

## Oil and Gas Industry Direct Tax Forum: Notes of Meeting Monday 12th May 2014

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Attendees:	
Alan Tume (HMRC) Andrew Hoar (HMRC) Tony Chanter (HMRC) Anne Hurdman (HMRC) Ray Daly (HMRC) Carolinn Booth (HMRC) Natalie Reeder (HMRC) Russell Malloch (HMRC) Matt Ray (HMT) Mike Earp (DECC)	Andrew Enever (UKOITC Chair) Ksenia Kourbatova (UKOITC Technical Secretary) Dan Espie (Total) Roman Webber (Deloitte) Chris Waterton (Centrica) Louise Higginbottom (Norton Rose Fulbright) Graham Metcalf (Shell) Stewart Norman (CW Energy) Nick Harris (GDF Suez) Sally Carroll (Petrofac) Alistair Levin (BP) Patrick Burnett (Conoco Phillips) Carolyn Sarrau (Fairfield Energy) Brian Percival (OGUK) Tim Murrills (ExxonMobil) Sandee Osborne (ENI) Andrew Lister (KPMG) Simon Gell (JX Nippon) Martin Kirkham (Chevron) David Fletcher (Enquest)

### 1. Minutes of last meeting, apologies, matters arising and Action Points

- 1.1 Notes of the last meeting were agreed, with the only outstanding action point being in relation to an R&D issue, which Industry will follow-up on.

*NOTE: It was subsequently established that a submission has been made to the HMRC R&D team (and copied to Alan Tume), so this action point is complete.*

### 2. Finance Bill

#### 2.1 Reinvestment Relief

- 2.2 HMRC advised that they are content with the legislation as it stands and that the definition of E&A expenditure does, in their opinion, cover the acquisition of a licence.

- 2.3 HMRC will ensure that this is clear from guidance and will share the guidance with Industry before it is published.
- 2.4 Bareboat charter measure
- 2.5 HMRC thanked Industry for their contributions to the consultation on the draft bareboat legislation, which closed on 9 May.
- 2.6 The legislation will be amended in response to feedback on the definition of accommodation and HMRC hope that it will be possible to share this before the legislation is introduced at Report Stage at the beginning of July.

### **3. Oil & Gas Policy**

- 3.1 Fiscal Regime Review
- 3.2 HMT advised that the review is at an early scoping stage but is ostensibly a stock-take on the direction of travel for the regime over the long term. The review will be an opportunity for industry to discuss the long-term future of the fiscal regime with the Treasury, in the context of the outcomes of the Wood Review. The review will not be considering personal tax or NICs but will look broadly at the upstream taxes. It is not necessarily the case that the review will result in wholesale or immediate changes; the review may conclude that only small changes are needed, and/or that any changes should only be considered in the medium to long term.
- 3.3 In terms of timing it is expected that there will be a call for evidence in early summer, with consultation up to Autumn Statement, followed by a fairly high-level report at Autumn Statement setting out a road map and principles.
- 3.4 Industry queried the end date for the review. HMT advised that this could go beyond FB15 depending on whether the review concludes that changes are needed and, if so, when. There would be further consultation on the detail of any changes following the Autumn Statement publication.
- 3.5 uHP/HT
- 3.6 HMRC advised that uHP/HT is a new cluster allowance announced at Budget. A number of meetings have been held with Industry to discuss this but these have been at a fairly high-level. There has also been some ongoing work to define what is meant by a cluster. There will be more meetings over the coming weeks (with another "Town Hall" event later in the week) and consultation over the summer.
- 3.7 Industry noted that HMT have been very clear as to what is needed from Industry and by when; and this approach is welcomed. Industry also noted that it would be useful to ensure that the results from the uHP/HT and Fiscal Regime reviews dovetail.
- 3.8 BFA
- 3.9 HMRC advised that discussions have been ongoing over the Brown Field Allowance. Industry have been seeking clarity on where the line should be drawn between capital and revenue; particularly in relation to well workovers.

