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SCHEDULES

SCHEDULE 1

Section 364

OIL ACTIVITIES: NEW CHAPTER 16A OF PART 2 OF ITTOIA 2005

- 1 ITTOIA 2005 is amended as follows.
2 After section 225 insert—

“CHAPTER 16A

OIL ACTIVITIES

Basic definitions

225A Meaning of “oil extraction activities”

- (1) In this Chapter “oil extraction activities” means activities within any of subsections (2) to (5) (but see also section 225M(6)).
- (2) Activities of a person in searching for oil in the United Kingdom or a designated area or causing such searching to be carried out for that person.
- (3) Activities of a person in extracting, or causing to be extracted for that person, oil at any place in the United Kingdom or a designated area under rights which—
 - (a) authorise the extraction, and
 - (b) are held by that person.
- (4) Activities of a person in transporting, or causing to be transported for that person, oil extracted at any such place not on dry land under rights which—
 - (a) authorise the extraction, and
 - (b) are held by that person,if the transportation meets condition A or B (see subsections (6) and (7)).
- (5) Activities of a person in effecting, or causing to be effected for that person, the initial treatment or initial storage of oil won from any oil field under rights which—
 - (a) authorise its extraction, and
 - (b) are held by that person.
- (6) Condition A is that the transportation is to the place where the oil is first landed in the United Kingdom.
- (7) Condition B is that the transportation—
 - (a) is to the place in the United Kingdom, or

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- (b) in the case of oil first landed in another country, is to the place in that or any other country (other than the United Kingdom), at which the seller in a sale at arm's length could reasonably be expected to deliver it (or, if there is more than one such place, the one nearest to the place of extraction).
- (8) The definition of “initial storage” in section 12(1) of OTA 1975 applies for the purposes of this section.
- (9) But in its application for those purposes in relation to the person mentioned in subsection (5) and to oil won from any one oil field, that definition is to have effect as if the reference to the maximum daily production rate of oil for the field mentioned in that definition were to a share of that maximum daily production rate proportionate to that person's share of the oil won from that field.
- (10) In this section “initial treatment” has the same meaning as in Part 1 of OTA 1975 (see section 12(1) of that Act).

225B Meaning of “oil rights”

In this Chapter “oil rights” means—

- (a) rights to oil to be extracted at any place in the United Kingdom or a designated area, or
- (b) rights to interests in or to the benefit of such oil.

225C Meaning of “ring fence income”

In this Chapter “ring fence income” means income arising from oil extraction activities or oil rights.

225D Meaning of “ring fence trade”

In this Chapter “ring fence trade” means activities which—

- (a) are within the definition of “oil-related activities” in section 16(2) (oil extraction and related activities), and
- (b) constitute a separate trade (whether because of section 16(1) or otherwise).

225E Other definitions

In this Chapter—

“chargeable period” has the same meaning as in Part 1 of OTA 1975 (see section 1(3) of that Act),

“designated area” means an area designated by Order in Council under section 1(7) of the Continental Shelf Act 1964,

“oil” means any substance won or capable of being won under the authority of a licence granted under Part 1 of the Petroleum Act 1998 or the Petroleum (Production) Act (Northern Ireland) 1964 (c. 28 (N.I.)), other than methane gas won in the course of operations for making and keeping mines safe,

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“oil field” has the same meaning as in Part 1 of OTA 1975 (see section 12(1) of that Act),

“OTA 1975” means the Oil Taxation Act 1975, and

“participator” has the same meaning as in Part 1 of OTA 1975 (see section 12(1) of that Act).

Oil valuation

225F Valuation where market value taken into account under section 2 of OTA 1975

- (1) This section applies if a person disposes of oil in circumstances such that the market value of the oil—
 - (a) falls to be taken into account under section 2 of OTA 1975, otherwise than by virtue of paragraph 6 of Schedule 3 to that Act, in calculating for petroleum revenue tax purposes the assessable profit or allowable loss accruing to that person in a chargeable period from an oil field, or
 - (b) would so fall but for section 10 of that Act.
- (2) For income tax purposes, the disposal of the oil, and its acquisition by the person to whom it was disposed of, are to be treated as having been for a consideration equal to the market value of the oil—
 - (a) as so taken into account under section 2 of that Act, or
 - (b) as would have been so taken into account under that section but for section 10 of that Act.

