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## SCHEDULES

### SCHEDULE 18

Section 146

#### OIL TAXATION: MARKET VALUE OF OIL

#### PART 1

#### AMENDMENTS OF THE OIL TAXATION ACT 1975

##### *Introductory*

1           OTA 1975 is amended as follows.

##### *Assessable profits and allowable losses*

2           (1) Section 2 is amended as follows.

(2) In subsection (4)(b) (one-half of the market value in the last calendar month of the preceding period) for “in the last calendar month” substitute “ on the last business day ”.

(3) In subsection (5)(d) (one-half of the market value in the last calendar month of the period) for “in the last calendar month” substitute “ on the last business day ”.

(4) In subsection (5A), in the opening words, after “or another country” insert “ , or from its place of extraction (where that is in the territorial sea of the United Kingdom or a designated area), ”.

(5) In subsection (9)(a)(i) (5% provisional allowance: deliveries)—

(a) for “in the calendar month in which the delivery was made” substitute “ as determined in accordance with Schedule 3 to this Act for each of the deliveries ”;

(b) for “Schedule 3 to this Act” substitute “ that Schedule ”.

(6) In subsection (9)(a)(ii) (5% provisional allowance: relevant appropriations)—

(a) for “in the calendar month in which the appropriation was made” substitute “ as determined in accordance with Schedule 3 to this Act for each of the appropriations ”;

(b) for “Schedule 3 to this Act” substitute “ that Schedule ”.

##### *Allowance of exploration and appraisal expenditure*

3           (1) Section 5A is amended as follows.

(2) In subsection (5B) (oil to be treated as disposed of at its market value in the calendar month) for “in the calendar month in which it was disposed of or appropriated as

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mentioned” substitute “ determined in accordance with Schedule 3 to this Act for the disposal or appropriation mentioned ”.

- (3) Amend subsection (5C) (application of Schedule 3 with modifications for ascertaining market value for the purposes of subsection (5B)) as follows.
- (4) Omit paragraph (a) (modification of paragraph 2(2)(f)).
- (5) In paragraph (b) (omission of sub-paragraphs (3) and (4)) for “sub-paragraphs (3) and (4)” substitute “ sub-paragraph (4) ”.
- (6) At the end of paragraph (c) insert “; and
  - (d) any reference in paragraph 2 to the notional delivery day for the actual oil shall be construed as a reference to the day on which the oil is disposed of or appropriated as mentioned in subsection (5A) (a) above.”.

#### *Interpretation*

- 4 (1) In section 12 (interpretation of Part 1 of the Act) subsection (1) (general definitions) is amended as follows.
- (2) Insert each of the following definitions at the appropriate place—
  - ““business day” has the same meaning as in the Bills of Exchange Act 1882;”;
  - “Category 1 oil” and “Category 2 oil” have the meaning given by paragraph 2(1B) of Schedule 3 to this Act;”.
- (3) For the definition of “calendar month” substitute—
  - ““calendar month” (where those words are used) means a month of the calendar year;”.

#### *Date of delivery or appropriation for shipped oil not disposed of in sales at arm's length*

- 5 (1) After section 12, insert—

#### **“12A Date of delivery or appropriation: shipped oil not sold at arm's length**

- (1) This section has effect for the purpose of determining the date on which any oil to which it applies is to be regarded for the purposes of this Part as delivered or relevantly appropriated.
- (2) This section applies to—
  - (a) oil (not being light gases) won from a field and disposed of crude by a participator otherwise than in sales at arm's length, and
  - (b) oil (not being light gases) so won and relevantly appropriated by a participator,
 if the condition in subsection (3)(a) or (b) below is met.
- (3) The condition is that the oil is or has been, or is to be,—
  - (a) transported by ship from the place of extraction to a place in the United Kingdom or elsewhere, or

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- (b) transported by pipeline to a place in the United Kingdom and loaded on to a ship there.
- (4) The date on which the oil is to be taken to be delivered, or (as the case may be) relevantly appropriated, by the participator is—
  - (a) the date of completion of load, in a case where the condition in subsection (3)(a) above is met,
  - (b) the date of the bill of lading, in a case where the condition in subsection (3)(b) above is met.”.
- (2) The amendment made by this paragraph has effect in relation to oil which would (apart from this paragraph) fall to be regarded for the purposes of Part 1 of OTA 1975 as delivered or appropriated on a date after 30th June 2006.

