

# Budget 2009



BN09

22 April 2009

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## NORTH SEA FISCAL REGIME

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### Who is likely to be affected?

1. Oil and gas companies that operate in the UK or on the UK Continental Shelf (UKCS).

### General description of the measure

2. Legislation will be introduced in Finance Bill 2009 to include the measures outlined below.
3. Changes will be made to the ring fence corporation tax (RFCT) and Petroleum Revenue Tax (PRT) rules to facilitate change of use activities where North Sea assets and infrastructure are reused for purposes other than oil and gas production.
4. The chargeable gains rules will be amended to make it easier to allow companies to transfer their UK and UKCS assets to those most able to maximise the potential of those assets.
5. The PRT rules that provide relief for decommissioning costs will be extended to cover the situation where, as a result of licence expiry, a company is no longer a licensee. In addition, changes will be made to the PRT legislation to reduce the compliance burden and further simplify the regime.
6. The RFCT legislation will be amended to fully align the definition of a consortium with the general corporation tax (CT) definition.

### Operative date

7. The change of use measures will have effect respectively for RFCT in relation to expenditure incurred on or after 22 April 2009; and for PRT in relation to chargeable periods beginning after 30 June 2009.
8. The changes to the chargeable gains rules will have effect in relation to disposals made on or after 22 April 2009.

9. The changes to the PRT rules extending relief for decommissioning costs where the company is no longer a licensee will have effect for chargeable periods beginning after 30 June 2009.
10. The repeals and other changes to simplify the PRT regime will, where appropriate, have effect for chargeable periods beginning after 30 June 2009.
11. The change to the RFCT legislation to modify the definition of a consortium will have effect on or after 22 April 2009.

## **Current law and proposed revisions**

### Facilitating Change of Use

12. Under the current law as it relates to decommissioning:
  - companies carrying on a ring fence trade can carry decommissioning losses back against ring fence profits to 17 April 2002. However, where ring fence plant and machinery used for some other purpose is decommissioned, losses can only be carried back under the general CT rules (up to a maximum of three years);
  - companies can, after a ring fence trade has ceased, allocate all the decommissioning costs incurred after cessation to the final period of trading and thus benefit from the loss carry back described above. However there are no equivalent rules for ex-ring fence assets that are then used for some other purpose; and
  - the PRT rules allow relief for all of the costs of decommissioning. However, the relief is restricted if the asset in question has at some time been used for a non-PRT purpose.
13. Under the current law as it relates to the operation of PRT:
  - where a PRT asset is then used for some other purpose, part of the cost relieved for PRT is clawed back; and
  - the scope of income chargeable to PRT is extended to include income received in respect of the use of a qualifying asset and this could potentially include income arising from a change of use project.
14. The new rules for decommissioning will:
  - allow companies to set off decommissioning costs of change of use ex-ring fence assets against their ring fence profits and get equivalent relief for PRT change of use assets; and
  - allow companies access to full PRT relief for decommissioned ex-PRT assets.

The effect of the new rules will be to allow access to RFCT and PRT relief for the decommissioning costs of those North Sea assets that have been put to use in change of use projects, mirroring the treatment where decommissioning takes place after the asset ceases to be used for oil and gas production.

15. The new rules for the operation of PRT will:

- remove the claw-back PRT relief, where the asset has been wholly put to use for a qualifying change of use purpose; and
- remove income from change of use activities from the scope of PRT.

### Chargeable Gains

16. Under the current law as it applies to ring fence chargeable gains:

- where companies swap UK or UKCS licence interests post development, a chargeable gain can potentially arise; and
- where ring fence assets are disposed of, and the proceeds reinvested in other ring fence assets, the chargeable gain arising from the disposal can be 'held over' for up to 10 years before coming into charge.

17. The new rules for the calculation of chargeable gains will:

- provide that no chargeable gains arise on the swap of UK/UKCS licences, to the extent that the value of one licence matches another that it has been swapped for, bringing the treatment of developed assets in line with undeveloped ones; and
- provide that where the proceeds from the disposal of a chargeable asset in the ring fence are reinvested in another chargeable ring fence asset, no chargeable gain will arise.

### PRT licence expiry

18. Under the current law, companies cannot access PRT relief for decommissioning costs which occur more than 12 months after they have ceased to be a licence holder in respect of a taxable field.

19. The new rules will:

- allow companies decommissioning relief where they cease to be a participator in a field because a licence has expired; and
- ensure that any income that may arise in respect of the assets in question will also be chargeable to PRT.

### PRT Simplification

20. The current law as it relates to the operation of PRT will be simplified and repealed as described below:

- the statutory information requirement for commingled fields is to be replaced by a simpler "just and reasonable" allocation methodology.
- provisional expenditure allowance, introduced in order to mitigate the timing effects when expenditure relief was deferred is to be partially repealed. The new rules will immediately cease to apply the relieving provisions going forward, but will continue to apply for a further 12 months in order to claw back relief provisionally given in previous periods; and
- there will also be minor repeals of redundant legislation.

## Definition of a consortium within the ring fence

21. For the purposes of determining whether or not companies are associated, the current RFCT rules as they relate to the definition of a consortium, apply the general CT definition, but with certain modifications. The new rules will amend this definition to bring it into line with the general CT definition.

### **Further advice**

22. If you have any questions about these changes, please contact Mike Crabtree on 020 7438 6576 (email: [mike.crabtree@hmrc.gsi.gov.uk](mailto:mike.crabtree@hmrc.gsi.gov.uk)) or Paul Philip on 020 7438 6993 (email: [paul.philip@hmrc.gsi.gov.uk](mailto:paul.philip@hmrc.gsi.gov.uk)). Information about Budget measures is available on the HM Revenue & Customs website at [www.hmrc.gov.uk](http://www.hmrc.gov.uk)