



Capital Allowances Act 2001

2001 CHAPTER 2

PART 2

PLANT AND MACHINERY ALLOWANCES

CHAPTER 13

PROVISIONS AFFECTING MINING AND OIL INDUSTRIES

Expenditure connected with mineral extraction trades

159 Meaning of “mineral extraction trade” etc.

In this Chapter—

- “mineral extraction trade”, and
- “mineral exploration and access”

have the same meaning as in Part 5 (mineral extraction allowances).

160 Expenditure treated as incurred for purposes of mineral extraction trade

[^{F1}(1)] For the purposes of this Part, expenditure incurred by a person—

- (a) on the provision of plant or machinery for mineral exploration and access, and
- (b) in connection with a mineral extraction trade carried on by him,

is to be treated as incurred for the purposes of that trade.

[^{F2}(2) Subsection (1) does not apply to expenditure if—

- (a) when it is incurred, the person is carrying on the trade but the trade is not at that time a mineral extraction trade, or
- (b) when it is incurred, the person has not begun to carry on the trade and, when the person begins to carry on the trade, the trade is not a mineral extraction trade.

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- (3) Section 577(2) (references to commencement etc of a trade) does not apply to subsection (2).]

Textual Amendments

- F1** S. 160 renumbered as s. 160(1) (with effect in accordance with s. 67(8) of the amending Act) by [Finance Act 2014 \(c. 26\), s. 67\(4\)\(a\)](#)
- F2** S. 160(2)(3) inserted (with effect in accordance with s. 67(8) of the amending Act) by [Finance Act 2014 \(c. 26\), s. 67\(4\)\(b\)](#)

161 Pre-trading expenditure on mineral exploration and access

- (1) This section applies if a person—
- (a) incurs pre-trading expenditure on the provision of plant or machinery for the purposes of mineral exploration and access, and
 - (b) owns the plant or machinery on the first day of trading.

But this is subject to subsection (5).

- (2) The person is to be treated for the purposes of this Part as if he had—
- (a) sold the plant or machinery immediately before the first day of trading, and
 - (b) on that first day incurred capital expenditure on the provision of the plant or machinery for the purposes of the trade.
- (3) The amount of the capital expenditure that the person is to be treated as having incurred is an amount equal to—
- (a) the pre-trading expenditure, or
 - (b) if there has been an actual sale and re-acquisition before the first day of trading, the amount last incurred on the provision of the plant or machinery.

- (4) In this section—

- [^{F3}(a) “pre-trading expenditure” means capital expenditure incurred before the day on which a person begins to carry on a trade that is a mineral extraction trade, but only if there is no prior time when the person carried on that trade and the trade was not a mineral extraction trade,]
- (b) “the first day of trading”, in relation to a person’s pre-trading expenditure, means the day on which that person begins to carry on the mineral extraction trade.

[^{F4}(4A) Section 577(2) (references to commencement etc of a trade) does not apply to subsection (4)(a).]

- (5) This section does not apply if the plant or machinery on which the pre-trading expenditure was incurred is sold, demolished, destroyed or abandoned before the first day of trading (but see section 402 (mineral extraction allowances: pre-trading expenditure on plant or machinery)).

Textual Amendments

- F3** S. 161(4)(a) substituted (with effect in accordance with s. 67(8) of the amending Act) by [Finance Act 2014 \(c. 26\), s. 67\(5\)](#)

Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 2001, Chapter 13. (See end of Document for details)

- F4** S. 161(4A) inserted (with effect in accordance with s. 67(8) of the amending Act) by [Finance Act 2014 \(c. 26\)](#), s. 67(6)

^{F5} Expenditure connected with reuse etc. of offshore oil infrastructure

Textual Amendments

- F5** Ss. 161A-161D and crossheading inserted (with effect as mentioned in Sch. 20 para. 9(1)-(4)(8) of the amending Act) by [Finance Act 2001 \(c. 9\)](#), s. 68, [Sch. 20 para. 5\(1\)](#)

161A Meaning of “offshore infrastructure”

- (1) In sections 161C and 161D “ offshore infrastructure ” means—
- (a) an offshore installation within the meaning given by section 44 of the Petroleum Act 1998 (c. 17) or a part of such an installation, or
 - (b) something that would be, or would be a part of, an offshore installation within that meaning if in subsection (3) of that section “ relevant waters ” meant waters in a foreign sector of the continental shelf and other foreign tidal waters, or
 - (c) a pipeline within the meaning of section 26 of that Act, or a part of such a pipeline, that is in, under or over waters in—
 - (i) the territorial sea adjacent to the United Kingdom, or
 - (ii) an area designated under section 1(7) of the Continental Shelf Act 1964 (c. 29), or
 - (d) a pipeline within the meaning of section 26 of the Petroleum Act 1998 (c. 17), or a part of such a pipeline, that is in, under or over waters in a foreign sector of the continental shelf.
- (2) In subsection (1)(b) and (d)—
- “ foreign sector of the continental shelf ” means an area within which rights are exercisable with respect to the sea bed and subsoil and their natural resources by a country or territory outside the United Kingdom;
- “ foreign tidal waters ” means tidal waters in an area within which rights are exercisable with respect to the bed and subsoil of the body of water in question and their natural resources by a country or territory outside the United Kingdom.

161B Meaning of “decommissioning expenditure”

- (1) In sections 161C and 161D “ decommissioning expenditure ” means expenditure in connection with—
- (a) preserving plant or machinery pending its reuse or demolition,
 - (b) preparing plant or machinery for reuse, or
 - (c) arranging for the reuse of plant or machinery.
- (2) It is immaterial for the purposes of subsection (1)(a) whether the plant or machinery is reused, is demolished or is partly reused and partly demolished.
- (3) It is immaterial for the purposes of subsection (1)(b) and (c) whether the plant or machinery is in fact reused.

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161C Expenditure related to reuse etc. qualifies for writing-down allowances

- (1) This section applies where—
 - (a) a person carrying on a trade of oil extraction incurs decommissioning expenditure, and
 - (b) the plant or machinery concerned—
 - (i) has been brought into use for the purposes of the trade, and
 - (ii) is, or was when last in use for those purposes, offshore infrastructure.
- (2) The decommissioning expenditure is allocated to the appropriate pool for the chargeable period in which it is incurred.
- (3) Subsection (2) is subject to sections 161D^{F6}, 164(4) and 165A to 165E].
- (4) In subsection (2) “ the appropriate pool ” means the pool to which the expenditure on the plant or machinery concerned has been or would be allocated in accordance with this Part.