225G Valuation where disposal not sale at arm's length

- (1) This section applies if conditions A, B and C are met.
- (2) Condition A is that a person disposes of oil acquired by the person—
 - (a) in the course of oil extraction activities carried on by the person, or
 - (b) as a result of oil rights held by the person.
- (3) Condition B is that the disposal is not a sale at arm's length (as defined in paragraph 1 of Schedule 3 to OTA 1975).
- (4) Condition C is that section 225F does not apply in relation to the disposal.
- (5) For income tax purposes, the disposal of the oil, and its acquisition by the person to whom it was disposed of, are to be treated as having been for a consideration equal to the market value of the oil.
- (6) Paragraphs 2 and 3A of Schedule 3 to OTA 1975 (definition of market value of oil including light gases) apply for the purposes of this section as they apply for the purposes of Part 1 of that Act, but with the following modifications.
- (7) Those modifications are that—
 - (a) any reference in paragraph 2 to the notional delivery day for the actual oil is to be read as a reference to the day on which the oil is disposed of as mentioned in this section, and

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- (b) paragraph 2(4) is to be treated as omitted.

225H Valuation where excess of nominated proceeds

- (1) This section applies if an excess of nominated proceeds for a chargeable period—
- (a) is taken into account in calculating a person's profits under section 2(5)(e) of OTA 1975, or
 - (b) would have been so taken into account if the person were chargeable to tax under OTA 1975 in respect of an oil field.
- (2) For income tax purposes, the amount of the excess is to be added to the consideration which the person is treated as having received in respect of oil disposed of by that person in the period.

225I Valuation where relevant appropriation but no disposal

- (1) This section applies if conditions A and B are met.
- (2) Condition A is that a person makes a relevant appropriation of oil without disposing of it.
- (3) Condition B is that the person does so in circumstances such that the market value of the oil—
- (a) falls to be taken into account under section 2 of OTA 1975 in calculating for petroleum revenue tax purposes the assessable profit or allowable loss accruing to that person in a chargeable period from an oil field, or
 - (b) would so fall but for section 10 of that Act.
- (4) For income tax purposes, the person is to be treated as having, at the time of the appropriation—
- (a) sold the oil in the course of the separate trade consisting of activities falling within the definition of “oil-related activities” in section 16(2) (oil extraction and related activities), and
 - (b) purchased it in the course of the separate trade consisting of activities not so falling.
- (5) For income tax purposes, that sale and purchase is to be treated as having been at a price equal to the market value of the oil—
- (a) as so taken into account under section 2 of OTA 1975, or
 - (b) as would have been so taken into account under that section but for section 10 of that Act.
- (6) In this section “relevant appropriation” has the meaning given by section 12(1) of OTA 1975.

225J Valuation where appropriation to refining etc

- (1) This section applies if conditions A, B and C are met.
- (2) Condition A is that a person appropriates oil acquired by the person—
- (a) in the course of oil extraction activities carried on by the person, or

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- (b) as a result of oil rights held by the person.
- (3) Condition B is that the oil is appropriated to refining or to any use except the production purposes of an oil field (as defined in section 12(1) of OTA 1975).
- (4) Condition C is that section 225I does not apply in relation to the appropriation.
- (5) For income tax purposes—
 - (a) the person is to be treated as having, at the time of the appropriation, sold and purchased the oil as mentioned in section 225I(4)(a) and (b), and
 - (b) that sale and purchase is to be treated as having been at a price equal to the market value of the oil.
- (6) Paragraphs 2 and 3A of Schedule 3 to OTA 1975 (definition of market value of oil including light gases) apply for the purposes of this section as they apply for the purposes of Part 1 of that Act, but with the following modifications.
- (7) Those modifications are that—
 - (a) any reference in paragraph 2 to the notional delivery day for the actual oil is to be read as a reference to the day on which the oil is appropriated as mentioned in this section,
 - (b) any reference in paragraphs 2 and 2A to oil being relevantly appropriated is to be read as a reference to its being appropriated as mentioned in this section, and
 - (c) paragraph 2(4) is to be treated as omitted.

