



# Finance Act 2006

## 2006 CHAPTER 25

### PART 5

#### OIL

##### *Ring fence trades*

#### **152 Increase in rate of supplementary charge**

- (1) In section 501A of ICTA (supplementary charge in respect of ring fence trades), in subsection (1) (charge of 10 per cent on adjusted ring fence profits), for “10 per cent” substitute “20 per cent”.
- (2) The amendment made by subsection (1) has effect in relation to any accounting period beginning on or after 1st January 2006 (but see also subsection (3)).
- (3) For the purpose of calculating the amount of the supplementary charge on a company for an accounting period (a “straddling period”) beginning before 1st January 2006 and ending on or after that date—
  - (a) so much of the straddling period as falls before 1st January 2006, and so much of the straddling period as falls on or after that date, are treated as separate accounting periods, and
  - (b) the company’s adjusted ring fence profits for the straddling period are apportioned to the two separate accounting periods in proportion to the number of days in those periods.
- (4) The amount of the supplementary charge on the company for the straddling period is the sum of the amounts of supplementary charge that would, in accordance with subsection (3), be chargeable on the company for those separate accounting periods.
- (5) In the case of a company’s straddling period—
  - (a) the Instalment Payments Regulations apply as if the amendment made by subsection (1) had not been made, but

- (b) those Regulations also apply separately, in accordance with the following subsection, in relation to the increase in the amount of any supplementary charge on the company for that period that arises as a result of that amendment.
- (6) In that separate application of those Regulations as mentioned in subsection (5)(b), those Regulations have effect as if, for the purposes of those Regulations,—
- (a) the straddling period were an accounting period beginning on 1st January 2006,
  - (b) supplementary charge were chargeable on the company for that period, and
  - (c) the amount of that charge were equal to the increase in the amount of the supplementary charge for the straddling period that arises as a result of the amendment made by subsection (1).
- (7) Any reference in the Instalment Payments Regulations to the total liability of a company is, accordingly, to be read—
- (a) in their application as a result of subsection (5)(a), as a reference to the amount that would be the company’s total liability for the straddling period if the amendment made by subsection (1) had not been made, and
  - (b) in their application as a result of subsection (5)(b), as a reference to the amount of the supplementary charge on the company for the deemed accounting period under subsection (6)(a).
- (8) For the purposes of the Instalment Payments Regulations—
- (a) a company is to be regarded as a large company as respects the deemed accounting period under subsection (6)(a) if (and only if) it is a large company for those purposes as respects the straddling period, and
  - (b) any question whether a company is a large company as respects the straddling period is to be determined as it would have been determined if the amendment made by subsection (1) had not been made.
- (9) If the Instalment Payments Regulations—
- (a) apply in relation to a company’s liability to supplementary charge for the deemed accounting period under subsection (6)(a), and
  - (b) would (but for this subsection) treat any instalment payment in respect of that liability as being due and payable on a date falling on or before 22nd March 2006,
- those Regulations have effect as if the payment were due and payable instead at the end of the period of 14 days beginning with that date.
- (10) In this section—
- “adjusted ring fence profits” has the meaning given by section 501A of ICTA,
  - “the Instalment Payments Regulations” means the [Corporation Tax \(Instalment Payments\) Regulations 1998 \(S.I. 1998/ 3175\)](#),
  - “supplementary charge” means any sum chargeable under section 501A(1) of ICTA as if it were an amount of corporation tax.

### **153 Election to defer capital allowances**

- (1) This section applies if—
- (a) a company carries on a ring fence trade in an accounting period beginning on or after 1st January 2006,

- (b) relevant expenditure is incurred for the purposes of or in relation to the ring fence trade (see subsections (4) to (7)), and
  - (c) the relevant expenditure would (but for this section) be treated as incurred for the purposes of CAA 2001 in the period of 12 months ending with 31st December 2005.
- (2) The company may elect for the relevant expenditure to be treated instead as if it were incurred on the first day of the company's first accounting period beginning on or after 1st January 2006.
- (3) The election—
  - (a) has effect for the purposes of CAA 2001 other than those of section 45G (expenditure not first-year qualifying expenditure under section 45F if plant or machinery used for less than 5 years in a ring fence trade), and
  - (b) must be made by notice given to an officer of Revenue and Customs on or before 31st December 2007.
- (4) Expenditure is relevant expenditure if it falls within any of Cases A to C.
- (5) Expenditure falls within Case A if—
  - (a) it is first-year qualifying expenditure on the provision of plant or machinery under section 45F of CAA 2001 (expenditure on plant and machinery for use wholly in a ring fence trade), and
  - (b) no disposal event (see subsection (8)) in relation to the plant or machinery occurs in the relevant period.
- (6) Expenditure falls within Case B—
  - (a) if it is first-year qualifying expenditure under section 416B of CAA 2001 (mineral extraction allowances: expenditure incurred by a company for purposes of a ring fence trade),
  - (b) if no disposal event in relation to any asset representing the expenditure occurs in the relevant period,
  - (c) if (or so far as) it is expenditure to which no part of any capital sum received by the company in the relevant period is reasonably attributable under section 425(2) of CAA 2001, and
  - (d) if no entitlement to a balancing allowance for a chargeable period in respect of the expenditure arises under any of sections 426 to 431 of CAA 2001 as a result of an event that occurs in the relevant period (as well as in that chargeable period).