Textual Amendments

- F6** Words in s. 161C(3) substituted (with effect in accordance with Sch. 32 para. 8 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 32 para. 5](#)

161D Exceptions to section 161C(2)

- (1) Subsection (2) of section 161C does not apply to decommissioning expenditure on UK infrastructure unless it is incurred in connection with measures taken, wholly or substantially, in order to comply with—
 - (a) an abandonment programme within the meaning given by section 29 of the Petroleum Act 1998 (c. 17), or
 - (b) any condition to which the approval of such a programme is subject.
- (2) Subsection (2) of section 161C does not apply to expenditure in respect of which an allowance or deduction could be made apart from that subsection in taxing, or computing, the person’s income for any tax purpose.
- (3) For the purposes of subsection (1), decommissioning expenditure is “ on UK infrastructure ” if the plant or machinery concerned—
 - (a) is offshore infrastructure within section 161A(1)(a) or (c), or
 - (b) is not offshore infrastructure but was offshore infrastructure within section 161A(1)(a) or (c) when last in use for the purposes of the trade.]

Provisions relating to ring fence trades

162 Ring fence trade a separate qualifying activity

- (1) If a person carries on a ring fence trade, it is a separate qualifying activity for the purposes of this Part.
- (2) In this Chapter “ring fence trade” means activities which—
 - (a) fall within ^{F7}the definition of “oil-related activities” in section 16(2) of ITTOIA 2005]^{F8}or section 274 of CTA 2010], and

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- (b) constitute a separate trade (whether as a result of ^{F9}section 16(1) of ITTOIA 2005 or ^{F9}section 16(1) of ITTOIA 2005 or ^{F10}section 279 of CTA 2010] or otherwise).

Textual Amendments

- F7** Words in s. 162(2)(a) inserted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 1 para. 545\(a\)](#) (with [Sch. 2](#))
- F8** Words in s. 162(2)(a) substituted (1.4.2010) (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. 343\(a\)](#) (with [Sch. 2](#))
- F9** Words in s. 162(2)(b) inserted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 1 para. 545\(b\)](#) (with [Sch. 2](#))
- F10** Words in s. 162(2)(b) substituted (1.4.2010) (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. 343\(b\)](#) (with [Sch. 2](#))

163 ^{F11}Meaning of “general decommissioning expenditure”

^{F12}(1) Expenditure is “general decommissioning expenditure” for the purposes of sections 164 and 165 if

^{F13}(a) the conditions in ^{F14}subsections (3), (3A) and (4)] are met^{F15, F16} ...

[the condition in subsection (3AB) is met, or]

^{F17}(aa)

(b) the conditions in subsections (3B) and (4) are met.]

(2) But ^{F18}paragraphs (a) and (b) of subsection (1) are] subject to subsections (4ZA) to (4ZC).

(3) The expenditure must have been incurred on decommissioning plant or machinery—

(a) which has been brought into use ^{F19}wholly or partly] for the purposes of a ring fence trade, and

(b) which—

(i) is, or forms part of, an offshore installation or a submarine pipeline, or

(ii) when last in use for the purposes of a ring fence trade, was, or formed part of, such an installation or pipeline.]

^{F20}(3A) The expenditure must have been incurred wholly or substantially ^{F21}...—

(a) ^{F22}in complying with] an approved abandonment programme,

(b) ^{F23}in complying with] a condition to which the approval of an abandonment programme is subject, ^{F24} ...

(c) ^{F25}in complying with] a condition imposed by the Secretary of State, or an agreement made with the Secretary of State—

(i) before the approval of an abandonment programme, and

(ii) in relation to the decommissioning of the plant or machinery^{F26}, or

(d) otherwise in anticipation of a decommissioning measure.]]

^{F27}(3AA) For the purposes of subsection (3A)(d), expenditure is incurred otherwise in anticipation of a decommissioning measure if it is incurred—

(a) in preserving plant or machinery, the reuse or demolition of which it is reasonable to anticipate will be authorised or required by an approved abandonment programme, a condition to which the approval of such a

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programme will be subject or a condition or agreement described in subsection (3A)(c), or

- (b) in doing something else which it is reasonable to anticipate will be authorised or required by an approved abandonment programme, a condition to which the approval of such a programme will be subject or a condition or agreement described in subsection (3A)(c).]

[^{F28}(3AB) The condition in this subsection is met if—

- (a) the expenditure was incurred—
 - (i) in preparing an abandonment programme for approval, or
 - (ii) in preparing for the imposition of a condition by, or the making of an agreement with, the Secretary of State before the approval of an abandonment programme, and
- (b) it is reasonable to anticipate that the approved abandonment programme, the condition imposed or the agreement made, as the case may be, will wholly or mainly relate to the decommissioning of plant or machinery to which subsection (3) applies.]

[^{F29}(3B) The expenditure must have been incurred on decommissioning plant or machinery—

- (a) which has been brought into use wholly or partly for the purposes of a ring fence trade, and
- (b) which—
 - (i) is, or forms part of, a relevant onshore installation, or
 - (ii) when last in use for the purposes of a ring fence trade, was, or formed part of, such an installation.

(3C) In subsection (3B) “relevant onshore installation” means any building or structure which—

- (a) falls within any of sub-paragraphs (ii) to (iv) of section 3(4)(c) of OTA 1975,
- (b) is not an offshore installation, and
- (c) is or has been used for purposes connected with the winning of oil from an oil field any part of which lies within—
 - (i) the boundaries of the territorial sea of the United Kingdom, or
 - (ii) an area designated under section 1(7) of the Continental Shelf Act 1964.]

(4) The plant or machinery must not be replaced.

(4ZA) An amount of general decommissioning expenditure determined in accordance with [^{F30}subsection (1)(a) or (b)] is to be reduced under subsection (4ZB) if it appears that the decommissioned plant and machinery—

- [^{F31}(a) was not brought into use wholly for qualifying purposes, or
- (b) has, at any time since it was brought into use, not been used wholly for qualifying purposes].

(4ZB) The amount determined in accordance with [^{F32}subsection (1)(a) or (b)] is to be reduced to an amount which is just and reasonable having regard to the relevant circumstances.

(4ZC) The relevant circumstances include, in particular, the extent to which the decommissioned plant and machinery has not been used for [^{F33}qualifying purposes].

