Finance Act 2013

2013 CHAPTER 29

PART 2

OIL

Decommissioning relief agreements

80 Decommissioning relief agreements

(1) There are to be paid out of money provided by Parliament any sums which a Minister of the Crown is liable to pay under a decommissioning relief agreement.

(2) A "decommissioning relief agreement" is an agreement which—

(a) is made between a Minister of the Crown and a qualifying company, and

(b) provides that, in such circumstances as are specified in the agreement, if the amount of tax relief in respect of any decommissioning expenditure incurred by that or another qualifying company is less than an amount determined in accordance with the agreement ("the reference amount"), the difference is payable to the company that incurred the expenditure.

(3) "Qualifying company" means—

(a) any company that has at any time carried on a ring fence trade,

(b) any company that is associated with a company carrying on a ring fence trade,

(c) any company that has at any time been associated with a company that was carrying on a ring fence trade at that time, and

(d) in the case of decommissioning expenditure incurred in connection with any plant or machinery, or any land, situated in the UK sector of a cross-boundary field, any company that is a party to a joint operating agreement or unitisation agreement in relation to that field.

(4) For the purposes of subsection (2)(b) the amount of tax relief in respect of any decommissioning expenditure is to be determined in accordance with the agreement; and in making such a determination tax relief in respect of expenditure incurred by the qualifying company that is not decommissioning expenditure may, in such

circumstances as are specified in the agreement, be treated as if it were tax relief in respect of decommissioning expenditure.

(5) A payment made to a company under a decommissioning relief agreement is not to be regarded as income or a gain of the company for any purpose of the Tax Acts.

(6) Section 18(1) of CRCA 2005 (restriction on disclosure by Revenue and Customs officials) does not prevent—

(a) disclosure to a Minister of the Crown for the purpose of enabling the Minister of the Crown to determine the extent of any liability under a decommissioning relief agreement, or

(b) disclosure to a company that has rights under a decommissioning relief agreement for the purpose of enabling the company to determine the reference amount.

(7) In this section—

"company" has the meaning given by section 1121 of CTA 2010,

"cross-boundary field" has the meaning given by section 10(9) of the Petroleum Act 1998,

"decommissioning expenditure" has the meaning given by section 81,

"Minister of the Crown" includes the Treasury,

"ring fence trade" has the same meaning as in Part 8 of CTA 2010 (see section 277 of that Act),

"the UK sector of a cross-boundary field" means that part of a cross-boundary field lying within the UK marine area (as defined by section 42 of the Marine and Coastal Access Act 2009), and

"unitisation agreement" has the meaning given by paragraph 1(2) of Schedule 17 to FA 1980.

(8) Subsections (8) to (9) of section 30 of the Petroleum Act 1998 (which specifies when one body corporate is associated with another) apply for the purposes of this section as they apply for the purposes of that section.

81 Meaning of "decommissioning expenditure"

(1) In section 80 "decommissioning expenditure" means expenditure incurred in connection with—

(a) demolishing any plant or machinery,

(b) preserving any plant or machinery pending its reuse or demolition,

(c) preparing any plant or machinery for reuse,

(d) arranging for the reuse of any plant or machinery, or

(e) the restoration of any land.

(2) It is immaterial for the purposes of subsection (1)(b) 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)(c) and (d) whether the plant or machinery is in fact reused.

(4) In subsection (1)(e) "restoration" includes landscaping.

(5) The Treasury may by order amend this section.

(6) An order under subsection (5) may include transitional provision and savings.

(7) The power to make an order under subsection (5) is exercisable by statutory instrument.

(8) A statutory instrument containing an order under subsection (5) is subject to annulment in pursuance of a resolution of the House of Commons.

82 Annual report

(1) For each financial year the Treasury must prepare a report containing the information in subsection (2).

(2) The information is—

(a) the number of decommissioning relief agreements entered into in that year,

(b) the total number of decommissioning relief agreements in force at the end of that year,

(c) the number of payments made under any decommissioning relief agreements during that year, and the amount of each payment,

(d) the total number of payments that have been made under any decommissioning relief agreements as at the end of that year, and the total amount of those payments, and

(e) an estimate of the maximum amount liable to be paid under any decommissioning relief agreements.

