Oil and Gas Industry Direct Tax Forum:
Draft Minutes of meeting held on Tuesday 06 September 2016

Attendee	Company	Attendee	Company
M Kirkham	Chevron	S Radlett	Exxon-Mobil
A Hurdman	HMRC	A Cartwright	HMRC
R Daly	HMRC	S Paler	Maersk
J Smith	Shell	A Willis	HMT
Z Leung-Hubbard	HMRC	N Strathdee	EY
C Garner	Dong Energy	P Greatrex	CW Energy
M Galloway	BP	C Angell	KPMG
T Oyelola	HMRC	J Lagrue	HMRC
A Hoar	HMRC	A Enevor	Shell
M Earp	OGA	S New	HMRC
S Carroll	Petrofac	J Harrison	Norton Rose Fulbright
R Clark	OMV	P Howorth	Marathon
J Doak	Vinson Elkins	J Marshall	HMRC
K Allen	Baker & McKenzie	C Yuill	Pinsent Masons
P Bostock	Centrica	A Blain	ConocoPhillips
P Burnett	ConocoPhillips	I Munro	Ithaca
Prof. A Kemp	University of Aberdeen	C Drummond	Apache
C Armstrong	Repsol Sinopec	S Inglis	CNR
L Ritchie	Maersk	J Bullen	Maersk
D Espie	Total	A Dunbar	PWC

1) Minutes of Last Meeting, Apologies, Matters Arising and Action Points

1.1) Andrew Hoar (AMH) opened the meeting and introductions were made. AMH thanked OGUK for hosting the meeting in London and Aberdeen

1.2) The minutes of the previous meeting were accepted as correct.

1.3) The minutes of historical DTF meetings have been published online (Link included at end of minutes). Actions and issues within the minutes of the previous meeting are covered within the agenda.

2) Updates and Going Forward

i) Roles and responsibilities within Oil & Gas Sector

2.1) Andrew Enever will be stepping down from his role as joint chair following this meeting, with Simon Paler replacing. AMH expressed his thanks for AE's contribution to the Forum on behalf of HMRC.

ii) HMRC Location Announcement

2.2) Sue New (SN) as part of the project team for the reorganisation of HMRC gave a summary of the current progress.

2.3) The relocations are part of a 5 year plan to make HMRC a more modern and efficient department. There will be a move from approximately 170 sites down to 13 major hubs. As such it is necessary to move the work that HMRC does around the country.

2.4) Oil and Gas work will be being transferred to Glasgow. This was signed off by Government and Excom late on in the time scale. The aim is to complete the move of work by 2021, moving 25%, 15-20 customers, each year. Individual customers will be informed as and when is required. The order of the move will not be discussed in advance, as the preference is to speak to customers individually.

2.5) It is understood that there are concerns over losing the expertise built up in London amongst industry, however it has been assured that the knowledge base within Glasgow will be built up in time for the moves.

2.6) HMRC recognises that Specialist functions such as CITEX and PRT will need more discussion before moving.

2.7) Discussion was had on the current difficulties industry have arranging face to face meetings with staff within Aberdeen. There is the concern that this will be the same with the new office in Glasgow. SN explained that as the moves occur, the budget will become available in Glasgow from London. It is planned that there will be sufficient budget for travelling down to London for meetings, however it is also intended for HMRC to modernise, allowing for more video conferences for example.

2.8) C Ralph on behalf of O&GUK stated that there was a missed opportunity to move some Supply Chain companies alongside the move to Glasgow. SN said that she would raise this with the relocation project team.

iii) Joint Conference

2.9) Draft agenda is in place, and speakers have been booked. AMH thanked contributors from industry on behalf of HMRC. The joint conference will be held on 1st December 2016.

3) Oil & Gas Tax Policy

i) Policy Update

3.1) Andrew Willis (AW) provided updates as follows:

3.2) Since the last Direct Tax Forum, HMT had circulated two notes to industry, asking for further information and evidence.

3.3) The first note covered decommissioning. There was a view in industry that uncertainty over decommissioning liabilities was creating a barrier to transactions of late life assets. HMT were keen to understand the full host of factors that might be driving a 'value gap' between buyer and seller, and to what extent the fiscal regime

could be affecting transfers of late life assets. HMT had asked for further evidence in this area and were happy to take contributions from members of the group.

3.4) The second note covered the extension of the investment and cluster area allowances to tariff income. This change had been announced at Budget 2016 and – once Royal Assent had been achieved – would be enacted through secondary legislation.

3.5) The note had raised some questions as to which objective HMT wanted to meet with this policy change. The objective was straightforward – owners of infrastructure should be able to activate and generate the allowances, where tariffs were being recovered. However, HMT understood that during the consultation on the Investment Allowance, there had been discussions around whether cost-share arrangements were simply an alternative methodology for determining payable tariff charges; and whether these payments would represent an indirect capital contribution to the owner, on behalf of the user. For this reason, HMT's note had asked for views on the ability to activate the allowance, as well as who should be the beneficiary.

