

1987 No. 1338

TAXES

The Petroleum Revenue Tax (Nomination Scheme for Disposals and Appropriations) Regulations 1987

Made - - - - 28th July 1987

Laid before the House of Commons 30th July 1987

Coming into force 22nd August 1987

The Commissioners of Inland Revenue in exercise of the powers conferred on them by section 61(8) of, and Schedule 10 to, the Finance Act 1987 (a) hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Petroleum Revenue Tax (Nomination Scheme for Disposals and Appropriations) Regulations 1987 and shall come into force on 22nd August 1987 but shall have effect with respect to things done on or after 9th February 1987.

Interpretation

2. In these Regulations unless the context otherwise requires—
- “blended oil” has the meaning given to it by section 63(1) of the Finance Act 1987;
 - “Board” means Commissioners of Inland Revenue;
 - “composite nomination” has the meaning given to it by regulation 5(2);
 - “the originating fields” has the meaning given to it by section 63(1) of the Finance Act 1987; and
 - “Schedule 10” means Schedule 10 to the Finance Act 1987.

Manner of making nominations

3.—(1) This regulation prescribes the manner in which a nomination of a proposed transaction by a participator may be made for the purposes of the scheme established by Schedule 10.

(2) A nomination, in addition to satisfying the requirements of paragraph 5(b) of Schedule 10, shall—

- (a) be made in writing by the participator who is proposing to carry out the transaction in respect of which the nomination is made;
- (b) specify the matters referred to in paragraph 5(1) of Schedule 10, subject to any modification thereof prescribed, in the case of a composite nomination, by regulation 6 or, in the case of a nomination of a proposed transaction in blended oil having effect for more than one field, by regulation 20; and
- (c) be transmitted to the Board at their chief office—

(a) 1987 c.16; Schedule 10 was amended by Schedule 8 to the Finance (No. 2) Act 1987 (c.51).

(b) Paragraph 5 was amended by paragraph 2(1) and (2) of Schedule 8 to the Finance (No. 2) Act 1987.

- (i) by telex,
 - (ii) by telephonic facsimile transmission,
 - (iii) by hand, or
 - (iv) by the recorded delivery letter service or the registered letter service,
- and subject to paragraph (3) below, transmission shall not be regarded as having been effected for the purposes of this sub-paragraph until the nomination is received by the Board at that office.

(3) If a nomination is transmitted by post in accordance with paragraph (2)(c)(iv) above and—

- (a) a record of the date of posting is obtained from the Post Office at the time of posting and
- (b) if the Board so request, that record is produced to them for their inspection, and
- (c) the Board are satisfied with the record so produced,

the nomination shall be treated as having been received by the Board before five o'clock in the afternoon of the day following that on which it was posted.

Composite nominations

4. A contract of sale is of the description specified in this regulation if—

- (a) it provides for the supply of oil in more than one month in one or more chargeable periods, and
- (b) in relation to each supply of oil under the contract, the terms are the same in so far as they specify—
 - (i) the identity of the participator supplying the oil,
 - (ii) the person to whom the oil is to be sold,
 - (iii) the kind of oil which is to be delivered,
 - (iv) the unit price of the oil to be supplied or, as the case may be, the formula under which, in accordance with the contract, the price for that oil is to be determined, and
 - (v) the quantity of oil to be supplied.

5.—(1) Where a participator nominates a proposed sale under a contract of sale of the description specified in regulation 4, it shall be treated as a composite nomination for the purposes of these Regulations if he so elects when making the nomination.

(2) A composite nomination shall have effect as a nomination of a proposed sale for each month in the chargeable period or periods (being not more than two in number) specified in the nomination.

6.—(1) This regulation prescribes the modifications subject to which Schedule 10 is to have effect in relation to a composite nomination.

(2) The transaction base date prescribed for a proposed sale which is the subject of a composite nomination is the date which would have been the transaction base date prescribed by regulation 7, if the composite nomination were to have had effect as a nomination of a single proposed sale, being the first supply of oil under the contract of sale in the chargeable period or periods specified in the nomination.

(3) Paragraph 5(1)(f) of Schedule 10 shall not be applicable in the case of a composite nomination.

