

Oil and Gas Industry Direct Tax Forum: Notes of meeting Monday 28 September 2015

1. Minutes of last meeting, apologies, matters arising and action points

- 1.1 Alan Tume (AT) welcomed everyone to the meeting.
- 1.2 There were no matters arising from the Minutes of the last meeting on 16th July 2015.

2. Oil and Gas Tax Policy

i) Policy update including Fiscal Forum

- 2.1 HMT explained that Oil and Gas now falls into the portfolio of the new Exchequer Secretary (XST), Damian Hinds and that the Minister is taking an active interest in the Sector.
- 2.2 HMT noted that the next Fiscal Forum will be in December 2015 with the Minister hoping to visit Aberdeen to meet people from the industry over his recess.
- 2.3 HMT stated that the seismic surveys funded by HMT were underway (Rockhall Trench complete, Mid-North Sea High in progress) and that data from this may be made available prior to the 29th Seaward licensing round which would focus on these frontier areas.
- 2.4 HMT announced that a scoping document was being drafted on Investment Allowance to bridge the gap to a draft SI being provided. The scope expansion would be effective from the date this was shared with Industry. Industry asked if they could see the scoping document as soon as possible and HMT agreed.
- 2.5 HMT stated that a discussion would take place in London and Aberdeen on 7th October in order to take forward work streams on exploration, access to infrastructure, and barriers to utilising late life assets. The invitations were sent to the MD of each company as they are not just looking at fiscal matters. Equally HMT asked UKOITC members to ensure that tax was adequately represented as inevitably tax would be part of the discussions. Industry asked how the meeting with HMT and OGA would work. HMT stated that there would be separate working groups on each of the three strands and that terms of reference would be agreed at the outset. Industry requested HMT to submit papers including a draft agenda in advance of the working group meetings and this was agreed.
- 2.6 HMT advised that the Autumn Statement would be announced alongside the Spending Review and that it may not be as large a tax event as industry have been accustomed over recent cycles. The Autumn Statement may focus on the interaction with the Spending Review rather than offering an opportunity for piecemeal changes.

ii) PRT certificates

- 2.7 Ray Daly (RD) said that HMRC had, earlier that day, provided a revised version of the Waiver to Claire Ralph (CR) of Oil & Gas UK, which took account of comments from Industry. CR thought that good progress had been made and was hopeful that this was now the final iteration.

iii) EITI

- 2.8 Andrew Enever (AE) stated that the Independent Administrator had received approximately half of all template and waivers from the Oil & Gas Industry. Whilst this does not seem a high proportion we will know soon whether this accounts for the majority of businesses that are above the EITI threshold. AT stated that HMRC had compiled the necessary data and would be looking to provide this to the IA within the next three weeks for those businesses that had provided a waiver. CR pointed out that templates had been sent out to 46 companies belatedly and that this had delayed the process.

3. Oil and Gas Technical issues

i) SC apportionment of profits

- 3.1 Andrew Hoar (AH) stated that HMRC had sent a detailed analysis of its view to UKOITC and that he understood this had been recently circulated to all members. He explained that closure notices had been issued to all companies where we disagreed with the approach taken and where it was possible to issue such a notice. AH confirmed that each case was being dealt with on its own merits. It was possible that a tribunal judge would issue directions bringing cases together but AH thought that the very different fact patterns in each case argued against such an approach.

4. Other

i) Diverted Profits Tax (DPT)

- 4.1 AH welcomed the meeting that had taken place with Industry on DPT and thought that good progress had been made. He explained that captive Insurance companies were seen as high risk and that HMRC were looking into these in relation to its work on DPT. AT stated that the high level principles applied here and that HMRC would look to see if the intention of certain Captive Insurance companies were designed to divert profits from the UK through the use of contrived arrangements. AH explained that we recognised that some arrangements were commercial and gave the example of a company that was set up to insure the whole group, that re-insured all of the risk with a third party insurance provider and recharged the cost to each company with a small uplift consistent with a broker. He contrasted this with an arrangement that did not involve any third party re-insurance that would be seen as high risk.
- 4.2 Tim Murrills (TM) stated that industry's concern was that in reality many arrangements fell somewhere between the two examples given and that they were worried about the lack of certainty.

- 4.3 CR thought that the meeting on DPT had only been a partial success. They were reassured in some areas but were now more worried about Captive Insurance companies than they were before.
- 4.4 HMRC conformed that companies still in doubt over specific arrangements could make contact with their CRM

5. AOB

i) **Joint conference**

- 5.1. Paul Philip (PP) stated that a draft agenda for the joint conference on 12th November at 100 Parliament Street had been prepared and that the organisation was going well.

ii) **Alternatives to dial-in**

- 5.2. The issue was that some companies were effectively excluded from the Direct Tax Forum meetings because budget constraints prevented them from travelling from Aberdeen to London. In consequence, dialling into the meeting and other alternatives (e.g. holding some meetings in Scotland and video conferencing) had been suggested and discussed.
- 5.3. A dial-in link for people to use had been set up for this meeting but had unfortunately broken down part way through the meeting. Because of this problem the matter would be reviewed again to consider whether there were feasible alternatives.

iii) **Migration of HMRC internet content to GOV.UK**

- 5.4. AH mentioned that HMRC internet content was migrating to GOV.UK in the near future. There were some problems with landing pages which meant Oil and Gas Authority (OGA) and HMRC content appeared on the same page (e.g. "Oil and gas – guidance/Oil and gas: taxation") but at present only Mike Earp's name appeared as a contact for OGA. HMRC would arrange for this to be changed and in the meantime OGA requests should still go to OGA whilst tax queries should go to HMRC.

iv) **Next meeting**

- 5.5. As the HMRC/UKOITC Conference was taking place in November it was agreed that the next meeting would take place in February 2016 and that AT and AE would circulate a suggested date nearer the time.
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