#### *“The Board”*

- 6 (1) In section 21 (citation, interpretation and construction of the Act) subsection (2) is amended as follows.
- (2) In consequence of the Commissioners for Revenue and Customs Act 2005 (c. 11), for the definition of “the Board” substitute—
  - ““the Board” means the Commissioners for Her Majesty's Revenue and Customs;”.
- (3) The amendment made by this paragraph comes into force on the day on which this Act is passed.

#### *Returns by participators*

- 7 (1) In Schedule 2 (management and collection) paragraph 2 is amended as follows.
- (2) In sub-paragraph (2)(a)(iii) (market value of oil disposed of otherwise than by sale at arm's length) for “in the calendar month in which the delivery was made” substitute “as determined in accordance with Schedule 3 to this Act in the case of the delivery”.
- (3) In sub-paragraph (2)(b)(ii) (market value of oil relevantly appropriated) for “in the calendar month in which the delivery was made” substitute “as determined in accordance with Schedule 3 to this Act in the case of the appropriation”.
- (4) In sub-paragraph (2)(d)(ii) (market value of oil not disposed of etc at end of period) for “in the last calendar month” substitute “on the last business day”.

#### *Gas fractionation*

- 8 (1) In Schedule 3 (petroleum revenue tax: miscellaneous provisions) paragraph 2A (market value of oil that consists of or includes gas) is amended as follows.
- (2) In sub-paragraph (1)—
  - (a) for “(2D)” substitute “(2I)”;
  - (b) omit “, or in accordance with those sub-paragraphs as modified by sub-paragraph (3) of that paragraph.”.
- (3) In sub-paragraph (2)—

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- (a) for the words from the beginning to “paragraph 2 above” where first occurring substitute “ Sub-paragraph (2)(d) or (as the case may be) (2AA) (d) of paragraph 2 above ”;
  - (b) after “in sub-paragraph (2)” insert “ or (2AA) ”.
- (4) In sub-paragraph (3)—
- (a) after “in sub-paragraph (2)” insert “ or (2AA) ”,
  - (b) for “(2D)” substitute “ (2I) ”;
  - (c) omit “(with sub-paragraphs (2)(f) of paragraph 2 applying accordingly)”.

*Aggregate market value of oil for purposes of section 2(5)*

- 9 In Schedule 3, for paragraph 3 substitute—
- “3 (1) For the purposes of subsection (5) of section 2 of this Act, the aggregate market value of any oil falling within paragraph (b) or (c) of that subsection is arrived at as follows.
- (2) In the case of oil falling within paragraph (b) of that subsection and delivered as there mentioned in the chargeable period in question—
- (a) for each delivery, find (in accordance with paragraph 2 above (read, where applicable, with paragraph 2A above)) the market value of the quantity of oil delivered, and
  - (b) aggregate the market values so found.
- (3) In the case of oil falling within paragraph (c) of that subsection and appropriated as there mentioned in the chargeable period in question—
- (a) for each appropriation, find (in accordance with paragraph 2 above (read, where applicable, with paragraph 2A above)) the market value of the quantity of oil appropriated, and
  - (b) aggregate the market values so found.”.

*Power to make regulations*

- 10 At the end of Schedule 3 insert—

*“Power to make regulations under this Schedule*

- 12 (1) Any power to make regulations under this Schedule is exercisable by statutory instrument.
- (2) A statutory instrument containing regulations under this Schedule may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the House of Commons.
- (3) Any power to make regulations under this Schedule includes power—
- (a) to make different provision for different Categories or kinds of oil or for different cases, or
  - (b) to make incidental, consequential, supplemental, or transitional provision or savings.”.