(4) A composite nomination shall not be effective unless, in addition to the matters referred to in paragraph 5(1)(a) to (e) and (g) and (h) of Schedule 10, it specifies the chargeable period or periods for which it is made.

(5) Subject to paragraph 7(3) of Schedule 10, in the case of a proposed sale which is the subject of a composite nomination, the nominal volume means the quantity of oil which it is proposed should be delivered under the contract of sale in each month in the chargeable period or periods specified in the nomination.

Transaction base date

7.—(1) This regulation prescribes the transaction base date for the purposes of paragraph 4 of Schedule 10 in relation to proposed transactions of the kinds described in paragraph 2(1) (a), (b) and (c) of that Schedule.

(2) The transaction base date for a proposed sale shall be determined in accordance with regulation 8.

(3) The transaction base date for a proposed supply or a proposed appropriation shall be the first day of the month immediately preceding the proposed delivery month.

8.—(1) Subject to paragraph (2) below, the transaction base date for a proposed sale shall be the earlier of—

- (a) the date on which there is an agreed price at which any oil which is to be delivered pursuant to the contract of sale will be sold, and
- (b) the date, if any, on which there is an agreed formula under which, in accordance with the contract, the price for that oil is to be determined.

(2) If the date referred to in paragraph (1)(b) above is the earlier and that date is earlier than the first day of the month immediately preceding the proposed delivery month, the transaction base date shall be the earliest of—

- (a) that first day;
- (b) the date on which any invariable factor in an agreed formula is itself agreed where that factor is expressed as a price per barrel of an amount greater than 2 dollars in the currency of the United States of America;
- (c) the last business day before the first day of any period referred to in an agreed formula for any purpose connected with the determination, in accordance with the formula, of the price at which the oil is to be sold; and
- (d) the date referred to in paragraph (1)(a) above.

Nominal volume

9.—(1) This regulation prescribes the manner in which the quantity of oil which it is proposed to deliver under the contract of sale, or to supply or relevantly appropriate, is to be expressed for the purpose of specifying the nominal volume with respect to a proposed transaction.

(2) The quantity of oil may be expressed for that purpose—

- (a) as a specific volume plus or minus a tolerance expressed as a percentage of that specific volume; or
- (b) as the whole, or as a specified fraction, of the participator's equity production for the proposed delivery month; or
- (c) in the circumstances described in paragraph (3) below, by a statement to the effect that the quantity of oil which it is proposed to deliver under the contract of sale is a volume of oil equivalent to the capacity, or a specified fraction of the capacity, of any of the vessels referred to in sub-paragraph (b) of that paragraph the capacities of which are specified in the statement, plus or minus a tolerance expressed as a percentage of that volume; or
- (d) in the case of a proposed sale which is the subject of a composite nomination, in the same manner as the quantity of oil to be delivered in each month under the contract of sale is expressed in that contract.

(3) The circumstances described in this paragraph are—

- (a) that the proposed transaction is in respect of oil to be delivered or appropriated from a field situated in the territorial sea of the United Kingdom or a designated area;
- (b) that oil of the kind in respect of which the nomination is made is transported from that field to the United Kingdom by means of two or more vessels which are customarily used for that purpose;
- (c) that the capacities of those vessels are not all the same; and
- (d) that, at the time when the nomination is made, the participator does not know which of those vessels will be used to transport the oil to which the nomination relates.

10. The maximum tolerance prescribed for the purposes of Schedule 10 is 5 per cent. of a volume of oil.

Withdrawal and amendment of nominations – proposed sales

11.—(1) Where a participator who has nominated a proposed sale does not deliver any oil forming part of his equity production in pursuance of the contract of sale in the proposed delivery month, he may—

- (a) withdraw the nomination, or
- (b) if he delivers oil forming part of his equity production in the immediately preceding or next following month in pursuance of the contract of sale, amend the nomination in accordance with paragraph (2) below,

by giving notice in writing to the Board of the withdrawal or, as the case may be, the amendment in accordance with regulation 14.

