponding part of the old participator's share of oil won and saved from the field before the transfer.

Successive transfers

- 10 (1) Where the old participator transfers the whole or part of his interest in a field in which he has himself acquired an interest by a previous transfer, the amounts to be taken into account in determining what is to be transferred to the new participator under paragraphs 6, 7 and 8 above and what is to be the share of oil treated as the new participator's under paragraph 9 above shall include—
- (a) any amount which falls to be transferred to the old participator under paragraph 6 or 7 above by reference to the previous transfer and has not been taken into account or relieved in relation to him under paragraph 6(3) or 7(2) above; and
 - (b) any amount or share which falls to be transferred to the old participator or treated as his under paragraph 8 or 9 above by reference to the previous transfer.
- (2) Where the old participator makes successive transfers of parts of his interest, the amounts to be transferred to the new participator under paragraph 6, 7 and 8 above and the share of oil to be treated as the new participator's under paragraph 9 above by reference to each transfer shall be that amount or share after deducting any of it which falls to be so transferred or treated by reference to a previous transfer.

PART III

OTHER RULES

Provisional relief for expenditure

- 11 Where at the end of the transfer period the old participator has no interest in the field—
- (a) the assessable profit or allowable loss accruing to him from the field in the transfer period shall be computed as if—
 - (i) the amount referred to in section 2(8)(b) were increased by any amount taken into account under section 2(9)(a) in computing the

Status: This is the original version (as it was originally enacted).

- assessable profit or allowable loss accruing to him from the field in the preceding chargeable period ; and
- (ii) the amount referred to in section 2(9)(a) were nil ; and
- (b) the assessable profit or allowable loss accruing to him from the field in any later chargeable period in which he has no such interest shall be computed as if the amounts referred to in section 2(8)(b) and (9)(a) were nil.

Royalty payments

- 12 (1) Where at the end of the transfer period the old participator has no interest in the field—
- (a) any licence debit or credit which, apart from this paragraph, would fall to be taken into account under subsection (6) of section 2 in computing the assessable profit or allowable loss accruing to him from the field in any later chargeable period in which he has no such interest shall not be so taken into account; but
- (b) that subsection shall have effect in relation to the transfer period as if the amount of—
- (i) any such licence debit or credit as is mentioned in paragraph (a) above ; and
- (ii) any licence debit or credit that would have fallen to be taken into account as there mentioned for a later chargeable period if the old participator were still a participator,
- were an amount to be included in the sum referred to in paragraph (a) or, as the case may be, paragraph (b) of that subsection.
- (2) Sub-paragraph (1) above does not affect the amount of any loss transferred under paragraph 7 above.
- (3) Notwithstanding anything in section 34 of the Taxes Management Act 1970 (ordinary time limit for assessments) any further assessment or determination or amendment of an assessment or determination required in consequence of sub-paragraph (1) above may be made at any time not later than six years after the end of the later chargeable period referred to in sub-paragraph (1)(a) or (b)(ii) above.

Payments on account and advance payments

- 13 (1) For the purpose of computing under the Schedule to the Petroleum Revenue Tax Act 1980 (computation of payment on account) whether any, and if so what, amount of tax is payable under that Act by the old participator and the new participator for the transfer period or any later chargeable period—
- (a) it shall be assumed that any application or proposal made in relation to the transfer under paragraph 4 or 5(1) above and in respect of which the Board have not notified their decision will be accepted by the Board ; and
- (b) the computation under that Schedule shall be made as if paragraph 6 above applied in relation to expenditure which under paragraph 2(4) of that Schedule is treated as having been allowed under Schedule 5 or 6 as well as to expenditure which has been so allowed.
- (2) Where at the end of the transfer period the old participator has no interest in the field he shall not be liable under section 105 of this Act to pay any amount as an advance

Status: This is the original version (as it was originally enacted).

payment of tax in respect of the field for any subsequent chargeable period in which he has no such interest.

- (3) The old participator shall not be entitled to interest under subsection (7) of that section by reason of any such excess as is there mentioned for the transfer period or either of the next two chargeable periods if he and the new participator are connected within the meaning of section 533 of the Taxes Act.

Losses of new participator

- 14 (1) Where the Board have determined under Schedule 2 that an allowable loss has accrued to the new participator from the field in the transfer period or a later chargeable period, then, if—
- (a) the loss has been computed by reference to an amount taken into account by virtue of paragraph 6 above ; and
 - (b) the old participator has no interest in the field at the end of the transfer period, the old and new participators may jointly elect that the loss shall be surrendered to the old participator to the extent that it does not exceed whichever is the lesser of the amount referred to in paragraph (a) above and the total assessable profits as reduced under section 7 that accrued to the old participator from the field in chargeable periods up to and including the chargeable period after the transfer period.
- (2) Where any amount of a loss is surrendered under this paragraph it shall be treated—
- (a) in relation to the old participator, as an allowable loss accruing to him in the chargeable period next but one after the transfer period ; and
 - (b) in relation to the new participator, as if it had been relieved against assessable profits accruing to him from the field in chargeable periods before that in which it accrued.