[^{F34}(4A) In this section “decommissioning”, in relation to any plant or machinery, means—

- (a) demolishing the plant or machinery,

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- (b) preserving the plant or machinery pending its reuse or demolition,
 - (c) preparing the plant or machinery for reuse, or
 - (d) arranging for the reuse of the plant or machinery.
- (4B) In determining whether expenditure is incurred on preserving plant or machinery pending its reuse or demolition, it is immaterial whether the plant or machinery is reused, is demolished or is partly reused and partly demolished.
- (4C) In determining whether expenditure is incurred on preparing plant or machinery for reuse, or on arranging for the reuse of plant or machinery, it is immaterial whether the plant or machinery is in fact reused.]
- [^{F35}(4D) In this section a reference to use for qualifying purposes is a reference to—
- (a) use for the purposes of any ring fence trade of any person, or
 - (b) other use in—
 - (i) the United Kingdom,
 - (ii) the territorial sea of the United Kingdom, or
 - (iii) an area designated under section 1(7) of the Continental Shelf Act 1964,except use wholly or partly in connection with an oil field (within the meaning given by section 12(2) of the Oil Taxation Act 1975).]

(5) In this section—

 - (a) [^{F36}“oil” and “oil field” have] the same meaning as in Part I of OTA 1975, and
 - (b) [^{F37}“abandonment programme”, “approval” and “approved” (in relation to an abandonment programme),]^{F38} ... “offshore installation” and “submarine pipeline” have the same meaning as in Part IV of the Petroleum Act 1998 (c. 17).

Textual Amendments

- F11** S. 163 heading substituted (with effect in accordance with s. 109(7) of the amending Act) by [Finance Act 2008 \(c. 9\), s. 109\(2\)](#)
- F12** S. 163(1)-(3) substituted (with effect in accordance with s. 109(7) of the amending Act) by [Finance Act 2008 \(c. 9\), s. 109\(3\)](#)
- F13** Words in s. 163(1) renumbered as s. 163(1)(a) (with effect in accordance with s. 90(5) of the amending Act) by [Finance Act 2013 \(c. 29\), s. 90\(2\)\(a\)](#)
- F14** Words in s. 163(1)(a) substituted (with effect in accordance with s. 90(5) of the amending Act) by [Finance Act 2013 \(c. 29\), s. 90\(2\)\(b\)](#)
- F15** S. 163(1)(b) and word inserted (with effect in accordance with s. 90(5) of the amending Act) by [Finance Act 2013 \(c. 29\), s. 90\(2\)\(c\)](#)
- F16** Word in s. 163(1)(a) omitted (with effect in accordance with s. 16(10) of the amending Act) by virtue of [Finance Act 2021 \(c. 26\), s. 16\(3\)](#)
- F17** S. 163(1)(aa) inserted (with effect in accordance with s. 16(10) of the amending Act) by [Finance Act 2021 \(c. 26\), s. 16\(3\)](#)
- F18** Words in s. 163(2) substituted (with effect in accordance with s. 16(10) of the amending Act) by [Finance Act 2021 \(c. 26\), s. 16\(4\)](#)
- F19** Words in s. 163(3)(a) inserted (with effect in accordance with Sch. 41 para. 7(1) to the amending Act) by [Finance Act 2009 \(c. 10\), Sch. 41 para. 5\(2\)](#)
- F20** S. 163(3A) inserted (with effect in accordance with Sch. 38 para. 5 to the amending Act) by [Finance Act 2009 \(c. 10\), Sch. 38 para. 2\(3\)](#)

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- F21** Words in s. 163(3A) omitted (with effect in accordance with s. 16(10) of the amending Act) by virtue of [Finance Act 2021 \(c. 26\), s. 16\(5\)\(a\)](#)
- F22** Words in s. 163(3A)(a) inserted (with effect in accordance with s. 16(10) of the amending Act) by [Finance Act 2021 \(c. 26\), s. 16\(5\)\(b\)](#)
- F23** Words in s. 163(3A)(b) inserted (with effect in accordance with s. 16(10) of the amending Act) by [Finance Act 2021 \(c. 26\), s. 16\(5\)\(c\)\(i\)](#)
- F24** Word in s. 163(3A)(b) omitted (with effect in accordance with s. 16(10) of the amending Act) by virtue of [Finance Act 2021 \(c. 26\), s. 16\(5\)\(c\)\(ii\)](#)
- F25** Words in s. 163(3A)(c) inserted (with effect in accordance with s. 16(10) of the amending Act) by [Finance Act 2021 \(c. 26\), s. 16\(5\)\(d\)\(i\)](#)
- F26** S. 163(3A)(d) and word inserted (with effect in accordance with s. 16(10) of the amending Act) by [Finance Act 2021 \(c. 26\), s. 16\(5\)\(d\)\(ii\)](#)
- F27** S. 163(3AA) inserted (with effect in accordance with s. 16(10) of the amending Act) by [Finance Act 2021 \(c. 26\), s. 16\(6\)](#)
- F28** S. 163(3AB) inserted (with effect in accordance with s. 16(10) of the amending Act) by [Finance Act 2021 \(c. 26\), s. 16\(7\)](#)
- F29** S. 163(3B)(3C) inserted (with effect in accordance with s. 90(5) of the amending Act) by [Finance Act 2013 \(c. 29\), s. 90\(3\)](#)
- F30** Words in s. 163(4ZA) substituted (with effect in accordance with s. 16(10) of the amending Act) by [Finance Act 2021 \(c. 26\), s. 16\(8\)](#)
- F31** S. 163(4ZA)(a)(b) substituted (with effect in accordance with Sch. 41 para. 7(1) to the amending Act) by [Finance Act 2009 \(c. 10\), Sch. 41 para. 5\(3\)](#)
- F32** Words in s. 163(4ZB) substituted (with effect in accordance with s. 16(10) of the amending Act) by [Finance Act 2021 \(c. 26\), s. 16\(8\)](#)
- F33** Words in s. 163(4ZC) substituted (with effect in accordance with Sch. 41 para. 7(1) to the amending Act) by [Finance Act 2009 \(c. 10\), Sch. 41 para. 5\(4\)](#)
- F34** S. 163(4A)-(4C) inserted (with effect as mentioned in Sch. 20 para. 9(1)(5)(8) of the amending Act) by [Finance Act 2001 \(c. 9\), s. 68, Sch. 20 Pt. 2 para. 6\(5\)](#)
- F35** S. 163(4D) inserted (with effect in accordance with Sch. 41 para. 7(1) to the amending Act) by [Finance Act 2009 \(c. 10\), Sch. 41 para. 5\(5\)](#)
- F36** Words in s. 163(5)(a) substituted (with effect in accordance with s. 90(5) of the amending Act) by [Finance Act 2013 \(c. 29\), s. 90\(4\)](#)
- F37** Words in s. 163(5)(b) inserted (with effect in accordance with Sch. 38 para. 5 to the amending Act) by [Finance Act 2009 \(c. 10\), Sch. 38 para. 2\(4\)](#)
- F38** Words in s. 163(5)(b) omitted (with effect in accordance with s. 109(7) of the amending Act) by virtue of [Finance Act 2008 \(c. 9\), s. 109\(5\)](#)

