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## SCHEDULES

### SCHEDULE 33

Section 107

#### PRT: ELECTIONS FOR OIL FIELDS TO BECOME NON-TAXABLE

#### PART 1

##### NEW SCHEDULE 20A TO FA 1993

1 This is Schedule 20A to be inserted before Schedule 21 to FA 1993—

##### “SCHEDULE 20A

#### PRT: ELECTIONS FOR OIL FIELDS TO BECOME NON-TAXABLE

##### *Election by responsible person*

- 1 (1) The responsible person for a taxable field may make an election that the field is to be non-taxable.
- (2) An election is irrevocable.
- (3) The responsible person may not make an election unless each person who is a participator at the time the election is made agrees to the election being made.
- (4) If the responsible person makes an election, the Commissioners may assume that each participator agrees to the election being made (unless it appears to the Commissioners that a participator does not agree).

##### *Decision by Commissioners*

- 2 (1) If an election is made, the Commissioners must decide whether or not the field is no longer taxable.
- (2) For the purposes of this paragraph, the field is no longer taxable if it appears to the Commissioners that one or other of the following conditions is met in relation to each future chargeable period.
- (3) Condition A is that no assessable profit will accrue to any participator in the field in that period.
- (4) Condition B is that the assessable profit accruing to each participator in the field in that period will be equal to, or smaller than, the cash equivalent of that participator's share of the oil allowance for the field in that period.

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- (5) The responsible person must give the Commissioners such information as the Commissioners may reasonably require in connection with their making a decision under sub-paragraph (1).
  - (6) The Commissioners may make such assumptions as they think appropriate for the purposes of making a decision under this paragraph (including assumptions about what, if any, participators there will be in the field in future chargeable periods).
  - (7) In this paragraph—
    - “assessable profit” means assessable profit before any reduction under section 7 of OTA 1975 (relief for allowable losses);
    - “future chargeable period”, in relation to a decision by the Commissioners under this paragraph, means a chargeable period that falls at any time after the chargeable period in which the Commissioners make that decision.
- 3 (1) The Commissioners must give the responsible person notice of their decision under paragraph 2(1).
- (2) Within one month of being given notice by the Commissioners of their decision, the responsible person must give copies of the notice to each person who is a participator, or a former participator, at the time the Commissioners' notice is given.
- (3) But the responsible person is not required to give notice to any person to whom it would be impracticable to give notice.

*When election has effect*

- 4 (1) An election does not have effect unless the Commissioners decide under paragraph 2(1) that the field is no longer taxable.
- (2) In such a case, the election has effect from the start of the first chargeable period to begin after the Commissioners give notice under paragraph 3.
- (3) The election then continues to have effect indefinitely (unless cancelled in accordance with paragraph 6).

*No unrelievable field losses from field*

- 5 For as long as the election has effect, no allowable loss that accrues from the oil field is an allowable unrelievable field loss for the purposes of petroleum revenue tax.

*Cancellation of election by Commissioners*

- 6 (1) The Commissioners may cancel an election if, within 3 years of their giving notice under paragraph 3, it appears to them that—
- (a) information that the responsible person gave the Commissioners in connection with the election was inaccurate or incomplete at the time it was given, and

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- (b) if the information had not been inaccurate or incomplete, the Commissioners would not have made the decision that they made under paragraph 2.
  - (2) For the purposes of sub-paragraph (1) it does not matter whether or not the Commissioners required the information to be given.
- 7 (1) If the Commissioners cancel an election, they must give notice of the cancellation—
- (a) to the person who made the election, or
  - (b) if it is impracticable to give notice to that person, to a person who is a participator at the time the election is cancelled, or
  - (c) if it is impracticable to give notice to any such person, to a person who is a former participator at the time the election is cancelled;
- but the Commissioners are not required to give notice to a person falling within paragraph (c) if it would be impracticable to give notice to any such person.
- (2) Within one month of being given notice by the Commissioners under sub-paragraph (1), the person must give copies of the notice to each person who is a participator, or a former participator, at the time the Commissioners' notice is given.
  - (3) But that person is not required to give notice to any person to whom it would be impracticable to give notice.