(2) Where, in the circumstances described in paragraph (1) above, the participator is entitled to amend the nomination, he may do so by altering—

- (a) the proposed delivery month to the month in which he actually delivers oil forming part of his equity production, and
- (b) the nominal volume to the quantity of oil forming part of his equity production which he actually delivers in the proposed delivery month as so altered.

(3) Where a participator amends a nomination in accordance with paragraph (2) above, Schedule 10 shall apply to it subject to the modifications specified in paragraphs (4) and (5) below.

(4) The effective volume in relation to a proposed sale which is the subject of a nomination amended in accordance with paragraph (2) above is the nominal volume as altered in the amended nomination.

(5) If, in relation to a month which becomes the proposed delivery month in an amended nomination, the participator's aggregate effective volume would exceed his equity production for that month, the amended nomination shall be treated for the purpose of paragraph 10(2) of Schedule 10 as having been made before any nomination for that month which has not been amended.

12.—(1) Where a participator who has nominated a proposed sale delivers oil forming part of his equity production in pursuance of the contract of sale in the proposed delivery month in a quantity which is less than the nominal volume specified in the nomination, he may amend the nomination in accordance with paragraph (2) below by giving notice in writing of the amendment to the Board in accordance with regulation 14.

(2) In the circumstances described in paragraph (1) above, the participator may amend the nomination by altering the nominal volume to the quantity of oil forming part of his equity production which he actually delivered in the proposed delivery month.

(3) Where a participator amends a nomination in accordance with paragraph (2) above, Schedule 10 shall apply to the amended nomination subject to the modification that the effective volume in relation to the proposed sale which is the subject of the nomination is the nominal volume as so altered.

13. In any case where a nomination is amended in accordance with regulation 11(2) or 12(2), and other terms of the proposed sale than those corresponding to the amendment of the nomination have been varied as a result of the circumstances giving rise to the amendment, the nomination shall be treated as having been further altered in accordance with those variations.

14. Notice to the Board of any withdrawal or amendment of a nomination under regulation 11(1) or 12(1) shall—

- (a) specify which of the conditions in paragraph 8(2) of Schedule 10 applies in relation to the withdrawal or amendment in question and the circumstances in which that condition is satisfied;
- (b) in the case of notice of an amendment, specify the alterations made to the nomination (including alterations treated as having been made under regulation 13) as a result of the amendment; and

- (c) be given before the end of the month next following the proposed delivery month.

Withdrawal and amendment of nominations – proposed supplies and appropriations

15. Where a participator who has nominated a proposed supply or a proposed relevant appropriation does not supply or, as the case may be, appropriate any oil forming part of his equity production in accordance with the nomination in the proposed delivery month, he may withdraw the nomination by giving notice in writing of the withdrawal to the Board in accordance with regulation 17.

16.—(1) Where a participator who has nominated a proposed supply or a proposed relevant appropriation delivers or, as the case may be, appropriates oil forming part of his equity production in accordance with the nomination in the proposed delivery month in a quantity which is less than the nominal volume specified in the nomination, he may amend the nomination in accordance with paragraph (2) below by giving notice in writing of the amendment to the Board in accordance with regulation 17.

(2) In the circumstances described in paragraph (1) above, the participator may amend the nomination by altering the nominal volume to the quantity of oil forming part of his equity production which he actually supplied or, as the case may be, appropriated in the proposed delivery month.

(3) Where a participator amends a nomination in accordance with paragraph (2) above, Schedule 10 shall apply to the amended nomination subject to the modification that the effective volume is the nominal volume as so altered.

17. Notice to the Board of any withdrawal or amendment of a nomination under regulation 15 or 16(1) shall—

- (a) specify which of the conditions in paragraph 8(2B)(a) of Schedule 10 (as modified, in the case of a nomination of a proposed transaction in blended oil, by regulation 20) applies in relation to the withdrawal or amendment in question and the circumstances in which that condition is satisfied;
- (b) in the case of notice of an amendment, specify the alteration made to the nomination as a result of the amendment; and
- (c) be given before the end of the month next following the proposed delivery month.

Conversion of nominated price into sterling

18.—(1) This regulation provides for the conversion into sterling of a nominated price which is expressed in a currency other than sterling—

- (a) where the participator delivers oil in pursuance of the contract of sale in the proposed delivery month, and
- (b) in all other cases.