Regional development grants

225K Reduction of expenditure by reference to regional development grant

- (1) This section applies if conditions A and B are met.
- (2) Condition A is that a person has incurred expenditure (by way of purchase, rent or otherwise) on the acquisition of an asset in a transaction to which paragraph 2 of Schedule 4 to OTA 1975 applies (transactions between connected persons or otherwise than at arm's length).
- (3) Condition B is that the expenditure incurred by the other person mentioned in that paragraph in acquiring, bringing into existence or enhancing the value of the asset as mentioned in that paragraph—
 - (a) has been or is to be met by a regional development grant, and
 - (b) falls (in whole or in part) to be taken into account under Part 2 or 6 of CAA 2001 (capital allowances relating to plant and machinery or research and development).
- (4) Subsection (5) applies for the purposes of the charge to income tax on the income arising from the activities of the person mentioned in subsection (2) which are treated by section 16(1) (oil extraction and related activities) as a separate trade for those purposes.

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- (5) The expenditure mentioned in subsection (2) is to be reduced by the amount of the regional development grant mentioned in subsection (3).
- (6) In this section “regional development grant” means a grant falling within section 534(1) of CAA 2001 (Northern Ireland regional development grant).

225L Adjustment as a result of regional development grant

- (1) This section applies if conditions A, B and C are met.
- (2) Condition A is that expenditure incurred by a person in relation to an asset in a tax year (“the initial period”) has been or is to be met by a regional development grant.
- (3) Condition B is that, despite the provisions of section 534(2) and (3) of CAA 2001 (Northern Ireland regional development grants) and section 225K of this Act, in determining that person's liability to income tax for the initial period, the whole or some part of that expenditure falls to be taken into account under Part 2 or 6 of CAA 2001.
- (4) Condition C is that—
 - (a) expenditure on the asset becomes allowable under section 3 or 4 of OTA 1975 in a tax year (an “adjustment period”) subsequent to the initial period, or
 - (b) the proportion of any such expenditure which is allowable in an adjustment period is different as compared with the initial period.
- (5) There is to be redetermined for the purposes of subsections (7) and (8) the amount of the expenditure mentioned in subsection (2) which would have been taken into account as mentioned in subsection (3) if the circumstances mentioned in subsection (4) had existed in the initial period.
- (6) According to whether the amount as so redetermined is greater or less than the amount actually taken into account as mentioned in subsection (3), the difference is referred to in subsections (7) and (8) as the increase or the reduction in the allowance.
- (7) If there is an increase in the allowance, an amount of capital expenditure equal to the increase is to be treated, for the purposes of Part 2 or 6 of CAA 2001, as having been incurred by the person concerned in the adjustment period on an extension of, or addition to, the asset mentioned in subsection (2).
- (8) If there is a reduction in the allowance, the person concerned is to be treated, for the purpose of determining that person's liability to income tax, as having received in the adjustment period, as income of the trade in connection with which the expenditure mentioned in subsection (2) was incurred, a sum equal to the amount of the reduction in the allowance.
- (9) In this section “regional development grant” has the meaning given by section 225K(6).

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Tariff receipts etc

225M Tariff receipts etc

- (1) Subsection (5) applies to a sum which meets conditions A, B and C.
- (2) Condition A is that the sum constitutes a tariff receipt or tax-exempt tariffing receipt of a person who is a participator in an oil field.
- (3) Condition B is that the sum constitutes consideration in the nature of income rather than capital.
- (4) Condition C is that the sum would not, but for subsection (5), be treated as mentioned in that subsection.
- (5) The sum is to be treated as a receipt of the separate trade mentioned in section 16(1) (oil extraction and related activities).
- (6) So far as they would not otherwise be so treated, the activities—
 - (a) of a participator in an oil field, or
 - (b) of a person connected with the participator,in making available an asset in a way which gives rise to tariff receipts or tax-exempt tariffing receipts of the participator are to be treated for the purposes of this Chapter as oil extraction activities.
- (7) In determining for the purposes of subsection (2) whether a sum constitutes a tariff receipt or tax-exempt tariffing receipt of a person who is a participator, no account may be taken of any sum which—
 - (a) is in fact received or receivable by a person connected with the participator, and
 - (b) constitutes a tariff receipt or tax-exempt tariffing receipt of the participator.But in relation to the person by whom such a sum is actually received, subsection (2) has effect as if the person were a participator and as if condition A were met.
- (8) References in this section to a person connected with a participator include a person with whom the person is associated, within the meaning of paragraph 11 of Schedule 2 to the Oil Taxation Act 1983, but section 878(5) of this Act (application of definition of “connected” persons) does not apply for the purposes of this section.
- (9) In this section—
 - “tax-exempt tariffing receipt” has the meaning given by section 6A(2) of the Oil Taxation Act 1983, and
 - “tariff receipt” has the same meaning as in that Act.