[^{F39}163A Expenditure in anticipation of approval of abandonment programme

- (1) Expenditure to which section 163(3A)(d) applies by virtue of section 163(3AA)(b) is to be treated as never having been general decommissioning expenditure for the purposes of sections 164 and 165 unless, before the end of the relevant period, condition A or condition B is met in relation to the expenditure.
- (2) Condition A is that—
 - (a) an abandonment programme is approved, and
 - (b) the programme, or a condition to which the approval of the programme was subject, authorises or requires the decommissioning of the plant or machinery to which the expenditure relates.
- (3) Condition B is that—

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- (a) a condition is imposed by the Secretary of State, or an agreement is made with the Secretary of State, before the approval of an abandonment programme, and
 - (b) the condition or, as the case may be, the agreement authorises or requires the decommissioning of the plant or machinery to which the expenditure relates.
- (4) For the purposes of this section “the relevant period” means the period—
- (a) beginning with the day on which the expenditure was incurred, and
 - (b) ending with the fifth anniversary of the last day of the accounting period in which the expenditure was incurred.
- (5) All such assessments and adjustments of assessments are to be made as are necessary to give effect to subsection (1).
- (6) If a person who has made a return becomes aware that, after making it, anything in it has become incorrect because of the operation of this section, the person must give notice to an officer of Revenue and Customs specifying how the return needs to be amended.
- (7) A notice under subsection (6) must be given within 3 months beginning with the day on which the person first became aware that anything in the return had become incorrect because of the operation of this section.
- (8) In this section, “abandonment programme”, “approval” and “approved” (in relation to an abandonment programme) have the same meaning as in Part 4 of the Petroleum Act 1998.]

Textual Amendments

F39 S. 163A inserted (with effect in accordance with s. 16(10) of the amending Act) by [Finance Act 2021 \(c. 26\), s. 16\(9\)](#)

164 [^{F40}**General decommissioning expenditure] incurred before cessation of ring fence trade**

[^{F41}(1) A person (“R”) carrying on a ring fence trade may elect to have a special allowance made to R for a chargeable period (the “relevant chargeable period”) if conditions A and B are met.

(1A) Condition A is that one or more of these paragraphs applies—

- (a) R incurs general decommissioning expenditure in the relevant chargeable period in respect of decommissioning carried out in that period;
- (b) R incurs general decommissioning expenditure in the relevant chargeable period in respect of decommissioning carried out in a previous chargeable period;
- (c) R incurred general decommissioning expenditure in a previous chargeable period in respect of decommissioning that has not been carried out until the relevant chargeable period.

(1B) Condition B is that the plant or machinery concerned has been brought into use for the purposes of the ring fence trade.]

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^{F42}(1C) If the plant or machinery concerned is incidentally-acquired redundant plant or machinery (see subsection (1D)), it is to be regarded for the purposes of this section as having been brought into use for the purposes of the ring fence trade.

- (1D) Plant or machinery is “incidentally-acquired redundant plant or machinery” if—
- (a) it has not been brought into use for the purposes of the ring fence trade,
 - (b) it forms part of a relevant installation (see subsection (1E)) which has been brought into use for the purposes of the ring fence trade,
 - (c) at the time R acquired an interest in the relevant installation, the plant or machinery was not being used for any purposes, and
 - (d) the acquisition of the interest in the plant or machinery was merely incidental to the acquisition of the interest in the relevant installation.

(1E) For the purposes of subsection (1D)—

“relevant installation” means—

- (a) an offshore installation,
- (b) a submarine pipeline, or
- (c) a relevant onshore installation;

“offshore installation” and “submarine pipeline” have the same meaning as in Part 4 of the Petroleum Act 1998;

“relevant onshore installation” has the meaning given by section 163(3C).]

(2) The election—

- (a) must be made by notice to ^{F43}[an officer of Revenue and Customs] no later than 2 years after the end of ^{F44}[the relevant chargeable period, and]
- (b) is irrevocable.

(3) The election must specify—

- (a) the ^{F45}[general decommissioning expenditure] to which it relates, ^{F46}...
- ^{F47}(aa) the chargeable period in which the expenditure was incurred,
- (ab) the decommissioning to which the expenditure relates,
- (ac) the chargeable period in which the decommissioning was carried out, and]
- ^{F48}(b) where the plant or machinery concerned has been or is to be demolished, any amounts received for its remains.]

(4) If a person makes an election under this section—

- (a) he is entitled to a special allowance ^{F49}... for ^{F50}[the relevant chargeable period, and]
- ^{F51}(b) neither of sections 26(3) and 161C(2)(net cost of demolition where plant or machinery not replaced, or cost of preparing for reuse, added to existing pool) applies.]

^{F52}(5) The amount of the special allowance for ^{F53}[the relevant chargeable period is equal to the amount of the general decommissioning expenditure to which the election relates.]

[But subsection (5) is subject to subsections (5B) and (6) ^{F55}and sections 165A to ^{F54}(5A) 165E.]

- (5B) If an amount of general decommissioning expenditure to which the election relates is disproportionate to the relevant decommissioning carried out in the specified decommissioning period then, for the purposes of this section, the election is to be taken to specify only the allowable expenditure.

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(5C) The application of subsection (5B) to an amount of general decommissioning expenditure does not prevent a person from making an election under this section for a subsequent chargeable period specifying the non-allowable expenditure.

(5D) In subsections (5B) and (5C)—

“allowable expenditure”, in relation to general decommissioning expenditure, means the amount of the expenditure that is proportionate to the relevant decommissioning carried out in the specified decommissioning period;

“non-allowable expenditure”, in relation to general decommissioning expenditure, means so much of that expenditure as is not allowable expenditure;

“relevant decommissioning”, in relation to general decommissioning expenditure, means the decommissioning to which the expenditure relates;

“specified decommissioning period”, in relation to relevant decommissioning, means the chargeable period specified in the election as the period in which the decommissioning was carried out;

“specified expenditure period”, in relation to general decommissioning expenditure, means the chargeable period specified in the election as the period in which the expenditure was incurred.]

(6) If plant or machinery is demolished, the total of any special allowances in respect of expenditure on decommissioning the plant or machinery is reduced by any amount received for the remains of the plant or machinery.

