

Status: Point in time view as at 21/07/2008.

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SCHEDULES

SCHEDULE 17

TRANSFERS OF INTERESTS IN OIL FIELDS

Modifications etc. (not altering text)

- C1** Definitions applied for purposes of [Capital Allowances Act 1990 \(c. 1, SIF 63:1\)](#), [s. 64](#)—transfers of interests in oil fields.
[Sch. 17](#) applied (27.7.1999) by [1999 c. 16, s. 97\(3\)](#)
- C1** See also [Finance Act 1981 \(c. 35\)](#), [s. 112](#) for application of s. 111 of that Act ([restriction of expenditure supplement](#)) and [Oil Taxation Act 1975 \(c. 22\)](#), [s. 9](#) (limit on amount of tax payable) in case of a 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 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 amount 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—

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- (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 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 [F1839 of the Taxes Act 1988].

Textual Amendments

F1 [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), **Sch. 29 para. 32**

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

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- (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 has been relieved against assessable profits accruing to him from the field in chargeable periods before that in which it accrued.

Terminal losses

- [^{F2}15] (1) This paragraph applies in any case where—
- (a) such an allowable loss as falls to be relieved under section 7(3) accrues to the new participator from the field in a chargeable period ending after 17th March 2004, but
 - (b) some or all of the loss cannot be relieved under section 7(3) against assessable profits accruing to him from the field.
- (2) So much of the loss as cannot be so relieved (“the remaining loss”) shall be regarded as an allowable unrelievable field loss in relation to the new participator (“the loss-maker”) only to the extent that—
- (a) so much of it as cannot be relieved in accordance with sub-paragraphs (3) to (6) below,
exceeds
 - (b) the aggregate of any relevant previous participators' expenditure unrelated to the field (see sub-paragraphs (10) and (11) below).
- (3) The remaining loss shall be treated as an allowable loss which falls to be relieved under section 7(3) against so much of any assessable profits accruing to the old participator from the field as is attributable to his represented interest (see sub-paragraphs (9) and (12) below).
- (4) Where a person is the new participator in relation to two or more old participators—
- (a) the remaining loss shall be apportioned between those old participators in such manner as is just and reasonable having regard to the interests respectively transferred by them to the new participator,
 - (b) sub-paragraph (3) above shall have effect separately in relation to each of them (and the part of the remaining loss apportioned to him).
- (5) Any relief by virtue of sub-paragraph (3) above shall be given against the assessable profits accruing to the old participator in an earlier chargeable period only to the extent to which it cannot be given against the assessable profits accruing to him in a later chargeable period.
- (6) If—
- (a) the old participator acquired some or all of his interest in the field by a previous transfer in relation to which he was the new participator,

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- (b) Parts 2 and 3 of this Schedule applied in relation to that previous transfer, and
- (c) some or all of the part of the remaining loss treated as an allowable loss of his cannot be relieved in accordance with sub-paragraph (3) above,

sub-paragraphs (3) to (5) above shall apply in relation to so much of that part of the remaining loss as cannot be so relieved as they apply in relation to the remaining loss, but construing the references in those sub-paragraphs to the new participator and the old participator by reference to that previous transfer and the parties to it, and then applying this sub-paragraph accordingly (and so on).

(7) But where—

- (a) the person who is the old participator in relation to a transfer made before 17th March 2004 (“ the later transfer ”) is also the new participator in relation to a previous transfer, and

(b) Parts 2 and 3 of this Schedule applied in relation to both of those transfers, sub-paragraph (3) above shall not apply by virtue of sub-paragraph (6) above in relation to so much of the assessable profits of the person who is the old participator in relation to that previous transfer as is attributable to so much of his interest as constitutes the whole or part of his represented interest by virtue of the later transfer.

(8) Where losses accruing to each of two or more participators fall to be relieved by virtue of sub-paragraph (3) above against the same assessable profits, a loss accruing to the person who last had an interest representing the whole or part of the transferred interest at an earlier time shall be so relieved before one accruing to a person who last had such an interest at a later time.

In this sub-paragraph “ the transferred interest ” means the interest transferred by the person against whose assessable profits the losses fall to be relieved.