(2) In the circumstances described in paragraph (1)(a) above, the nominated price shall be converted into sterling by reference to the date on which the delivery of oil takes place.

(3) In all other cases oil shall be treated as having been delivered on the fifteenth day of the proposed delivery month and, accordingly, the nominated price shall be converted into sterling by reference to that date.

Nominations of proposed transactions in blended oil having effect with respect to more than one field

19.—(1) Subject to paragraph (2) below, a person who is a participator in two or more fields which, in relation to any blended oil, are or are included among the originating fields may make a nomination, having effect with respect to all the originating fields in which he is a participator, of a proposed sale, supply or appropriation of the blended oil in the manner prescribed by regulation 3; and, in this and the next following regulation—

(a) Paragraph 8(2B) was inserted by paragraph 3(1) of Schedule 8 to the Finance (No. 2) Act 1987.

- (a) "a nomination of a proposed transaction in blended oil" means such a nomination of a proposed sale, supply or appropriation as is described in this paragraph; and
- (b) "proposed delivery month" means the month for which a nomination of a proposed transaction in blended oil is to have effect.

(2) A nomination of a proposed transaction in blended oil may not be made by a person who is a participator in two or more fields, if that person has at any time made a nomination, having effect with respect to one of the originating fields, of a proposed sale, supply or appropriation of blended oil which is to have effect for any month in the chargeable period in which the proposed delivery month falls.

20.—(1) This regulation prescribes the modifications subject to which Schedule 10 is to have effect in relation to a nomination of a proposed transaction in blended oil.

(2) In Schedule 10—

- (a) "participator" shall include a person who is a participator in two or more fields;
- (b) a participator's share of oil won from an oil field shall be construed as meaning his share of blended oil won from the originating fields in which he is a participator; and
- (c) a participator's nominated transactions shall be construed as meaning transactions by him in blended oil which have been the subject of a nomination of a proposed transaction in blended oil.

(3) If a nomination of a proposed transaction in blended oil has been made by a person who is a participator in two or more fields, he may not make a nomination, having effect with respect to one of the originating fields, of a proposed sale, supply or appropriation of blended oil which is to have effect for any month in the chargeable period in which the proposed delivery month falls.

(4) A nomination of a proposed transaction in blended oil shall not be effective unless it specifies the originating fields in which the person making the nomination is a participator.

(5) Paragraph 5(1)(c) of Schedule 10 shall not be applicable in the case of a nomination of a proposed transaction in blended oil.

(6) For paragraph 8(2B)(c) of Schedule 10 there shall be substituted—

"(c) in any case where the nomination is of a proposed supply or a proposed appropriation of blended oil, having effect for all the originating fields in which the person making the nomination is a participator, and that person is the field operator for any of those fields or the operator of a relevant system, if he is of the opinion that the failure referred to in sub-paragraph (2A) above was caused by action necessarily taken by him in the interests of safety or the prevention of pollution or in accordance with good oil field practice."

(7) For paragraph 8(2C)(a), (b) and (c)(a) of Schedule 10 there shall be substituted—

- "(a) a person is the field operator for an originating field if, in relation to that field, he is the person having the function of organising or supervising operations for searching or boring for or getting oil in pursuance of a licence; and
- (b) the expression "relevant system" is a reference to any system by which the blended oil in respect of which the nomination is made is transported, treated or stored prior to its disposal or relevant appropriation; and
- (c) a person is an operator of a relevant system, as defined above, if he is the person charged, or principally charged, with the operation of the system;"

(8) In order to determine a participator's aggregate nominated proceeds for the purposes of section 61 of the Finance Act 1987—

- (a) the amount resulting from the sum of the amounts referred to in sub-paragraphs (a) and (b) of paragraph 11(1)(b) of Schedule 10 shall be apportioned to the originating fields in which a person who has nominated transactions in blended

(a) Paragraph 8(2C) was inserted by paragraph 3(1) of Schedule 8 to the Finance (No. 2) Act 1987 (s.51).

