

Oil and Gas Industry Direct Tax Forum: Quarterly meeting Wednesday 2 February 2011

Industry

Tim Murrills (TM)	UKOITC (Chair)/ExxonMobil
Michael Quinton (MQ)	UKOITC (Secretary)/ExxonMobil
Jacqui Akinlosotu (JA)	OTAC (ENI)
Andy Bishop (AB)	BG Group
Gordon Dennis (GD)	ConocoPhillips
Dan Espie (DA)	Total
Peter Gunn (PG)	OGIA
Robert Hodges (RH)	E&Y
Stewart Norman (StN)	CW Energy
Agustin Rivara (AR)	OGUK
Carolyn Sarrau (CS)	Fairfield
Chris Waterton (CW)	Centrica
Roman Webber (RW)	Deloitte

HMG

Jo Wakeman (JW)	HMRC: LBS Oil & Gas
Imran Shafi (IS)	HM Treasury
Claire Andrews (CA)	HM Treasury
Susan New (SN)	HMRC: LBS Oil & Gas
Trevor Small (TS)	HMRC: LBS Oil & Gas
Tony Chanter (TC)	HMRC: LBS Oil & Gas
Hugh Hedges (HH)	HMRC: LBS Oil & Gas
Russell Malloch (RM)	HMRC: LBS Oil & Gas
Paul Philip (PP)	HMRC: LBS Oil & Gas

Apologies

None

Agenda items

1 and 2. Minutes of last meeting, matters arising and action points (JW)

The minutes of the meeting held on 13 October 2010 were agreed and action points reviewed:

- **Action point 1(FA 2009):** Graham Metcalf (GM) was to arrange for a UKOITC member to contact PP to set up a meeting to discuss outstanding Field Allowance issues.
Status: Still to be completed. **Action point 1.**
- **Action point 2 (Decommissioning):** UKOITC and HMRC to complete the action points from the OGUK/HMG meeting held on 18 August 2010.
Status: Ongoing.

- **Action point 3 (Tight Gas):** KW will feedback outcome from the UKOITC working group meeting scheduled for Tuesday 19 October 2010.
Status: Agenda item 3(ii)
- **Action point 4 (Incremental investment):** OGUK working group to report progress.
Status: Agenda item 3(ii)
- **Action point 5 (Paper retention):** HMRC will send UKOITC a short paper to assist this work.
Status: Supplied in advance of the meeting agenda – Agenda item 4(ii)
- **Action point 6 (Conference):** HMRC would let GM know whom to chase for outstanding responses.
Status: Agenda item 6(i)
- **Action point 7 (AOB - Change to lease accounting rules):** HMRC to follow up.
Status: HMRC still to complete. **Action point 2**
- **Action point 8 (AOB – Change in application of CIS rules):** GM to provide more information, and HMRC to then provide an update.
Status: Agenda item 6(iii).
- **Action point 9 (AOB - Industry Direct Tax Forum):** HMRC to provide agenda 10 days in advance of next meeting, and to show the leads on each side for each topic.
Status: Noted and complied with.
- **Action point 10 (AOB – Oil Taxation Manual):** SN to provide details of missing parts of the OTM.
Status: Completed.

3. Oil and Gas: Tax Policy

i. Decommissioning (IS)

The Economic Secretary to the Treasury (EST) had asked industry for a meeting to try to take industry's concerns about decommissioning uncertainty forward. The meeting had been held on 1 February and covered a lot of ground, including:

- impact of uncertainty re decommissioning tax relief on companies;
- industry's basis for that uncertainty;
- possible solutions.

There had been a great deal of helpful input from industry, and EST believed officials and industry could work together to explore the extent to which the issue could be addressed.

TM confirmed that OGUK was meeting the following week to discuss how it would be contributing.

ii. Incremental investment (CA)

Government wants to support incremental investment where the fiscal regime is rendering otherwise commercial investment uncommercial. To that end industry was asked for evidence in November of examples of how the current fiscal regime might be hindering investment.

No substantive responses had yet been received and Government could only consider potential measures that were supported by an appropriate evidence base.

However, it was understood that industry might now consider that decommissioning was the overarching and larger issue that needed to be addressed.

TM added that industry had experienced difficulties distilling the relevant evidence and it was not the case that industry was holding anything back.

iii. **Finance Bill 2011** (HH)

Draft clauses had been published for consultation and one comment had been received, with an indication that there would be one other.

Industry agreed that the new process had been helpful. Being able to scrutinise the legislation earlier was better but the process was now slower which they felt might need further consideration.

TM wanted to raise a few other issues.