(3) The report for a financial year must be laid before the House of Commons as soon as is reasonably practicable after the end of that year.

(4) In this section "decommissioning relief agreement" has the same meaning as in section 80.

(5) This section has effect in relation to financial years ending on or after 31 March 2014.

83 Effect of claim on PRT

(1) This section applies where a sum is payable to a company ("the claimant") under a decommissioning relief agreement.

(2) Subsection (3) applies where the reference amount is calculated by reference to what the claimant's assessable profit in any chargeable period would be if any expenditure incurred by it were used to reduce its profit in a particular way (rather than in any way that it has in fact been used).

(3) For the purposes of petroleum revenue tax—

(a) the expenditure is treated as having been used to reduce the claimant's profit in that way (rather than in any way that it has in fact been used), and

(b) the claimant is treated as if it had received the tax relief it would receive if its profit were reduced in that way (so no repayment of tax is to be made by virtue of this subsection).

(4) Subsection (5) applies where the reference amount is calculated by reference to what any other company's assessable profit in any chargeable period would be if any expenditure incurred by the claimant—

(a) had been incurred by the other company, and

(b) were used to reduce the other company's profit in a particular way.

(5) For the purposes of petroleum revenue tax—

(a) the expenditure is treated as incurred by the other company (and not the claimant),

(b) the expenditure is treated as having been used by the other company to reduce its profit in that way, and

(c) the other company is treated as if it had received the tax relief it would receive if its profit were reduced in that way (so no repayment of tax is to be made by virtue of this subsection).

(6) In this section—

"assessable profit" and "chargeable period" have the same meaning as in Part 1 of OTA 1975,

"company" has the meaning given by section 1121 of CTA 2010,

"decommissioning relief agreement" has the same meaning as in section 80, and

"the reference amount" means the reference amount (within the meaning of that section) that relates to the sum mentioned in subsection (1).

84 Terminal losses accruing by virtue of another's default

(1) This section applies where—

(a) a company defaults on a liability under—

(i) a relevant agreement, or

(ii) an abandonment programme,

to make a payment towards decommissioning expenditure in respect of an oil field,

(b) in consequence of the default, another company ("the other company") that has rights under a decommissioning relief agreement at the time of the default incurs decommissioning expenditure in respect of that oil field, and

(c) but for paragraph 15 of Schedule 17 to FA 1980 (terminal losses), a sum (or a sum of a greater amount) would be payable to the other company under the decommissioning relief agreement.

(2) Paragraph 15 of Schedule 17 to FA 1980 does not apply in relation to any allowable loss accruing to the other company from that oil field.

(3) Any allowable unrelievable field loss (within the meaning of section 6 of OTA 1975) that—

(a) consists of the unrelieved portion of an allowable loss within subsection (2), and

(b) would (in the absence of this subsection) arise as a result of subsection (2),

is not to be regarded as arising.

(4) Nothing in this section affects the operation of section 83(3) or (5).

(5) In this section—

"abandonment programme" means an abandonment programme approved under Part 4 of the Petroleum Act 1998 (including such a programme as revised),

"company" has the meaning given by section 1121 of CTA 2010,

"decommissioning expenditure" has the same meaning as in section 80,

"decommissioning relief agreement" has the same meaning as in that section,

"oil field" has the same meaning as in OTA 1975,

"relevant agreement" has the meaning given by section 104(5)(a) of FA 1991, and

"unrelieved portion", in relation to an allowable loss, is to be read in accordance with section 6 of OTA 1975.

85 Claims under agreement not to affect oil allowance

(1) This section applies where—

(a) a company defaults on a liability under—

(i) a relevant agreement, or

(ii) an abandonment programme,

to make a payment towards decommissioning expenditure in respect of an oil field,

(b) in consequence of the default, another company that has rights under a decommissioning relief agreement at the time of the default incurs decommissioning expenditure in respect of that oil field, and

(c) by virtue of section 83, any expenditure incurred by that company (whether or not that decommissioning expenditure) is treated as having been used by that company or any other company ("the affected company") to reduce its assessable profit in a chargeable period in a particular way.