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## PART 2

### AMENDMENTS OF OTHER ENACTMENTS

#### *FINANCE (NO. 2) ACT 1987*

##### *The designated fraction for the month*

- 11 (1) Schedule 8 to F(No.2)A 1987 (amendments of Schedule 10 to FA 1987) is amended as follows.
- (2) Omit paragraph 5 (which contains amendments making provision for certain amounts to be multiplied by a fraction greater than unity, and has not been brought into force).
- (3) The amendment made by this paragraph has effect for chargeable periods beginning on or after 1st July 2006.

#### *INCOME AND CORPORATION TAXES ACT 1988*

##### *Valuation of oil disposed of or appropriated in certain circumstances.*

- 12 (1) Section 493 of ICTA (valuation of oil disposed of or appropriated in certain circumstances) is amended as follows.
- (2) Before subsection (1) insert—
- “(A1) Where the conditions in subsection (A2) below are met in the case of a disposal of oil by a person, section 2(5A) of the Oil Taxation Act 1975 (“the 1975 Act”) (transportation etc) is to apply in determining the amount which the person is to bring into account for the purposes of the charge to corporation tax on income in respect of the disposal as it applies (or would apply) for the purposes of petroleum revenue tax.
- (A2) The conditions are that—
- (a) the oil is oil won from an oil field in the United Kingdom,
- (b) the disposal is a disposal of the oil by the person crude in a sale at arm's length, as defined in paragraph 1 of Schedule 3 to the 1975 Act,
- (c) the circumstances are such that the price received or receivable—
- (i) falls to be taken into account under section 2(5)(a) of that Act in computing for the purposes of petroleum revenue tax the assessable profit or allowable loss accruing to the person in any chargeable period from the oil field, or
- (ii) would fall to be so taken into account, had the oil field been a taxable field, as defined in section 185 of the Finance Act 1993,
- (d) the terms of the contract are such as are described in the opening words of section 2(5A) of the 1975 Act,
- (e) apart from subsection (A1) above, the person is not entitled to a transportation allowance in respect of the oil (see subsection (A3)) in computing his ring fence profits,
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- (f) the person does not claim a transportation allowance in respect of the oil in computing for the purposes of corporation tax any profits of his that are not ring fence profits.
- (A3) In subsection (A2) above “transportation allowance”, in relation to any oil, means any of the following—
- (a) a deduction in respect of the expense of transporting the oil as mentioned in the opening words of section 2(5A) of the 1975 Act,
  - (b) a deduction in respect of any costs of or incidental to the transportation of the oil as there mentioned,
  - (c) any such reduction in the price to be regarded as received or receivable for the oil as would result from the application of section 2(5A) of the 1975 Act, if that provision applied for the purposes of corporation tax.”.
- (3) In subsection (1)—
- (a) omit “in a particular month”, and
  - (b) for “the Oil Taxation Act 1975 (“the 1975 Act”)” substitute “ the 1975 Act ”.
- (4) In subsection (2), omit “in a particular month”.
- (5) In subsection (3), omit “in the calendar month in which the disposal was made”.
- (6) In subsection (4), omit “in the calendar month in which it was appropriated”.
- (7) For subsection (5) substitute—
- “(5) For the purposes of subsections (3) and (4) above, paragraph 2 of Schedule 3 to the 1975 Act shall apply as it applies for the purposes of Part 1 of that Act, but with the following modifications—
- (a) sub-paragraph (4) shall be treated as omitted;
  - (b) any reference in paragraphs 2 and 2A to oil being relevantly appropriated shall be construed as a reference to its being appropriated as mentioned in section 493(4) of the Taxes Act; and
  - (c) any reference in paragraph 2 to the notional delivery day for the actual oil shall be construed as a reference to the day on which the oil is disposed of or appropriated as mentioned in subsection (3) or (4) above.”.

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