Here “decommissioning” has the meaning given by section 163(4A).

(7) Effect is given to subsection (6) by setting the amount (until wholly utilised)—

first, against any special allowance for the chargeable period in which the amount is received (as previously reduced in giving effect to subsection (6));

second, against special allowances for earlier chargeable periods (as so reduced and taking later such periods before earlier ones); and

third, against special allowances for later chargeable periods (as so reduced and taking earlier such periods before later ones).]

Textual Amendments

- F40** Words in s. 164 heading substituted (with effect in accordance with s. 109(7) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 34 para. 5\(2\)](#)
- F41** S. 164(1)-(1B) substituted for s. 164(1) (with effect in accordance with Sch. 38 para. 5 to the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 38 para. 3\(2\)](#)
- F42** S. 164(1C)-(1E) inserted (with effect in accordance with s. 91(2) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [s. 91\(1\)](#)
- F43** Words in Act substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), [s. 53\(1\)](#), [Sch. 4 para. 83\(1\)](#); S.I. 2005/1126, art. 2(2)(h)
- F44** Words in s. 164(2)(a) substituted (with effect in accordance with Sch. 38 para. 5 to the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 38 para. 3\(3\)](#)
- F45** Words in s. 164(3)(a) substituted (with effect in accordance with s. 109(7) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 34 para. 5\(3\)](#)
- F46** Word in s. 164(3)(a) omitted (with effect in accordance with Sch. 38 para. 5 to the amending Act) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 38 para. 3\(4\)\(a\)](#)

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- F47** S. 164(3)(aa)-(ac) inserted (with effect in accordance with Sch. 38 para. 5 to the amending Act) by **Finance Act 2009 (c. 10), Sch. 38 para. 3(4)(b)**
- F48** S. 164(3)(b) substituted (with effect as mentioned in Sch. 20 para. 9(1)(5)(8) of the amending Act) by **Finance Act 2001 (c. 9), s. 68, Sch. 20 Pt. 2 para. 7(3)**
- F49** Words in s. 164(4)(a) repealed (with effect as mentioned in Sch. 20 para.9(1)(5)(8) of the amending Act) by **Finance Act 2001 (c. 9), s. 68, 110, Sch. 20 Pt. 2 para. 7(4), Sch. 33 Pt. 2(5) Note 1**
- F50** Words in s. 164(4)(a) substituted (with effect in accordance with Sch. 38 para. 5 to the amending Act) by **Finance Act 2009 (c. 10), Sch. 38 para. 3(5)**
- F51** S. 164(4)(b) substituted (with effect as mentioned in Sch. 20 para. 9(1)(5)(8) of the amending Act) by **Finance Act 2001 (c. 9), s. 68, Sch. 20 Pt. 2 para. 7(5)**
- F52** S. 164(5)-(7) substituted (with effect as mentioned in Sch. 20 para. 9(1)(5)(8) of the amending Act) for s. 164(5) by **Finance Act 2001 (c. 9), s. 68, Sch. 20 Pt. 2 para. 7(6)**
- F53** Words in s. 164(5) substituted (with effect in accordance with Sch. 38 para. 5 to the amending Act) by **Finance Act 2009 (c. 10), Sch. 38 para. 3(6)**
- F54** S. 164(5A)-(5D) inserted (with effect in accordance with Sch. 38 para. 5 to the amending Act) by **Finance Act 2009 (c. 10), Sch. 38 para. 3(7)**
- F55** Words in s. 164(5A) inserted (with effect in accordance with Sch. 32 para. 8 of the amending Act) by **Finance Act 2013 (c. 29), Sch. 32 para. 6**

165 [^{F56}**General decommissioning expenditure**][^{F57}**after**] **ceasing ring fence trade**

(1) This section applies if—

- (a) a person (“the former trader”) has ceased to carry on a ring fence trade,
- [^{F58}(b) the decommissioning condition is met in relation to a notional accounting period, and]
- (c) the [^{F59}general decommissioning expenditure] is not otherwise deductible in calculating the income of the former trader for any tax purpose.

[^{F60}(1A) The decommissioning condition is met in relation to a notional accounting period (the “relevant period”) if one or more of these paragraphs applies—

- (a) the former trader incurs general decommissioning expenditure in the relevant period in respect of decommissioning carried out in that period,
- (b) the former trader incurs general decommissioning expenditure in the relevant period in respect of decommissioning carried out in—
 - (i) a previous notional accounting period, or
 - (ii) a chargeable period falling before the first notional accounting period,
 and
- (c) the former trader incurred general decommissioning expenditure in—
 - (i) a previous notional accounting period, or
 - (ii) a chargeable period falling before the first notional accounting period,
 in respect of decommissioning that has not been carried out until the relevant period.

(1B) “Notional accounting period” means each of the following periods—

- (a) the period that—
 - (i) begins with the day following the last day on which the former trader carried on the ring fence trade, and
 - (ii) ends with the day on which the first termination event subsequently occurs, and
- (b) each period that—

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- (i) begins with the day following the last day of a period determined under paragraph (a) or this paragraph, and
- (ii) ends with the day on which the first termination event subsequently occurs;

but there are to be no notional accounting periods after the end of the post-cessation period.

(1C) “Termination event”, in relation to a notional accounting period, means each of the following—

- (a) the end of the period of 12 months beginning with the first day of the notional accounting period,
- (b) the occurrence of an accounting date of the former trader or, if there is a period for which the former trader does not make up accounts, the end of that period (but see subsections (6A) and (6B)), and
- (c) the end of the post-cessation period.]

[^{F61}(2) “The post-cessation period” means the period that—

- (a) begins with the day following the last day on which the former trader carried on the ring fence trade, and
- (b) ends with the day on which condition A and condition B are both met (or, if they are met on different days, the later of those days).

(2A) Condition A is met if each approved abandonment programme that relates wholly or partly to relevant plant and machinery has ceased to have effect.

(2B) Condition B is met if the Secretary of State is satisfied that no other abandonment programmes that relate wholly or partly to relevant plant and machinery will be approved.

(2C) For the purposes of condition A, an approved abandonment programme ceases to have effect if and when—

- (a) the programme has been carried out to the satisfaction of the Secretary of State, or
- (b) approval of the programme has been withdrawn.]

(3) If this section applies [^{F62}in relation to a notional accounting period]—

- (a) an amount equal to the [^{F63}relevant decommissioning cost][^{F64}for that period, or the aggregate of all the relevant decommissioning costs for that period,] is allocated to the appropriate pool for the chargeable period in which the former trader ceased to carry on the ring fence trade, and
- (b) [^{F65}where any of the [^{F66}general decommissioning expenditure] was incurred on the demolition of plant or machinery,]any amount received within the post-cessation period for the remains of the plant or machinery does not constitute income of the former trader for any tax purpose.