The reference in paragraph (b) to any asset representing the expenditure is to be read in accordance with section 416B(4) of CAA 2001.
- (7) Expenditure falls within Case C if—
  - (a) it is qualifying expenditure on research and development under Part 6 of CAA 2001 where the ring fence trade is the trade by reference to which the expenditure is qualifying expenditure, and
  - (b) no disposal event in relation to any asset representing the expenditure occurs in the relevant period.
- (8) In this section—
  - “disposal event”—

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- (a) in relation to first-year qualifying expenditure under section 45F of CAA 2001, means an event of a kind that requires a disposal value to be brought into account under Part 2 of that Act (whether under section 61(1) or otherwise),
  - (b) in relation to first-year qualifying expenditure under section 416B of CAA 2001, means an event of a kind that requires a disposal value to be brought into account under section 421 or 422 of that Act,
  - (c) in relation to qualifying expenditure on research and development under Part 6 of CAA 2001, means an event of a kind that requires a disposal value to be brought into account under section 443(1) of that Act,
- “the relevant period”, in relation to any expenditure for the purposes of or in relation to a company’s ring fence trade, means the period—
- (a) beginning with the day on which the expenditure would (but for this section) be treated as incurred for the purposes of CAA 2001, and
  - (b) ending with the first day of the company’s first accounting period beginning on or after 1st January 2006,
- “ring fence trade” means a ring fence trade in respect of which tax is chargeable under section 501A of ICTA (supplementary charge in respect of ring fence trades).

#### **154 Ring fence expenditure supplement**

- (1) Chapter 5 of Part 12 of ICTA (petroleum extraction activities) is amended as follows.
- (2) After section 496A (exploration expenditure supplement) insert—

##### **“496B Ring fence expenditure supplement**

Schedule 19C to this Act (ring fence expenditure supplement) shall have effect.”.

- (3) Schedule 19B (petroleum extraction activities: exploration expenditure supplement) is amended as follows.
- (4) In paragraph 1 (about the Schedule)—
  - (a) in sub-paragraph (1) (entitlement of company to supplement), in the opening words, after “2004” insert “but before 1st January 2006”,
  - (b) in sub-paragraph (2) (condition that expenditure incurred on or after 1st January 2004), after “2004” insert “but before 1st January 2006”.
- (5) In paragraph 3 (accounting periods)—
  - (a) in sub-paragraph (1), in the definition of “post-commencement period”, after “2004” insert “but before 1st January 2006”,
  - (b) in sub-paragraph (1), in the definition of “pre-commencement period”, after “2004” insert “but before 1st January 2006”,
  - (c) at the end insert—
    - “(3) In the case of an accounting period (a “straddling period”) of any qualifying company beginning before 1st January 2006 and ending on or after that date—
      - (a) so much of the straddling period as falls before 1st January 2006, and

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- (b) so much of the straddling period as falls on or after that date,  
are treated as separate accounting periods for the purposes of this Schedule.
- (4) Special provision is made elsewhere in this Schedule in relation to straddling periods (see paragraphs 16, 18A and 22).”.
- (6) In paragraph 6 (qualifying E&A expenditure), in sub-paragraph (2) (condition that expenditure incurred on or after 1st January 2004), after “2004” insert “but before 1st January 2006”.
- (7) In paragraph 15 (supplement in respect of a post-commencement period), in sub-paragraph (2) (supplement to be treated as a loss for the purposes of Corporation Tax Acts), for “this Schedule)” substitute “this Schedule or Part 4 of Schedule 19C)”.
- (8) In paragraph 16 (amount of post-commencement supplement for a post-commencement period), after sub-paragraph (2) (proportionate reduction of supplement if post-commencement period less than 12 months) insert—  
“(2A) But, if the post-commencement period is the deemed accounting period under paragraph 3(3) ending before 1st January 2006, sub-paragraph (2) has no effect in relation to the amount of the supplement for that period.”.
- (9) After paragraph 18 (ring fence losses and non-qualifying losses) insert—

*“Special rule for straddling periods*

- 18A (1) This paragraph applies in any case where the period of the loss in which a ring fence loss is incurred is the deemed accounting period under paragraph 3(3) ending before 1st January 2006.
- (2) The following assumption shall be made for the purpose of calculating the amount of the qualifying E&A loss and the amount of the non-qualifying loss.
- (3) The assumption is that the loss made in the trade is taken to be the loss incurred in the accounting period beginning before 1st January 2006 and ending on or after that date (disregarding paragraph 3(3)).
- (4) The amount of the non-qualifying loss (found in accordance with that assumption) is then reduced (but not below nil) by the following amount.
- (5) The amount is the amount of the ring fence loss in the deemed accounting period beginning on 1st January 2006 determined under paragraph 18 of Schedule 19C for the purposes of Part 4 of that Schedule.”.
- (10) In paragraph 22 (reductions in respect of utilised ring fence profits), at the end insert—  
“(4) If the post-commencement period is the deemed accounting period under paragraph 3(3) ending before 1st January 2006 (“the deemed accounting period”), the amount of the profits of the deemed accounting period is determined as follows.
- (5) The amount of the profits of the straddling period is apportioned to the deemed accounting period in proportion to the number of days in the deemed accounting period that fall in the straddling period.

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- (6) The apportioned amount is taken for the purposes of this paragraph to be the amount of the profits of the deemed accounting period.
  - (7) In this paragraph “the straddling period”, in relation to a qualifying company, means an accounting period of the company beginning before 1st January 2006 and ending on or after that date (disregarding paragraph 3(3)).”
- (11) After Schedule 19B insert the Schedule 19C set out in Schedule 19 to this Act.