

Clause 12: Petroleum revenue tax: post-transfer decommissioning expenditure

Summary

1. This clause enables participators in oil fields to obtain Petroleum Revenue Tax (PRT) relief for decommissioning expenditure where that expenditure was either incurred or funded by the previous holder of the interest in the oil field. The clause has effect for transfers of interests that have been given consent by the Oil and Gas Authority (OGA) on or after 1 November 2018.

Details of the clause

2. Subsection 1 provides for Schedule 3 Oil Taxation Act (OTA) 1975 to be amended.
3. Subsection 2 inserts new paragraph 11A into Schedule 3 OTA 1975.
4. Subsection 3 inserts new subparagraph (3) into paragraph 8 of Schedule 3 OTA 1975. This provides that paragraph 8 is subject to paragraph 11A.

Paragraph 11A

5. Subparagraph 1 provides that the paragraph applies where there has been a transfer for the purposes of Schedule 17 to FA 1980 (Transfers of Interests in Oil Fields) and the transfer was approved by the Oil and Gas Authority on or after 1 November 2018.
6. Subparagraph 2 disapplies the subsidised expenditure rules at paragraph 8(1) of Schedule 3 to OTA 75 where decommissioning expenditure which has been incurred by the new participator is met by the old participator. The new participator is therefore treated as having incurred such expenditure. The subparagraph further provides that where it applies the expenditure cannot be treated as having been incurred by anyone other than the new participator for all purposes of OTA 75.
7. Subparagraph 3 provides that subparagraph (4) applies where the old participator has ceased to be a licensee in the field at the end of the transfer period. That is, if the old participator has disposed of all of its interests in the relevant field.
8. Subparagraph 4 provides that where the old participator incurs decommissioning expenditure in respect of the field after the end of the transfer period such expenditure is deemed to have been incurred by the new participator. The subsidised expenditure rules are disapplied in respect of such expenditure.
9. Subparagraph 5 provides that where there has been more than one transfer of field interest between the old and the new participator and one (or more) of those transfers was approved by the OGA before 1 November 2018 any decommissioning expenditure met or incurred by

the old participator is to be apportioned on a just and reasonable basis for the purposes of the paragraph.

10. Subparagraph 6 sets out a number of definitions:
 - a. “Decommissioning expenditure” takes the definition from section 3(1)(i) and (g) OTA 75.
 - b. “The old participator”, “the new participator” and “the transfer period” all take their meaning from Schedule 17 to FA 1980.

Background note

11. This measure provides for PRT relief to be available for decommissioning expenditure where such expenditure is either incurred or met by the previous holder of a field interest (“the old participator”). Relief is given to the current holder of the field interest (“the new participator”).
12. Previously in these circumstances, and if the old participator had disposed of its entire field interest, no relief would have been available to either the old participator or the new participator.
13. Where the relief results in a loss for PRT purposes the new participator will be able to set that loss against its profits from the field. Any surplus will be transferred automatically at cessation of production to, in the first instance, the old participator, and then to previous holders of the relevant field interest in accordance with Schedule 17 to FA 1980.
14. The measure will make relief available where previously companies had to enter into complex and uncommercial arrangements to access relief. The structuring of transfers of field interests will therefore be simpler which is in accordance with the government’s policy of Maximising Economic Recovery (MER) of UK Petroleum.
15. If you have any questions about this change, or comments on the legislation, please contact Hugh Grainger on 03000 589 523 (email: hugh.grainger@hmrc.gsi.gov.uk).