[^{F67}(3A) Subsection (3) is subject to sections 165A to 165E.]

(4) In subsection (3)—

“the appropriate pool” means the pool to which the expenditure on the demolished plant or machinery has been allocated, and

[^{F68}“relevant decommissioning cost”, for a notional accounting period, means the amount by which general decommissioning expenditure falling within paragraph (a), (b) or (c) of subsection (1A) in relation to that

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period exceeds any amounts received before or during that period for the remains of any plant or machinery on whose demolition any of the general decommissioning expenditure was incurred.]

[^{F69}(4A) [^{F70}General decommissioning expenditure] is to be disregarded for the purposes of this section if the expenditure is incurred in decommissioning plant and machinery at a time—

- (a) after an abandonment programme relating wholly or partly to the plant and machinery has had its approval withdrawn, and
- (b) when no other abandonment programme relating wholly or partly to the plant and machinery is approved.]

[^{F71}(4B) If an amount of general decommissioning expenditure is disproportionate to the relevant decommissioning carried out in the decommissioning period then, for the purposes of this section, only the allowable expenditure is to be taken to have been incurred in the expenditure period.

(4C) The application of subsection (4B) to an amount of general decommissioning expenditure does not prevent the non-allowable expenditure from being taken into account under this section in relation to a subsequent notional accounting period.

(4D) In subsections (4B) and (4C)—

“allowable expenditure”, in relation to general decommissioning expenditure, means the amount of the expenditure that is proportionate to the relevant decommissioning carried out in the decommissioning period;

“decommissioning period”, in relation to relevant decommissioning, means the notional accounting period or chargeable period in which the decommissioning was carried out;

“expenditure period”, in relation to general decommissioning expenditure, means the notional accounting period or chargeable period in which the expenditure was incurred;

“non-allowable expenditure”, in relation to general decommissioning expenditure, means so much of that expenditure as is not allowable expenditure;

“relevant decommissioning”, in relation to general decommissioning expenditure, means the decommissioning to which the expenditure relates.]

(5) All such adjustments, by discharge or repayment of tax or otherwise, are to be made as are necessary to give effect to this section.

[^{F72}(6) For the purposes of this section, it does not matter if approval of an abandonment programme that relates to relevant plant and machinery (including approval of the first such programme) is given before or after the start of the post-cessation period.

[If the former trader—

^{F73}(6A) (a) carries on more than one trade,
 (b) makes up accounts of any of them to different dates, and
 (c) does not make up general accounts for the whole of the company's activities,
 subsection (1C)(b) applies with reference to the accounting date of such one of the trades as the former trader may determine.

(6B) If the Commissioners for Her Majesty's Revenue and Customs are of the opinion, on reasonable grounds, that a date determined by the former trader for the purposes of subsection (6A) is inappropriate, the Commissioners may by notice direct that the

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accounting date of such other of the trades referred to in that subsection as appears to the Commissioners to be appropriate is to be used instead.]

(7) In this section—

“abandonment programme” means an abandonment programme under Part 4 of the Petroleum Act 1998;

“approved”, in relation to an abandonment programme, means approved or revised under Part 4 of the Petroleum Act 1998 (and “approval” is to be construed accordingly);

“relevant plant and machinery” means plant and machinery—

(a) which has been brought into use for the purposes of the ring fence trade that has ceased, and

(b) which, when last in use for the purposes of that ring fence trade, was, or formed part of, an offshore installation or submarine pipeline;

and for this purpose “offshore installation” and “submarine pipeline” have the same meaning as in Part 4 of the Petroleum Act 1998;

“withdrawn”, in relation to approval of an abandonment programme, means withdrawn under Part 4 of the Petroleum Act 1998.]

Textual Amendments

- F56** Words in s. 165 heading substituted (with effect in accordance with s. 109(7) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 34 para. 6\(2\)](#)
- F57** Word in s. 165 heading substituted (with effect in accordance with s. 110(9) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [s. 110\(2\)](#)
- F58** S. 165(1)(b) substituted (with effect in accordance with Sch. 38 para. 5 to the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 38 para. 4\(2\)](#)
- F59** Words in s. 165(1)(c) substituted (with effect in accordance with s. 109(7) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 34 para. 6\(3\)](#)
- F60** S. 165(1A)-(1C) inserted (with effect in accordance with Sch. 38 para. 5 to the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 38 para. 4\(3\)](#)
- F61** S. 165(2)-(2C) substituted for s. 165(2) (with effect in accordance with s. 110(9) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [s. 110\(3\)](#)
- F62** Words in s. 165(3) inserted (with effect in accordance with Sch. 38 para. 5 to the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 38 para. 4\(4\)\(a\)](#)
- F63** Words in s. 165(3)(a) substituted (with effect in accordance with s. 109(7) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 34 para. 6\(4\)\(a\)](#)
- F64** Words in s. 165(3)(a) inserted (with effect in accordance with Sch. 38 para. 5 to the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 38 para. 4\(4\)\(b\)](#)
- F65** Words in s. 165(3)(b) inserted (with effect as mentioned in [Sch. 20 para. 9\(1\)\(5\)\(8\)](#) of the amending Act) by [Finance Act 2001 \(c. 9\)](#), s. 68, [Sch. 20 para. 8\(3\)](#)
- F66** Words in s. 165(3)(b) substituted (with effect in accordance with s. 109(7) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 34 para. 6\(4\)\(b\)](#)
- F67** S. 165(3A) inserted (with effect in accordance with Sch. 32 para. 8 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 32 para. 7](#)
- F68** Words in s. 165(4) substituted (with effect in accordance with Sch. 38 para. 5 to the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 38 para. 4\(5\)](#)
- F69** S. 165(4A) inserted (with effect in accordance with s. 110(9) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [s. 110\(4\)](#)
- F70** Words in s. 165(4A) substituted (with effect in accordance with Sch. 41 para. 7(2) to the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 41 para. 6](#)

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- F71** S. 165(4B)-(4D) inserted (with effect in accordance with Sch. 38 para. 5 to the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 38 para. 4\(6\)](#)
- F72** S. 165(6)(7) inserted (with effect in accordance with s. 110(9) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [s. 110\(5\)](#)
- F73** S. 165(6A)(6B) inserted (with effect in accordance with Sch. 38 para. 5 to the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 38 para. 4\(7\)](#)