#### *Effect of cancellation*

- 8 (1) If the Commissioners cancel an election under paragraph 6, the election is to be treated as though it had never had effect.
- (2) But that does not make a person liable for anything that the person did, or did not do, in consequence of the election having effect before its cancellation.
  - (3) If the Commissioners cancel an election, the enactments relating to petroleum revenue tax apply to the oil field subject to sub-paragraphs (4) to (7).
  - (4) The Commissioners may specify the periods within which PRT returns for the relevant chargeable periods must be delivered.
  - (5) If the Commissioners specify the period within which a PRT return must be delivered, the provisions of OTA 1975 set out in sub-paragraph (6) apply to the specified period as if it were a period for the delivery of a PRT return that has been extended under paragraph 2 or 5 of Schedule 2 to OTA 1975.
  - (6) The provisions of OTA 1975 referred to in sub-paragraph (5) are—
    - (a) paragraph 12A of Schedule 2, and
    - (b) paragraph 2(7) and (8) of Schedule 5 (including those provisions as applied to Schedule 6 to OTA 1975 by paragraph 2 of Schedule 6).
  - (7) For the purposes of paragraph 4 of Schedule 2 to OTA 1975, the “initial period” is the period of thirty days beginning with the date on which the Commissioners give notice in accordance with paragraph 6 of this Schedule.

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- (8) The Commissioners may by regulations make transitional provision (including provision modifying enactments) applicable to cases where elections are made and subsequently cancelled under this Schedule.
- (9) Regulations under sub-paragraph (8)—
  - (a) are to be made by statutory instrument, and
  - (b) are subject to annulment in pursuance of a resolution of the House of Commons.
- (10) In this paragraph—
  - “PRT return” means a return under paragraph 2 or 5 of Schedule 2 to OTA 1975;
  - “relevant chargeable periods”, in relation to a cancelled election, means the series of consecutive chargeable periods that—
    - (a) begins with the chargeable period from the start of which the election had effect, and
    - (b) ends with the chargeable period during which the election is cancelled.

### *Appeals*

- 9 (1) The responsible person may appeal against a decision of the Commissioners under paragraph 2(1).
- (2) Any such appeal must be made within 3 months of the Commissioners giving notice under paragraph 3 of their decision to the responsible person.
- 10 (1) A person who is a participator, or a former participator, at the time the Commissioners cancel an election under paragraph 6 may appeal against the cancellation.
- (2) Any such appeal must be made within 3 months of the Commissioners giving notice under paragraph 7 of the cancellation (whether or not the notice was given to the person making the appeal).
- 11 (1) Any appeal under paragraph 9 or 10 must be made to the Commissioners—
  - (a) by notice in writing, or
  - (b) in any other form authorised by direction of the Commissioners.
- (2) Any appeal under paragraph 9 or 10 is to be determined by the Special Commissioners.

### *Interpretation*

- 12 (1) In this Schedule—
  - “Commissioners” means the Commissioners for Her Majesty’s Revenue and Customs (except in the expression “Special Commissioners”);
  - “election” means an election in writing, or in any other form authorised by direction of the Commissioners, made to the Commissioners;
  - “former participator”, in relation to a particular time, means a person who—

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- (a) is not a participator in the chargeable period which includes that time, but
  - (b) was a participator in any earlier chargeable period;
- “OTA 1975” means the Oil Taxation Act 1975;
- “participator”, in relation to a particular time, means a person who is a participator in the chargeable period which includes that time.

- (2) Expressions used in this Schedule and in Part 1 of OTA 1975 have the same meaning in this Schedule as in that Part of OTA 1975.”

## PART 2

### OTHER AMENDMENTS

#### *OTA 1975*

- 2 In section 6 of OTA 1975 (allowances of unrelievable loss from abandoned field), in subsection (1A), after “this Act” insert “ and paragraph 5 of Schedule 20A to the Finance Act 1993 ”.

#### *FA 1980*

- 3 In Schedule 17 to FA 1980 (transfers of interests in oil fields), in paragraph 15 (terminal losses), after sub-paragraph (9) insert—
- “(9A) This paragraph is subject to paragraph 5 of Schedule 20A to the Finance Act 1993.”

#### *Oil Taxation Act 1983*

- 4 In section 9 of the Oil Taxation Act 1983 (c. 56) (tariff receipts allowance), in subsection (5)(a), for the words from “other than” to the end substitute “other than
- (i) the principal field, or
  - (ii) an oil field that is a non-taxable field by virtue of section 185(1) or (1A) of the Finance Act 1993.”

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Blanket amendment words substituted by [S.I. 2011/1043 art. 34](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Sch. 41 para. 6(1A) inserted by [2015 c. 11 Sch. 20 para. 10\(2\)](#)
- Sch. 41 para. 6A(A1)(1) substituted for Sch. 41 para. 6A(1) by [2015 c. 11 Sch. 20 para. 11\(2\)](#)