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Abandonment guarantees

225N Expenditure on and under abandonment guarantees

- (1) Subsection (2) applies if, as a result of section 3(1)(hh) of OTA 1975 (obtaining abandonment guarantee), expenditure incurred by a participator in an oil field is allowable (in whole or in part) for petroleum revenue tax purposes under section 3 of that Act.
- (2) So far as that expenditure is so allowable, it is to be allowed as a deduction in calculating the participator's ring fence income.
- (3) Subsection (4) applies if a payment is made by the guarantor under an abandonment guarantee.
- (4) So far as any expenditure for which the relevant participator is liable is met, directly or indirectly, out of the payment, the expenditure is not to be regarded for income tax purposes as having been incurred by the relevant participator or any other participator in the oil field concerned.
- (5) See also section 225P (payment under abandonment guarantee not immediately applied).
- (6) In this Chapter—
 - “abandonment guarantee” has the same meaning as it has for the purposes of section 105 of FA 1991 (see section 104 of that Act), and
 - “the guarantor” and “the relevant participator” have the same meaning as in section 104 of that Act.

225O Relief for reimbursement expenditure under abandonment guarantees

- (1) This section applies if—
 - (a) a payment (“the guarantee payment”) is made by the guarantor under an abandonment guarantee,
 - (b) as a result of the making of the guarantee payment, the relevant participator becomes liable under the terms of the abandonment guarantee to pay any sum to the guarantor, and
 - (c) expenditure is incurred, or consideration in money's worth is given, by the relevant participator in or towards meeting that liability.
- (2) In this section “reimbursement expenditure” means expenditure incurred as mentioned in subsection (1)(c) or consideration (or the value of consideration) given as so mentioned; and any reference to the incurring of reimbursement expenditure is to be read accordingly.
- (3) So much of any reimbursement expenditure as constitutes qualifying expenditure (see subsection (4)) is to be allowed as a deduction in calculating the relevant participator's ring fence income; and no part of the expenditure which is so allowed is to be otherwise deductible or allowable by way of relief for income tax purposes.

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- (4) The amount of reimbursement expenditure incurred in any tax year by the relevant participator which constitutes qualifying expenditure is determined by the formula—

$$A \times \frac{B}{C}$$

where—

A is the reimbursement expenditure incurred in the tax year,

B is so much of the expenditure represented by the guarantee payment as, had it been incurred by the relevant participator, would have been taken into account (by way of capital allowance or a deduction) in calculating the relevant participator's ring fence income, and

C is the total of the sums which, at or before the end of the tax year, the relevant participator is or has become liable to pay to the guarantor as mentioned in subsection (1)(b).

But this is subject to subsection (5).

- (5) In relation to the guarantee payment, the total of the reimbursement expenditure (whenever incurred) which constitutes qualifying expenditure may not exceed whichever is the less of B and C in subsection (4).
- (6) Any limitation on qualifying expenditure under subsection (5) is to be applied to the expenditure of a later tax year in preference to an earlier one.
- (7) For the purposes of this section, the expenditure represented by the guarantee payment is any expenditure—
- (a) for which the relevant participator is liable, and
 - (b) which is met, directly or indirectly, out of the guarantee payment (and which, accordingly, because of section 225N(4) is not to be regarded as expenditure incurred by the relevant participator).
- (8) See also—
- (a) section 225P (payment under abandonment guarantee not immediately applied), and
 - (b) section 225Q which excludes amounts from subsection (1).

225P Payment under abandonment guarantee not immediately applied

- (1) This section applies if—
- (a) a payment made by the guarantor under an abandonment guarantee is not immediately applied in meeting any expenditure,
 - (b) the payment is for any period invested (either specifically or together with payments made by persons other than the guarantor) so as to be represented by, or by part of, the assets of a fund or account, and
 - (c) at a subsequent time, any expenditure for which the relevant participator is liable is met out of the assets of the fund or account.
- (2) The references in sections 225N(4) and 225O(7) to expenditure which is met, directly or indirectly, out of the payment are to be read as references to so much of the expenditure for which the relevant participator is liable as

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is met out of those assets of the fund or account which, at the subsequent time mentioned in subsection (1)(c), it is just and reasonable to attribute to the payment.