^{F74}Restrictions on allowances: anti-avoidance

Textual Amendments

- F74** [Ss. 165A-165E](#) and cross-heading inserted (with effect in accordance with Sch. 32 para. 8 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 32 para. 2](#)

165A Decommissioning services supplied by connected person

- (1) Allowances under this Part are restricted under section 165B(1) if—
- (a) a person (“R”) who is carrying on, or has ceased to carry on, a ring fence trade enters into an arrangement,
 - (b) under the arrangement, a person (“S”) who is connected with R provides a service to R, and
 - (c) all or part of the consideration for the service is decommissioning expenditure.
- (2) Subsection (1)(b) may be satisfied whether the service is provided to R directly or indirectly; and in particular it does not matter—
- (a) whether R and S are parties to the same contract, or
 - (b) whether payments are made by R directly to S.
- (3) Subsections (4) to (9) apply for the purposes of this section and sections 165B to 165E.
- (4) References to providing a service include—
- (a) letting a ship on charter or any other asset on hire, and
 - (b) providing goods which are to be used up in the course of providing a service.
- (5) “Decommissioning expenditure” means expenditure in connection with decommissioning.
- (6) “Decommissioning” means—
- (a) demolishing plant or machinery,
 - (b) preserving plant or machinery pending its reuse or demolition,
 - (c) preparing plant or machinery for reuse, or
 - (d) arranging for the reuse of plant or machinery.
- (7) It is immaterial for the purposes of subsection (6)(b) whether the plant or machinery is reused, is demolished or is partly reused and partly demolished.
- (8) It is immaterial for the purposes of subsection (6)(c) and (d) whether the plant or machinery is in fact reused.
- (9) References to R's expenditure under the arrangement are to so much of the consideration for the service as is decommissioning expenditure incurred by R.

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165B Restriction on allowance available

- (1) The amount, if any, by which R's expenditure under the arrangement exceeds D is to be left out of account in determining R's available qualifying expenditure.
- (2) D is the cost to S of providing the service or, if R's expenditure under the arrangement relates to only part of the service, that part.
- (3) Subsection (2) is subject to sections 165C and 165D, which provide for D to be calculated differently in certain circumstances.
- (4) But if, under any arrangement, a particular service or part of a service is provided by more than one person who is connected with R (so that without this subsection there would be more than one amount for D in relation to that service or part), D is the lowest of those amounts.

165C Allowance in respect of certain services related to decommissioning

- (1) This section applies to so much of R's expenditure under the arrangement as relates to the supply by S of a service if—
 - (a) the service is a planning or project management service, and
 - (b) the cost plus method is an appropriate method of applying the arm's length principle to the provision of it.
- (2) D is the sum of—
 - (a) the cost to S of providing the service or, if R's expenditure under the arrangement relates to only part of the service, that part, and
 - (b) the appropriate percentage of that amount.
- (3) The appropriate percentage is the smaller of—
 - (a) the appropriate mark up determined in accordance with the cost plus method, and
 - (b) 10%.
- (4) Any expression which is used in this section and in the transfer pricing guidelines has the meaning given in those guidelines.

“The transfer pricing guidelines” has the meaning given by section 164(4) of TIOPA 2010.

165D Allowance where decommissioning undertaken for other participators in oil field

- (1) This section applies where—
 - (a) S decommissions the plant or machinery,
 - (b) there are, in addition to R, one or more other participators in the relevant field, and
 - (c) the expenditure incurred in respect of the decommissioning is apportioned between the participators (including R) in accordance with their shares in the oil won from the relevant field or their shares in the equity of that field.
- (2) D is the part of the expenditure referred to in subsection (1)(c) which is incurred by R.
- (3) Where—

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- (a) plant or machinery is or has been used in connection with the winning of oil from more than one relevant field, and
 - (b) the expenditure incurred in respect of the decommissioning is apportioned between those fields in accordance with the contribution from each field to the total of the oil won using that plant or machinery,
- subsections (1) and (2) apply to each such field as if subsection (1)(c) referred to the expenditure apportioned to that field.
- (4) But subsections (2) and (3) do not apply (and section 165B(2) applies instead) if—
- (a) the amount of consideration, or the method of determining the amount of consideration, to be received by S under the arrangement or arrangements, or
 - (b) the apportionment of the liability for that consideration (whether between the participators as mentioned in subsection (1)(c) or between the fields as mentioned in subsection (3)(b)),
- has been agreed as, or as part of, an avoidance scheme.
- (5) A scheme is an “avoidance scheme” if the main purpose, or one of the main purposes, of a party in entering into the scheme is to enable a person to obtain a tax advantage under this Part that would not otherwise be obtained.
- (6) The reference in subsection (5) to obtaining a tax advantage that would not otherwise be obtained includes obtaining an allowance that is in any way more favourable to a person than the one that would otherwise be obtained.
- (7) In this section—
- “licensee”, “oil” and “oil field” have the same meaning as in Part 1 of OTA 1975,
 - “other participator” means a person, not connected with R, who is a licensee in respect of any licensed area wholly or partly included in the oil field in question, and
 - “relevant field” means an oil field—
 - (a) in which plant or machinery is located, or
 - (b) in connection with which the plant or machinery is being or has been used for the purposes of a ring fence trade.

165E Transaction to obtain tax advantage

- (1) Allowances under this Part are restricted under subsection (5) if—
- (a) a person (“R”) who is carrying on, or has ceased to carry on, a ring fence trade enters into a transaction with another person (“S”),
 - (b) S receives from R consideration for services provided in pursuance of the transaction,
 - (c) all or part of that consideration is decommissioning expenditure, and
 - (d) the transaction either has an avoidance purpose, or is part of, or occurs as a result of, a scheme or arrangement that has an avoidance purpose.
- (2) Subsection (1)(d) may be satisfied—
- (a) whether the scheme or arrangement was made before or after the transaction was entered into, and
 - (b) whether or not the scheme or arrangement is legally enforceable.

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- (3) A transaction, scheme or arrangement has an “avoidance purpose” if the main purpose, or one of the main purposes, of a party in—
- (a) entering into the transaction, scheme or arrangement, or
 - (b) agreeing an amount of consideration, or a method of determining an amount of consideration, to be paid in pursuance of the transaction, scheme or arrangement,
- is to enable a person to obtain a tax advantage under this Part that would not otherwise be obtained.
- (4) The reference in subsection (3) to obtaining a tax advantage that would not otherwise be obtained includes obtaining an allowance that is in any way more favourable to a person than the one that would otherwise be obtained.
- (5) All or part of R's expenditure under the transaction is to be left out of account in determining R's available qualifying expenditure.
- (6) The amount of expenditure to be left out of account is—
- (a) such amount as would or would in effect cancel out the tax advantage mentioned in subsection (3) (whether that advantage is obtained by R or another person and whether it relates to the transaction or something else), or
 - (b) if the amount found under paragraph (a) exceeds the whole of R's expenditure under the transaction, the whole of that expenditure.]