(2) If, in the absence of section 83, the assessable profit accruing to the affected company from an oil field in that chargeable period would be reduced under section 8(1) of OTA 1975, the amount of the oil allowance for the oil field utilised by the affected company in that chargeable period for the purposes of section 8 of that Act is to be determined as if section 83 did not apply.

(3) In this section—

"abandonment programme" means an abandonment programme approved under Part 4 of the Petroleum Act 1998 (including such a programme as revised),

"company" has the meaning given by section 1121 of CTA 2010,

"decommissioning expenditure" has the same meaning as in section 80,

"decommissioning relief agreement" has the same meaning as in that section,

"oil field" has the same meaning as in OTA 1975, and

"relevant agreement" has the meaning given by section 104(5)(a) of FA 1991.

Decommissioning security settlements

86 Removal of IHT charges in respect of decommissioning security settlements

(1) In Chapter 3 of Part 3 of IHTA 1984 (settled property: settlements without interests in possession etc), section 58 (relevant property) is amended as follows.

(2) In subsection (1), omit the "and" at the end of paragraph (ea) and before paragraph (f) insert—

"(eb) property comprised in a decommissioning security settlement; and".

(3) At the end insert—

"(6) For the purposes of subsection (1)(eb) above a settlement is a "decommissioning security settlement" if the sole or main purpose of the settlement is to provide security for the performance of obligations under an abandonment programme.

(7) In subsection (6)—

"abandonment programme" means an abandonment programme approved under Part 4 of the Petroleum Act 1998 (including such a programme as revised);

"security" has the same meaning as in section 38A of that Act."

(4) This section is treated as having come into force on 20 March 1993.

(5) For the purposes of section 58 of IHTA 1984—

(a) any reference in that section to Part 4 of the Petroleum Act 1998 has effect, in relation to any period before the coming into force of that Part, as a reference to Part 1 of the Petroleum Act 1987, and

(b) section 38A of the Petroleum Act 1998 is to be treated as having come into force at the same time as this section.

(6) There is to be no charge to tax under section 65 of IHTA 1984 if the only reason for such a charge would be that property ceases to be relevant property by virtue of the coming into force of this section.

87 Loan relationships arising from decommissioning security settlements

(1) In Part 8 of CTA 2010 (oil activities), after section 287 insert—

"**287A Restriction where debits or credits relate to decommissioning security settlement**

(1) No debits or credits are to be brought into account for the purposes of Part 5 of CTA 2009 (loan relationships) in respect of a company's loan relationship so far as the loan relationship is in respect of property comprised in a decommissioning security settlement.

(2) For the purposes of this section a settlement is a "decommissioning security settlement" if the sole or main purpose of the settlement is to provide security for the performance of obligations under an abandonment programme.

(3) In subsection (2)—

"abandonment programme" means an abandonment programme approved under Part 4 of the Petroleum Act 1998 (including such a programme as revised), and

"security" has the same meaning as in section 38A of that Act."

(2) In section 464 of CTA 2009 (priority of Part 5 for corporation tax purposes), in subsection (3)(e), for "and 287" substitute " to 287A ".

(3) The amendments made by this section have effect in relation to accounting periods beginning on or after the day on which this Act is passed.

Decommissioning expenditure etc

88 Decommissioning expenditure taken into account for PRT purposes

(1) Section 330B of CTA 2010 (decommissioning expenditure taken into account for PRT purposes) is amended as follows.

(2) In subsection (1), omit the "and" at the end of paragraph (a) and after paragraph (b) insert ", and

(c) an amount equal to the appropriate fraction of the used-up amount of that expenditure is added under section 330A(2) in calculating the participator's adjusted ring fence profits for an accounting period."

(3) For subsection (2) substitute—

"(2) In calculating for the purposes of section 330(1) the amount of the participator's adjusted ring fence profits for the accounting period, there is to be deducted the amount given by—

$$RP \times AF \times D$$

where—

RP is the relevant percentage of the decommissioning expenditure,

AF is the appropriate fraction, and

D is the PRT difference."