3.6) There now appeared to be a consensus that – notwithstanding capital contribution arrangements – 'cost-share' payments represented a ring-fence revenue expense for the user, and therefore ring-fence income for the host. HMT welcomed this clarification and noted it would find it helpful to have reassurances that this was a view held by the full spectrum of participators in the ring-fence. HMT would be issuing a follow-up note shortly, and would be open to attending further meetings if helpful.

ii) Policy Update

3.2) Zoe Leung Hubbard (ZLH) provided updates as follows:

3.3) *SI on investment expenditure* - this is now in the final stages of drafting and will be submitted to Ministers after party conference recess. Subject to approval, this should then be laid in Parliament shortly afterwards.

3.4) *Consultations on loss reform and interest restriction* - The consultations on loss reform and interest restriction have now closed and ZLH thanked those who had responded. Colleagues leading on these areas are happy to take further submissions or have meetings if helpful. The current expectation is that an official response to the consultations will be published around Autumn Statement

3.5) *S673* – this matter was raised previously at the DTF in 2015 and as a result HMRC had some conversations with Deloitte and with Brindex. Following the loss reform work, the oil and gas policy team have decided to do a bit of work to look at how oil and gas losses are treated across all three taxes. As part of this, HMRC want to look again at S673 as it is being described as a factor in causing a number of prospective deals not to go ahead. In the meantime, HMRC are happy to publish some guidance in the Oil Taxation Manual if this would be helpful, but require industry assistance in drafting examples of scenarios which HMRC could then consider to say whether or

not S673 would be likely to be in point. HMRC would like all rep bodies to be involved in this. Phil Greatrex on behalf of Brindex offered to co-ordinate this.

iii) Tariff Income SI

3.2) ZLH stated that HMRC are on course to lay the secondary legislation which expands the definition of qualifying expenditure for the purposes of Investment and Cluster Area Allowances before Parliament after summer recess. NG confirmed that following the technical consultation, the scope has not been extended, nor are there significant changes to the previous drafts published.

4) Oil & Gas Technical Issues

i) PRT Administration Review

4.1) ZLH thanked those who had participated in the review. Ben Meggitt had sent out a request for responses to a survey and sent thanks to those who had already responded. HMRC understood that some operators were finding this difficult to complete in the timescale and appreciated responses as soon as possible. Internal recommendations from the Review will be completed by the end of September and Government will discuss how to take these forward. There will be further engagement with industry and updates will be delivered through the DTF.

4.2) It was acknowledged that the window for replying to the survey was short, and so, where possible, late responses will be accepted.

ii) Capital Allowances (5 year rule)

4.3) N Strathdee noted that industry had not had time to consider HMRC's response on this matter fully but that initial impressions were that it removed some of the uncertainty that had previously been introduced in this area. Nevertheless there were some areas which would likely require further consideration / discussion.

iii) Whole Field Operator Service Companies

4.4) Industry noted HMRC's comments but disagree with them. A written response will follow in due course. HMRC reiterated that its main concern had been with arrangements entered into simply to breach the ring fence, often without the knowledge of the other participators.

iv) **APRT**

4.5) Industry have found it useful to have HMRC's technical analysis on why refunds of PRT originally settled by way of offset of APRT are refunds of APRT rather than PRT, but disagree with them and noted the apparent inconsistency between the arguments used for PRT purposes and those used for CT/SC purposes. A written response will follow.

v) PRT Remaining as an Obstacle to MERUK

4.6) As a result of the letter from UKOITC to Andrew Hoar, these issues had been passed to the policy team. ZLH explained that HMRC's preferred approach is to consider all

PRT issues which require legislative change as a whole, so that resources can be prioritised. HMRC are also waiting for ministerial steers as to their priorities for the industry and any prospective measures that have Exchequer cost implications need to be considered as part of an overall package. With that in mind, HMRC's initial response to the issues identified in the UKOITC letter, having discussed this with HMT, was as follows:

4.7) PRT charge on asset disposal receipt – the analysis in the letter concluding that there is an effective PRT charge seems to be very fact dependent. It appears to HMRC to be more of a cash flow decision for the company. If there is evidence that assets are being mothballed in order to be sold after decommissioning, HMRC would be prepared to look at this, but for the present remain to be persuaded that this is something which needs action.

4.8) TETRs – similarly HMRC do not consider that there is yet sufficient evidence to persuade Government to prioritise this. It could be argued that retaining TETRs in a zero-rated PRT world is already a concession as these could have been abolished altogether. The PRT apportionment issue is already under discussion with LB.

4.9) S84 – there is a meeting scheduled for 7 September.

4.10) Licence interest where decommissioning liability retained for PRT – HMRC want to consider this further before reverting.

5) **AOB**

v) Next Meeting

5.1) Next meeting will be the conference on 1 December 2016.

5.2) There is currently no date set for the March meeting. AMH thanked O&GUK for hosting. CR explained that O&GUK would be happy to host again, however to ensure that there is a room available, it is recommended that a provisional booking is made. This can be adjusted later. AE said that he would look at when UKOIT were next meeting, and then request a provisional date.

vi) Link to Published Minutes

5.3) https://www.gov.uk/government/groups/oil-and-gas-industry-direct-tax-forum