225Q Amounts excluded from section 225O(1)

- (1) This section applies if—
 - (a) the whole of the guarantee payment mentioned in section 225O, or of the assets which under section 225P are attributed to the guarantee payment, is not applied in meeting liabilities of the relevant participator so mentioned which fall within section 104(1)(a) and (b) of FA 1991, and
 - (b) a sum representing the unapplied part of the guarantee payment or of those assets is repaid, directly or indirectly, to the guarantor so mentioned.
- (2) Any liability of the relevant participator to repay that sum is to be excluded in determining the total liability of the relevant participator which falls within section 225O(1)(b).
- (3) The repayment to the guarantor of that sum is not to be regarded as expenditure incurred by the relevant participator as mentioned in section 225O(1)(c).

Abandonment expenditure

225R Introduction to sections 225S and 225T

- (1) Sections 225S and 225T apply if—
 - (a) paragraph 2A of Schedule 5 to OTA 1975 applies, or would apply if a claim under paragraph 2A(2) of that Schedule were made, and
 - (b) the default payment falls (in whole or part) to be attributed to the contributing participator under paragraph 2A(2) of that Schedule.
- (2) In section 225S “the additional abandonment expenditure” means the amount which is attributed to the contributing participator as mentioned in subsection (1)(b) (whether representing the whole or only part of the default payment).
- (3) In this Chapter “default payment”, “the defaulter” and “contributing participator” have the same meaning as in paragraph 2A of Schedule 5 to OTA 1975.

225S Relief for expenditure incurred by a participator in meeting defaulter's abandonment expenditure

- (1) Relief by way of capital allowance, or a deduction in calculating ring fence income, is to be available to the contributing participator in respect of the additional abandonment expenditure if any such relief or deduction would have been available to the defaulter if—
 - (a) the defaulter had incurred the additional abandonment expenditure, and

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- (b) at the time that that expenditure was incurred the defaulter continued to carry on a ring fence trade.
- (2) The basis of qualification for or entitlement to any relief or deduction which is available to the contributing participator under this section is to be determined on the assumption that the conditions in subsection (1)(a) and (b) are met.
- (3) But, subject to subsection (2), any such relief or deduction is to be available in the same way as if the additional abandonment expenditure had been incurred by the contributing participator for the purposes of the ring fence trade carried on by the contributing participator.

225T Reimbursement by defaulter in respect of certain abandonment expenditure

- (1) This section applies if expenditure is incurred, or consideration in money's worth is given, by the defaulter in reimbursing the contributing participator in respect of, or otherwise making good to the contributing participator, the whole or any part of the default payment.
- (2) In this section “reimbursement expenditure” means expenditure incurred as mentioned in subsection (1) or consideration (or the value of consideration) given as so mentioned; and any reference to the incurring of reimbursement expenditure is to be read accordingly.
- (3) Reimbursement expenditure is to be allowed as a deduction in calculating the defaulter's ring fence income (but this is subject to subsection (6)).
- (4) Reimbursement expenditure received by the contributing participator is to be treated as a receipt (in the nature of income) of the participator's ring fence trade for the relevant tax year (but this is subject to subsection (6)).
- (5) Any additional assessment to income tax required in order to take account of the receipt of reimbursement expenditure by the contributing participator may be made at any time not later than 4 years after the end of the calendar year in which the reimbursement expenditure is so received.
- (6) In relation to a particular default payment, reimbursement expenditure incurred at any time—
 - (a) is to be allowed as mentioned in subsection (3), and
 - (b) is to be taken into account as a result of subsection (4) in calculating the contributing participator's ring fence income,only so far as, when aggregated with any reimbursement expenditure previously incurred in respect of that default payment, it does not exceed so much of the default payment as falls to be attributed to the contributing participator as mentioned in section 225R(1)(b).
- (7) The incurring of reimbursement expenditure is not to be regarded, by virtue of section 532 of CAA 2001 (the general rule excluding contributions), as the meeting of the expenditure of the contributing participator in making the default payment.
- (8) In subsection (4) “the relevant tax year” means—

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- (a) the tax year in which the reimbursement expenditure is received by the contributing participator, or
- (b) if the contributing participator's ring fence trade is permanently discontinued before the receipt of the reimbursement expenditure, the last tax year in which that trade was carried on.

Interest on repayment of APRT

225U Interest on repayment of APRT

- (1) Subsection (2) applies if interest is paid to a participator under paragraph 10(4) of Schedule 19 to FA 1982 (interest on advance petroleum revenue tax which becomes repayable).
- (2) The interest paid is to be disregarded in calculating the participator's income for income tax purposes.”

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