(4) In subsection (3)—

(a) before the definition of "the appropriate fraction" insert—

""the relevant percentage of the decommissioning expenditure" is the percentage of that expenditure that is the used-up amount referred to in subsection (1)(c),";

(b) in the definition of "the appropriate fraction", omit "relevant";

(c) in the definition of "the PRT difference", for "subsection (1)" substitute " subsection (1)(a) ".

(5) In subsection (4), for "subsection (1)" substitute " subsection (1)(a) ".

(6) In subsection (7)—

(a) omit the definition of "the relevant accounting period", and

(b) at the end insert—

""the used-up amount", in relation to any expenditure, has the same meaning as in section 330A (see subsection (3) of that section)."

(7) The amendments made by this section have effect in relation to expenditure incurred in connection with decommissioning carried out on or after the day on which this Act is passed.

89 Miscellaneous amendments relating to decommissioning

(1) Part 1 of Schedule 31 contains provision about expenditure on and under abandonment guarantees and abandonment expenditure.

(2) Part 2 of Schedule 31 contains provision about calculating the profits of a ring fence trade carried on by a person who incurs expenditure on meeting another person's decommissioning liabilities.

Capital allowances

90 Expenditure on decommissioning onshore installations

(1) Section 163 of CAA 2001 (meaning of "general decommissioning expenditure") is amended as follows.

(2) In subsection (1)—

(a) the words after "if" become paragraph (a) of that subsection,

(b) in that paragraph, for "subsections (3) to (4)" substitute " subsections (3), (3A) and (4) ", and

(c) at the end of that paragraph insert ", or

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

(3) After subsection (3A) insert—

"(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) In subsection (5)(a), for " "oil field" has" substitute " "oil" and "oil field" have".

(5) The amendments made by this section have effect in relation to expenditure incurred on decommissioning carried out on or after the day on which this Act is passed.

91 Expenditure on decommissioning certain redundant plant or machinery

(1) In section 164 of CAA 2001 (general decommissioning expenditure incurred before cessation of ring fence trade), after subsection (1B) insert—

"(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 amendment made by this section has effect in relation to expenditure incurred on decommissioning carried out on or after the day on which this Act is passed.

92 Expenditure on site restoration

(1) Part 5 of CAA 2001 (mineral extraction allowances) is amended as follows.

(2) In section 395 (qualifying expenditure), in subsection (1)(d), omit "post-trading".

(3) In section 403 (qualifying expenditure on acquiring a mineral asset), after subsection (2) insert—

"(2A) For the purposes of this section the reference to expenditure on acquiring a mineral asset does not include expenditure incurred on the restoration of a relevant site (within the meaning of section 416 or 416ZA)."

(4) In section 416 (expenditure on restoration within 3 years of ceasing to trade)—

(a) in subsections (1)(a) and (6)(a), before "mineral extraction trade" insert " relevant ";

(b) in subsection (5), at the end insert—

"But it does not include decommissioning any plant or machinery (within the meaning of section 163).";

(c) after subsection (7) insert—

"(7A) Relevant mineral extraction trade" means a mineral extraction trade that is not a ring fence trade within the meaning of Part 8 of CTA 2010 (see section 277 of that Act).";

(d) the heading of section 416 becomes " **Non-ring fence trades: expenditure on restoration within 3 years of ceasing to trade** ".

(5) In Chapter 5, after section 416 insert—

"**416ZA Ring fence trades: expenditure on site restoration**

(1) If—

(a) a person who is carrying on, or has ceased to carry on, a ring fence trade incurs expenditure on the restoration of a relevant site,

(b) that part of the restoration work to which the expenditure relates has been carried out, and

(c) the expenditure has not been deducted in calculating for tax purposes the profits of any trade carried on by the person,

the net cost of the restoration is qualifying expenditure for the relevant period in which that part of the work to which the expenditure relates was carried out.

(2) "Relevant period" means—

(a) in the case of restoration work carried out while the person is carrying on the trade, a chargeable period, and

(b) in the case of restoration work carried out after the person has ceased to carry on the trade, a notional accounting period.

For the meaning of "notional accounting period", see section 416ZB.

(3) The qualifying expenditure for a notional accounting period is treated as incurred on the last day of trading.