- 3.10 A meeting on 1 May has proved helpful and, although it is difficult to define exactly what should be capital and what should be revenue (as each case will depend on the facts), HMRC is hopeful that it will be possible to narrow down the grey areas. **Industry are going to make an initial attempt at defining where the lines should be drawn and will make representation to HMRC as soon as possible.**
- 3.11 HMRC and DECC have taken on board that it might be better for HMRC to get involved in discussions at an earlier stage. It has also been suggested that guidance on the role of the independent cost verifier should be amended.
- 3.12 EITI
- 3.13 On the scope of EITI HMRC advised that the Multi Stakeholder Group (MSG) has decided that upstream taxes will be included as well as tax payments by mining companies in respect of profits from extraction. Some other payments to government will be reportable; including payments for licences. Reporting at field level for PRT is still being discussed although it is likely that this will apply.
- 3.14 The MSG is trying to ensure that EITI is linked up with the new Accounting Directive as far as possible.
- 3.15 On the general approach to reporting, the MSG has indicated that they are content with a voluntary, consent-based approach in relation to tax payments, although this is still subject to final agreement from constituents. Internal discussions are ongoing within HMRC on how this might work in practice. Industry noted that it will be important for companies to have enough time to undertake their own legal reviews on consent (i.e. taxpayer confidentiality waiver).
- 3.16 Other points which were raised:
- Ashley Shackleton has drafted some Q&A for companies to help them understand what might be required of them in respect of EITI.
  - Andrew Enever and Stephen Blythe are the main Industry contacts and are full MSG members. If there are any questions, Industry are encouraged to contact these representatives.
  - OGUK holds pre-meetings before every MSG, which members are welcome to attend to feed in their views.
  - Consultation on the Accounting Directive closes on 16th May so if groups have any comments they should make these to BIS as soon as possible. There will be overlap between this and EITI.

#### **4. Oil & Gas Operational Issues**

- 4.1 HMRC update on structural changes
- 4.2 HMRC advised that there has been a re-organisation within HMRC such that all companies dealt with by a CRM are now under one directorate called Large Business. Judith Knott is the Director. The directorate is regional; with 8 regions, 1900 staff and around 2000 businesses.
- 4.3 Those groups with a CRM should not notice any difference in terms of their interaction with HMRC. Oil & Gas will remain sectorised and Scotland will

retain responsibility for the ring fence companies they currently deal with even if they do not fall within Large Business.

- 4.4 Excise specialists in the Oil & Gas sector will remain. For businesses coming into the new directorate they will continue to use CITECH resource (whose specialists sit outside Large Business) but these specialists are still very much part of the CRM model.
- 4.5 PRT certificates
- 4.6 HMRC advised that they have consulted internally and are unable to provide any more than the minimum information necessary in order to calculate the reference amount. This is because there are stringent legal restrictions on disclosure of taxpayer information and it could be a criminal offence where information is shared unlawfully.
- 4.7 However, HMRC is clear that this issue cannot delay companies moving to post-tax. As soon as a business demonstrates exactly why additional information is necessary then the certificates will be provided.
- 4.8 Industry expressed frustration that the certificates do not provide the information that security holders require, particularly as this was agreed verbally during the discussions on Decommissioning Certainty. A letter from ExxonMobil was provided to HMRC at the end of the meeting that outlines some of the reasons why further information is necessary.
- 4.9 OGUK advised that they are gathering data confidentially from their members and are aware that some companies are not moving to post-PRT because of this issue. Industry will raise this at the next Fiscal Forum.
- 4.10 HMRC noted that the information requested contains a lot of detail about the profitability of certain fields and, even if all those around the table are content for this to be shared, there may be other companies that would object. However, HMRC emphasised that the issue can be resolved as soon as necessary and it should not delay any moves to post-tax. It was suggested that additional information might only be required where Oil Allowance has been claimed or PRT has been paid at other than 50%. If this is the answer then the problem can be resolved very quickly indeed.

## **5. Oil & Gas Technical Issues**

- 5.1 Gas valuation project
- 5.2 Since the last Direct Tax Forum all meetings with groups have been held and advice has been taken from an independent industry specialist. An initial report has been drafted but has not yet been discussed internally within HMRC. It is anticipated that HMRC will be in a position to advise Industry of the recommendations of the report by the next meeting of the Direct Tax Forum. The industry specialist did suggest that certain aspects of particular gas pricing methodologies need further consideration and, as such, LBS O&G will be approaching the companies concerned by the end of June 2014.
- 5.3 **By the next meeting HMRC should be in a position to share findings and will begin to contact companies next month.**

## 6. Joint conference

- 6.1 HMRC advised that arrangements for the conference are underway, which will be held on 20 November at the Treasury Auditorium at 1 Horse Guards Road. HMRC will take on board the feedback from last year that more table discussions would be useful.

## 7. AOB

- 7.1 A letter has gone out to all customers in Oil & Gas advising companies to be vigilant of MTIC fraud in the gas and electricity markets. HMRC are aware of increased activity in this area and companies should be alert for new customers offering particularly good terms. This may be an indication that something is amiss. MTIC fraud is theft from the government and HMRC take this very seriously. **HMRC will provide an anonymised letter for UKOITC and OGUk so that they can alert their members.**
- 7.2 A query was raised by Industry in respect of enquiries into Supplementary Charge and "just and reasonable" apportionment. HMRC advised that all enquiries are being worked consistently across the sector and responses on methodology are currently being analysed.
- 7.3 The next Direct Tax Forum will be on Monday 11th August at 3pm.