Terminal losses

- 15 (1) So much of an allowable loss accruing to the new participator from the field as falls to be relieved under section 7(3) but cannot be so relieved against assessable profits accruing to him from the field—
- (a) shall be treated as an allowable loss which falls to be relieved under section 7(3) against assessable profits accruing to the old participator from the field ; and
 - (b) shall not be regarded as an allowable unrelievable field loss in relation to the new participator except to the extent to which it cannot be relieved as mentioned in paragraph (a) above.
- (2) Relief by virtue of sub-paragraph (1)(a) above shall be given against the assessable profit accruing to the old participator in an earlier chargeable period only to the extent to which it cannot be given against the assessable profit accruing to him in a later chargeable period.
- (3) Where a person is the new participator in relation to two or more old participators—
- (a) sub-paragraph (2) above shall have effect as if the reference to the assessable profit accruing to the old participator in a later chargeable period were a reference to the assessable profit accruing to him or any other of the old participators in a later chargeable period ; and
 - (b) the amount to be relieved against the assessable profits of the old participators for any chargeable period shall (if it is less than the aggregate

Status: This is the original version (as it was originally enacted).

of those profits) be divided in such manner as is just and reasonable having regard to the interests respectively transferred by them to the new participator.

- (4) Where a person is the old participator in relation to two or more new participators and amounts in respect of which relief can be given under this paragraph are derived from two or more of them, the relief shall be given in such manner as is just and reasonable having regard to the interests respectively transferred by him to those new participators.

Abortive exploration expenditure

- 16 (1) Subject to sub-paragraph (2) below, there shall be allowed under section 5 in the case of the new participator, in connection with any field in which an interest is transferred to him by the old participator, any expenditure incurred—
- (a) by the old participator ; or
 - (b) if the old participator is a company, by a company which is within the meaning of that section associated with the old participator in respect of the expenditure,
- if no claim in respect of it has been made under Schedule 7 by the old participator or any such company and the expenditure would be allowable under that section in the case of the new participator if he had himself incurred it.
- (2) Sub-paragraph (1) above—
- (a) does not apply so long as the old participator or, if the old participator is a company, any company associated with the old participator has an interest in a licence; and
 - (b) applies to the new participator only if the transfer to him was the last transfer made by the old participator.
- (3) For the purposes of sub-paragraph (2) above a company is associated with the old participator if—
- (a) one is a 51 per cent, subsidiary of the other and the other is not a 51 per cent, subsidiary of any company ; or
 - (b) each of them is a 51 per cent, subsidiary of a third company which is not itself a 51 per cent, subsidiary of any company ;
- and section 532 of the Taxes Act (subsidiaries) shall apply for the purposes of this sub-paragraph.
- (4) This paragraph is without prejudice to the application of section 5 in cases where the old participator is a company and the new participator is within the meaning of that section a company associated with the old participator in respect of the expenditure in question.

Oil allowance

- 17 If the transfer period is one of the first three chargeable periods of the field section 8 shall not apply to the old participator for that period or any earlier period.

Status: This is the original version (as it was originally enacted).

Limit on tax payable in transfer year

- 18 (1) For the purposes of section 9 in its application to the transfer year, the accumulated capital expenditure at the end of that year of the old participator and the new participator respectively shall be treated as equal to the aggregate of—
- (a) the pre-transfer fraction of what (apart from this paragraph) would be the amount of his accumulated capital expenditure for the purposes of that section at the end of that year if any transfer from or to him under paragraph 6 or 8 above which paragraph 6 of Schedule 3 applies.
 - (b) the post-transfer fraction of what (apart from this paragraph) would be that amount having regard to any transfer from or to him in that year under those paragraphs.
- (2) For the purposes of this paragraph the pre-transfer and post-transfer fractions are respectively the fractions of the year (reckoned in days) which elapse before and begin with the date of the transfer ; and if there are two or more transfers in the year those fractions shall be determined—
- (a) for a participator who is the old participator as respects any of the transfers, by reference to the first transfer as respects which he is the old participator ;
 - (b) for a participator who is the new participator as respects any of the transfers, by reference to the last transfer as respects which he is the new participator ;
 - (c) for a participator who is the old participator as respects one or more of the transfers and the new participator as respects another or others, by reference to whichever results in the smallest amount of accumulated capital expenditure under this paragraph.

Disposal of long-term assets

- 19 (1) Paragraph 4 of Schedule 4 shall not apply to the disposal of an asset used in connection with an oil field if the disposal is by the old participator (or a person connected with him) to the new participator (or a person connected with him) and the disposal is in pursuance of the transfer by the old participator to the new participator of an interest in the field.
- (2) Section 533 of the Taxes Act (connected persons) shall apply for the purposes of this paragraph.

Transfers of oil

- 20 Where in pursuance of the transfer of the whole or part of his interest in the field the old participator transfers his right to any oil already won from the field to the new participator, that oil—
- (a) shall not be taken into account under section 2(5) in computing the old participator's assessable profit or allowable loss in the transfer period ; but
 - (b) shall be taken into account under section 2(5) in computing the new participator's assessable profit or allowable loss as if it were included in his share of the oil won from the field.

Retention of share of oil

- 21 Where the old participator retains a share of the oil won from the field in pursuance of an agreement between him and the new participator under which the latter

undertakes to be responsible for carrying out the old participator's obligations in connection with the field so far as they relate to that share—

- (a) that share shall be taken to belong to the new participator; and
- (b) any oil comprised in that share shall be treated as oil acquired by the old participator under an agreement to which paragraph 6 of Schedule 3 applies.