Office of Tax Simplification (OTS)

TM asked why there were still one or two reliefs affecting the oil and gas sector in Annex B of the OTS report.

Following discussion UKOITC confirmed that they would write to the OTS about the concerns they had.

Other issues

TM was aware there were a number of other outstanding issues that were being taken forward and asked about progress.

PP reminded the meeting there were a number of issues relating to Decommissioning Security Agreements (DSA), with open action points with both industry and HMRC. The most recent developments had been email exchanges between AR and PP in the last couple of days.

In addition, there were still some open points from the Change of Use (CoU) meeting that had taken place on 1 November:

- One of the main messages that HMT/HMRC wanted to get across was the need to focus on the substantial issues and the need for compelling evidence to avoid dilution of overall policy focus.
- If there were compelling reasons to look at the development of proposals then any work being taken forward would be to a Finance Bill 2012 timetable, at the earliest.
- One particular open issue related to deemed disposals and the potential difficulties this might create for industry. Ray Hall's letter of 1 December provided an example of the difficulties that might arise.
- Progress had been made on a number of the more straightforward issues. And, on the PRT front TC had been in touch with Ray Hall and GD.

Action point 3: PP agreed to take forward the further work that was needed to progress the DSA and CoU issues.

EU ETS

RW indicated there were a number of issues with the scheme as it affected the oil and gas sector. These included:

- the application of current tax treatment continuing to apply to Phase III of the EU ETS scheme
- HMRC's views in relation to the tax position of some other matters relating to the application of Phase III
- the tax position in respect of allowances purchased under the CRC Energy Efficiency Scheme

Action point 4: RW will write to HH confirming and providing more details.

4. Oil and Gas: Operational issues

i. Spending Review and HMRC business planning (JW)

Over the four year period covered by the Spending Review (to 2014-15) HMRC is reducing its overall spend by 25 per cent. The administration budget is being cut by 33 per cent but ministers have agreed to reinvest £900 million over the review period to allow a particular focus on avoidance, evasion and criminal attack. The reinvestment means a net reduction of 15 per cent for HMRC.

Implementation planning work is still underway and LBS doesn't yet know what finalised changes will mean for the Oil and Gas Sector but it will mean efficiencies of around 15 per cent over the spending review period.

It is not anticipated that these efficiencies will have any impact on LBS's working relationship with the oil and gas industry. LBS will be looking to implement more efficient and effective internal working with an aim to improve delivery through the customer centric business strategy. The CRM will remain at the heart of the relationship with business and will be central to the improvements that are being looked for.

Industry was reassured with this message and the commitment to keep the CRM function at the heart of the relationship. Industry also felt it would be a bad move to step back from the risk assessment strategy. In addition, they felt that HMRC should be looking at its succession planning in certain areas. In particular there were succession issues for industry as well as HMRC around Excise work. LBS agreed it would keep industry informed.

ii. Decommissioning – retention of papers and administration issues (HH)

A paper had been sent to industry with the agenda to facilitate joint HMRC/industry working.

At the last meeting it had been recognised that there might be a number of issues in connection with retaining papers beyond the period required by law. It was hoped these issues could be jointly resolved, with industry input, to ensure the right papers were retained for the periods they would be needed.

UKOITC agreed this was an item it would need to discuss at its next meeting.

Action point 5: To ensure this item remains on the agenda for future meetings.

iii. **Local Compliance Issues (RM)**

RM indicated that there was not a great deal to report from his perspective. He confirmed that the Customer Co-ordinator role was more firmly established and now embedded in business as usual.

RM reiterated that if there were any particular issues he should be made aware of them. StN reported the problems that had been reported before about the allocation of tax payments and interest charges seem to have been resolved.

JW commented on the move to closer integration between the LBS and the Large and Complex Teams to ensure that there is one 'large business' approach. This reflects the way LBS and the Large and Complex Teams are working that will ensure consistency around policy and interpretation of legislation.

iv. **Online Filing and iXBRL (JW)**

As far as could be ascertained no oil companies had made an XBRL tagged return as of end of December or early January.

There is no mandated format for amended returns.

LBS will be using the XBRL data to obtain a better sector view and it is hoped this will allow LBS to formulate better quality enquiries. Real time working in advance of returns will not be affected.

It is not anticipated that there will be much change in LBS interactions with companies, but companies will need to be ready to comply with the online filing requirements.

LBS emphasised the 'soft landing' approach that was being adopted towards the implementation of the online process. There will be no rush to penalise and LBS will work with industry to ensure data is appropriately tagged.