(b) Paragraph 11(1) was amended by paragraph 5(1) of Schedule 8 to the Finance (No. 2) Act 1987, but the amendment will only have effect with respect to chargeable periods ending after such date as the Treasury may by Order appoint.

oil is a participator in shares proportionate to the volumes of blended oil allocated in accordance with the agreed method referred to in section 63(a) of the Finance Act 1987 to the shares which he has in those fields; and

- (b) the amount so apportioned shall be added to the amount (if any) of the aggregate nominated proceeds for that field computed in accordance with Schedule 10.

A. J. G. Isaac

T. J. Painter

28th July 1987

Two of the Commissioners of Inland Revenue

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which have effect from 9th February 1987, supplement and modify for particular cases the provisions of Schedule 10 to the Finance Act 1987 (as amended by Schedule 8 to the Finance (No. 2) Act 1987) ("Schedule 10") establishing a nomination scheme for certain disposals and appropriations of crude oil. The nomination scheme enables a participator in an oil field to nominate to the Inland Revenue those of his proposed transactions in crude oil from that field in a particular month which he intends should relate to his share of oil from the field ("his equity production"). Where a nominated transaction is in the event fulfilled from the participator's equity production, his liability for petroleum revenue tax purposes will be based on the price received in such of those transactions as are sales at arm's length and on market value in other cases.

Regulation 1 provides for title and commencement.

Regulation 2 provides for interpretation.

Regulation 3 prescribes the manner in which a nomination is to be made in order to qualify as a nomination for the purposes of Schedule 10.

Regulation 4 specifies the description of contracts of sale in relation to which a nomination may have effect under the Regulations as a nomination of a proposed sale for each of a number of months. Such nominations are referred to in the Regulations as "composite nominations".

Regulation 5 provides for the making of composite nominations and their effect.

Regulation 6 prescribes the modifications subject to which Schedule 10 is to have effect in relation to a composite nomination.

Regulation 7 prescribes that the transaction base date for a proposed sale is to be determined in accordance with the rules set out in regulation 8 and, in the case of a proposed supply or a proposed appropriation, is to be the first day of the month immediately preceding the proposed delivery month.

Regulation 8 sets out the rules for determining the transaction base date for a proposed sale.

Regulation 9 prescribes the manner in which the quantity of oil proposed to be delivered or appropriated is to be expressed for the purpose of specifying the nominal volume with respect to a proposed transaction.

Regulation 10 prescribes the limit of the tolerance which can be taken into account in ascertaining nominal volume.

(a) Section 63 was amended by section 101(3) of the Finance (No. 2) Act 1987.

Regulation 11 provides for the withdrawal or amendment of a nomination of a proposed sale where a participator has failed to deliver any oil from his equity production in the month in question and specifies the modifications subject to which Schedule 10 is to apply to such an amended nomination.

Regulation 12 provides for the amendment of a nomination of a proposed sale where a participator has delivered a smaller quantity of oil in the month in question than that specified in his nomination and specifies the modification subject to which Schedule 10 is to apply to such an amended nomination.

Regulation 13 provides for a nomination of a proposed sale to be treated as amended in other respects following its amendment under the provisions of regulation 11 or 12.

Regulation 14 provides for the matters that are to be specified in any notice of withdrawal or amendment of a nomination of a proposed sale.

Regulation 15 provides for the withdrawal of a nomination of a proposed supply or appropriation where a participator has failed to supply or appropriate any oil from his equity production in the month in question.

Regulation 16 provides for the amendment of a nomination of a proposed supply or appropriation where a participator has supplied or appropriated a smaller quantity of oil than that specified in his nomination and specifies the modification subject to which Schedule 10 is to apply to such an amended nomination.

Regulation 17 provides for the matters that are to be specified in any notice of withdrawal or amendment of a nomination of a proposed supply or appropriation.

Regulation 18 provides for the conversion into sterling of a nominated price which is expressed in a currency other than sterling.

Regulation 19 provides for the making by a person who is a participator in two or more oil fields of a nomination, having effect with respect to all those fields, of a proposed sale, supply or appropriation of oil which is a mixture of oil from those fields or from a number of fields which include those fields ("blended oil").

Regulation 20 prescribes the modifications subject to which Schedule 10 is to have effect in relation to a nomination of a proposed transaction in blended oil under regulation 19.

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