(9) In determining for the purposes of this paragraph the assessable profits of a participator that are attributable to his represented interest, the assessable profits shall be apportioned between—

- (a) the represented interest, and
- (b) the remainder of the participator’s interest,

using such method as is just and reasonable, having regard to the respective sizes of those interests.

[^{F3}(9A) This paragraph is subject to paragraph 5 of Schedule 20A to the Finance Act 1993.]

(10) For the purposes of this paragraph “ relevant previous participators' expenditure unrelated to the field ” means so much of each relevant previous participator’s allowed expenditure unrelated to the field as is referable to his represented interest, other than excepted old expenditure.

(11) For the purposes of sub-paragraph (10) above—

“ allowed expenditure unrelated to the field ”, in relation to a participator, is expenditure unrelated to the field which is allowed on a claim or election made by the participator;

“ excepted old expenditure ” is expenditure which has been allowed in pursuance of a claim or election for its allowance received by the Board before 17th March 2004;

“ relevant previous participator ” means a participator against any of whose assessable profits relief is given in accordance with sub-paragraphs (3) to (6) above;

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and sub-paragraph (9) above shall apply in relation to allowed expenditure unrelated to the field as it applies in relation to assessable profits.

(12) In this paragraph—

“ expenditure unrelated to the field ” has the meaning given by section 6(9);

“ the loss-maker ” shall be construed in accordance with sub-paragraph (2) above;

“ previous owner ” means a person from whom the loss-maker directly or indirectly derives his title to the whole or any part of his interest;

“ represented interest ”, in the case of a previous owner, means so much of the interest which that previous owner transferred, by a transfer to which Parts 2 and 3 of this Schedule apply, as is represented in the loss-maker’s interest by virtue only of—

(a) that transfer, or

(b) that transfer and one or more subsequent transfers to which those Parts apply,

making, for the purposes of paragraph (b) above, such apportionments as are just and reasonable, having regard to the interests transferred by each of the transferors.]

Textual Amendments

F2 Sch. 17 para. 15 substituted (with effect in accordance with s. 288(3) of the commencing Act) by [Finance Act 2004 \(c. 12\)](#), s. **288(2)**

F3 Sch. 17 para. 15(9A) inserted (21.7.2008) by [Finance Act 2008 \(c. 9\)](#), [Sch. 33 para. 3](#)

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—

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- (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 [F⁴838 of the Taxes Act 1988] (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.

Textual Amendments

F4 Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1), Sch. 29 para. 32

[F⁵ Exploration and appraisal expenditure

Textual Amendments

F5 Finance Act 1983 (c. 28), s. 37(2) and Sch. 8 Part II para. 8.

- 16A In relation to exploration and appraisal expenditure to which section 5A applies, paragraph 16 above has effect as if any reference therein to section 5 were a reference to section 5A.]

[F⁶ Research expenditure

Textual Amendments

F6 Finance Act 1987 (c. 16, SIF 114), s. 64(2) and Sch. 13 Part II para. 7.

- 16B In relation to research expenditure to which section 5B applies, paragraph 16 above has effect as if any reference therein to section 5 were a reference to section 5B.]

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.

Limit on tax payable in transfer year

- 18 (1) For the purposes of section 9 in its application to the transfer [F⁷period], the accumulated capital expenditure at the end of that [F⁷period] 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 [F⁷period] if any transfer from or to him under paragraph 6 or 8 above were disregarded; and

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- (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 [F7 period] under those paragraphs.
- (2) For the purposes of this paragraph the pre-transfer and post-transfer fractions are respectively the fractions of the [F7 period] (reckoned in days) which elapse before and begin with the date of the transfer; and if there are two or more transfers in the [F7 period] 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.

Textual Amendments

- F7** Finance Act 1981 (c. 35), s. 114(2)(d) with effect whether the participator's net profit period ends before or after the passing of that Act.

Disposal of long-term assets

- 19 (1) [F8 Neither] paragraph 4 of Schedule 4 [F9 nor section 7 of the Oil Taxation Act 1983 shall] 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 [F10 839 of the Taxes Act 1988] (connected persons) shall apply for the purposes of this paragraph.

Textual Amendments

- F8** Oil Taxation Act 1983 (c. 56), Sch. 2 para. 6.
F9 Oil Taxation Act 1983 (c. 56), Sch. 2 para. 6.
F10 Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1), Sch. 29 para. 32

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.

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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.

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