Action point 6: JW will send a link to the guidance on which taxonomy and taxonomy version to use.

Action point 7: It was agreed to keep this issue as an agenda item.

5. Oil and Gas: Technical Issues

i. **Gas Project (TC)**

Work on the gas pricing project has been moving forward. HMRC apologised for the delay in progressing the work and explained that much work had been carried out on analysis – trying to crunch the numbers to see what the difference is between the tax paid on companies' existing methodologies and the tax that would have been paid based on a price reporting agency based methodology.

Further work is needed and it was emphasised that this will be taken forward in line with the Government's new approach to tax policy making. It was envisaged that any further developments will involve further consultation with industry, to clarify policy objectives and consider feasible options.

ii. **Farm-ins (HH)**

HH apologised for the time it was taking to bring this issue to a conclusion. He also thanked UKOITC for their letter of 27 January in which concern was expressed that the continuing delay and the potential concern that MEA relief might not be available was beginning to generate uncertainty in industry.

HH stressed that LBS was working hard to bring the issue to a conclusion. However, he made the point that this wasn't an issue LBS had been looking to raise. It had arisen because one UK company was farming-in to interests that the group already held, and by so doing was obtaining tax relief in the UK – and in some cases double dipping. This wasn't the policy intent of the UK's farm-in rules, the amounts involved were large and it was necessary to seek advice from HMRC solicitors. The action by the UK company has led to this position and if it is necessary to change HMRC practice any changes will have to be carefully thought through to ensure they achieve the intended outcomes.

Industry members thought that providing the context of the issue was helpful and offered to provide a view on potential solutions that might be developed. This offer was much appreciated by LBS.

iii. **Schedule 15 (SN)**

At the last meeting it had been reported that Industry and HMRC had started to discuss possible ways forward, and HMRC had felt there was good potential to reduce the administrative burden and to make the information requested more useful to HMRC.

Good progress was being made and it was thought it would not be necessary to amend existing legislation. Although the possibility of using a DECC format to gather relevant information was not possible it was anticipated that it would be possible to finalise a process fairly shortly.

Once done, it was proposed to consider publishing through UKOITC and raise awareness through its working group. Also, the HMRC website and guidance manual would be updated, and it may be possible to engage DECC in the process.

6. Any other business

i. **2010 Conference Feedback (JW)**

Thanks were given to those who had completed the 54 feedback sheets. The feedback has generally been very positive with a number of delegates saying that the opportunity to get industry, HMRC and HMT together to jointly discuss issues was extremely valuable.

TM said that it was a joint effort that had worked well. Freda Chaloner (Director LBS) and Melanie Dawes (Director General Business Tax) echoed the sentiment by citing the conference as a good example of Government and industry working well together.

Action Point 8: JW agreed to arrange for a summary of feedback from the conference to be sent to UKOITC.

- ii. **Advance Pricing Agreements (APA) – Publication of SP2/10 (SN)**
Following the launch of the draft APA and Mutual Agreement Procedure (MAP) statements of practice in September, Statement of Practice 3/99 has now been published as SP2/10. Thanks were given to everyone who had contributed to making this such a good product.

Also, the new statement of practice for the MAP has been cleared for publication within the next two weeks or so.

- iii. **CIS update (JW)**
Following the last meeting Graham Metcalf agreed to collate issues of concern for the oil and gas industry. GM is in the process of drafting a letter about this, which will be submitted shortly.

By way of background the HMRC policy team responsible for this area of work had met industry stakeholders to discuss the problems of deemed contractors and the associated guidance.

Action point 9: Graham Metcalf to write providing details of industry concerns.

- iv. **Next meeting**
Subject to confirmation, Wednesday 25 May.

7. Summary of action points

Action point 1 (FA 2009): UKOITC to contact PP to set up a meeting to discuss outstanding Field Allowance issues.

Action point 2 (AOB - Change to lease accounting rules): HMRC to follow up.

Action point 3 (DSAs and CoU): PP agreed to take forward the further work that was needed to progress the DSA and CoU issues.

Action point 4 (EU ETS): RW will write to HH confirming and providing more details.

Action point 5 (Decommissioning and retention of papers): To ensure this item remains on the agenda for future meetings.

Action point 6 (iXBRL): JW will send a link to the guidance on which taxonomy and taxonomy version to use.

Action point 7 (iXBRL): It was agreed to keep this issue as an agenda item.

Action point 8 (2010 Conference feedback): JW agreed to arrange for a summary of feedback from the conference to be sent to UKOITC.

Action point 9 (CIS): Graham Metcalf to write providing details of industry concerns.