Transfers of interests in oil fields: anti-avoidance

166 Transfers of interests in oil fields: anti-avoidance

- (1) This section applies if—
- (a) there is, for the purposes of Schedule 17 to FA 1980, a transfer by a participator in an oil field of the whole or part of his interest in the field, and
 - (b) as part of the transfer, the old participator disposes of, and the new participator acquires—
 - (i) plant or machinery used, or expected to be used, in connection with the field, or
 - (ii) a share in such plant or machinery.
- (2) The amount, if any, by which the new participator's expenditure exceeds the old participator's disposal value is to be left out of account in determining the new participator's available qualifying expenditure.
- (3) In subsection (2)—
- (a) “the new participator's expenditure” means the expenditure incurred by the new participator on the acquisition of the plant or machinery, and
 - (b) “the old participator's disposal value” means the disposal value to be brought into account by the old participator as a result of the disposal of the plant or machinery to the new participator.
- (4) In this section—
- (a) “oil field” and “participator” have the same meaning as in Part I of OTA 1975,
 - (b) “the old participator” means the participator whose interest in the oil field is wholly or partly transferred, and

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- (c) “the new participator” means the person to whom the interest in the oil field is transferred.

(5) Nothing in this section affects the operation of Chapter 17 (anti-avoidance).

Oil production sharing contracts

167 Oil production sharing contracts

- (1) Sections 168 to 170 apply if—
- (a) a person (“the contractor”) is entitled to an interest in a contract made with, or with the authorised representative of, the government of a country or territory in which oil is or may be produced, and
 - (b) the contract provides (among other things) for any plant or machinery of a description specified in the contract which—
 - (i) is provided by the contractor, and
 - (ii) has an oil-related use under the contract,
 to be transferred (immediately or later) to the government or representative.
- (2) For the purposes of this section and sections 168 to 170, plant or machinery has an oil-related use if it is used—
- (a) to explore for, win access to or extract oil,
 - (b) for the initial storage or treatment of oil, or
 - (c) for other purposes ancillary to the extraction of oil.
- (3) In this section and sections 168 to 170 “oil” has the meaning given by section 556(3).

168 Expenditure on plant or machinery incurred by contractor

- (1) This section applies if—
- (a) the contractor incurs capital expenditure on the provision of plant or machinery of a description specified in the contract,
 - (b) the plant or machinery is to have an oil-related use under the contract, for the purposes of a trade of oil extraction carried on by the contractor,
 - (c) the amount of the expenditure is commensurate with the value of the contractor’s interest under the contract, and
 - (d) the plant or machinery is transferred to the government or representative in accordance with the contract.
- (2) Despite the transfer, the plant or machinery is to be treated for the purposes of this Part as owned by the contractor (and not by any other person) until—
- (a) it ceases to be owned by the government or representative, or
 - (b) it ceases to be used, or held for use, by any person under the contract.

This is subject to section 170(2).

169 Expenditure on plant or machinery incurred by participator

- (1) This section applies if—
- (a) a person (“the participator”) acquires an interest in the contract from—
 - (i) the contractor, or

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- (ii) another person who has acquired it (directly or indirectly) from the contractor,
 - (b) the participator incurs capital expenditure on the provision of plant or machinery,
 - (c) the plant or machinery is to have an oil-related use under the contract, for the purposes of a trade of oil extraction carried on by the participator,
 - (d) the amount of the expenditure is commensurate with the value of the participator's interest under the contract, and
 - (e) the plant or machinery is transferred to the government or representative in accordance with the contract.
- (2) Despite the transfer, the plant or machinery is to be treated for the purposes of this Part as owned by the participator (and not by any other person) until—
- (a) it ceases to be owned by the government or representative, or
 - (b) it ceases to be used, or held for use, by any person under the contract.

This is subject to section 170(2).

170 Participator's expenditure attributable to plant or machinery

- (1) This section applies if—
- (a) a person (“the relevant participator”) acquires an interest in the contract from—
 - (i) the contractor, or
 - (ii) another person who has acquired it (directly or indirectly) from the contractor, and
 - (b) some of the expenditure incurred by the relevant participator to acquire the interest in the contract is attributable to plant or machinery which—
 - (i) is treated by section 168 as owned by the contractor, or
 - (ii) is treated by section 169 or subsection (2) as owned by another person (“the other participator”).
- (2) The plant or machinery is to be treated for the purposes of this Part as owned by the relevant participator (and not by any other person) until—
- (a) it ceases to be owned by the government or representative, or
 - (b) it ceases to be used, or held for use, by any person under the contract.
- This is subject to a later application of this subsection.
- (3) The person who, until subsection (2) applies, is treated as owning the plant or machinery is to be treated for the purposes of this Part as if he had disposed of it for a consideration equal to the relevant participator's expenditure attributable to it.
- (4) The relevant participator is to be treated for the purposes of this Part as if—
- (a) he had incurred capital expenditure of an amount given by subsection (5), and
 - (b) he owned the plant or machinery (in accordance with subsection (2)) as a result of having incurred that expenditure.
- (5) The amount of that expenditure is—
- (a) the amount of the relevant participator's expenditure attributable to the plant or machinery, or

Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 2001, Chapter 13. (See end of Document for details)

- (b) if less, the disposal value to be brought into account by the contractor or the other participator as a result of subsection (3).
- (6) The expenditure attributable to plant or machinery for the purposes of this section is to be determined having regard to what is just and reasonable in the circumstances.

171 Disposal values on cessation of ownership

- (1) This section applies if a person treated as owning plant or machinery under section 168(2), 169(2) or 170(2) ceases to be treated as owning it solely as a result of one of those provisions.
- (2) If the person receives capital compensation, the disposal value to be brought into account is the amount of the compensation.
- (3) If the person does not receive capital compensation, the disposal value to be brought into account is nil.

Modifications etc. (not altering text)

- C1** S. 171 excluded (E.W.S.) (8.6.2005) by [Railways Act 2005 \(c. 14\)](#), s. 60(2), [Sch. 10 para. 14\(2\)\(a\)](#); [S.I. 2005/1444](#), art. 2(1), Sch. 1

Changes to legislation:

There are currently no known outstanding effects for the Capital Allowances Act 2001, Chapter 13.