(4) If the amount of expenditure incurred on any part of the restoration work carried out in a relevant period is disproportionate to that part of the restoration work, only so much of the net cost of the restoration as is proportionate to that part of the restoration work (the "allowable expenditure for the period") is to be treated as qualifying expenditure for that period.

(5) But subsection (4) does not prevent that part of the expenditure that is not allowable expenditure for the period from being treated as qualifying expenditure for a subsequent relevant period.

(6) If any expenditure incurred by a person is qualifying expenditure under this section—

(a) the whole of the expenditure on the restoration (not just the net cost) is not deductible in calculating the person's income for any tax purposes, and

(b) none of the amounts subtracted to produce the net cost is to be treated as the person's income for any tax purposes.

(7) "Restoration" includes—

(a) landscaping,

(b) in relation to land in the United Kingdom, the carrying out of any works required as a condition of granting planning permission for development relating to the winning of oil from an oil field,

(c) in relation to land in the UK marine area, the carrying out of any works required in order to comply with—

(i) an approved abandonment programme,

(ii) a condition to which the approval of an abandonment programme is subject, or

(iii) a requirement imposed by the Secretary of State, or an agreement made with the Secretary of State, in relation to a relevant site, and

(d) in relation to land in a foreign sector of the continental shelf, the carrying out of any works required in order to comply with anything corresponding to a matter within paragraph (c)(i), (ii) or (iii) under the law of a territory outside the United Kingdom.

But it does not include decommissioning any plant or machinery (within the meaning of section 163).

(8) A "relevant site" means—

(a) the site of a source to the working of which the ring fence trade relates (or related), or

(b) land used in connection with working such a source.

(9) "The net cost of the restoration" means the expenditure incurred on the restoration less any amounts that—

(a) are received, or are to be received, by the person, and

(b) are attributable to the restoration of the relevant site.

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

(11) 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,

"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 territory outside the United Kingdom,

"oil" and "oil field" have the same meaning as in Part 1 of OTA 1975,

"ring fence trade" has the same meaning as in Part 8 of CTA 2010 (see section 277 of that Act), and

"UK marine area" has the meaning given by section 42 of the Marine and Coastal Access Act 2009.

416ZB "Notional accounting period"

(1) For the purposes of section 416ZA "notional accounting period", in relation to a person ("the former trader") who has ceased to carry on a ring fence trade, 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—

(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.

(2) But there are to be no notional accounting periods after the end of the post-cessation period (see subsection (4)).

(3) "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 (6) and (7)), and

(c) the end of the post-cessation period.

(4) "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 the appropriate authority is satisfied that the restoration of the relevant site has been completed.

(5) In subsection (4) "the appropriate authority" means—

(a) in the case of restoration falling within section 416ZA(7)(c), the Secretary of State, and

(b) in any other case, such person or body as the Commissioners for Her Majesty's Revenue and Customs may specify.

(6) If the former trader—

(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 former trader's activities,

subsection (3)(b) applies with reference to the accounting date of such one of the trades as the former trader may determine.

(7) 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 (6) is inappropriate, the Commissioners may

by notice direct that the 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.

(8) Expressions used in this section and in section 416ZA have the same meaning in this section as they do in that section."

(6) In section 416B (first-year qualifying expenditure), in subsection (2), at the end insert " (within the meaning of section 403) ".

(7) Part 4 of CTA 2010 (loss relief) is amended as follows.

(8) In section 40 (ring fence trades: extension of periods for which relief may be given), in subsection (1)(b), for "403" substitute " by virtue of section 416ZA ".

(9) In section 43 (claim period in case of ring fence or mineral extraction trades), in subsection (1)(b)—

(a) after "416" insert " or 416ZA ", and

(b) for the words from "restoration" to "trade" substitute " site restoration ".

(10) The amendments made by this section have effect in relation to expenditure incurred on restoration carried out on or after the day on which this Act is passed.

93 Restrictions on allowances for certain oil-related expenditure

Schedule 32 contains provision in connection with restrictions on allowances for certain oil-related expenditure.

Changes to legislation:
There are currently no known outstanding effects for the Finance Act 2013, PART 2.