

Oil and Gas Industry Direct Tax Forum: Quarterly meeting 20 April 2010

Industry

Kirsten White (KW) Chair UKOITC (Shell)
Graham Metcalf (GM) Secretary UKOITC (Shell) (telephone link)
Jacqui Akinlosotu (JA) OTAC (Eni)
Phil Greatrex (PG) Brindex (CW Energy)
Gordon Dennis (GD) ConocoPhillips
Chris Waterton (CW) Centrica
Ken Almand (KA) Mazars
Sally Carroll (SC) Petrofac
Agustin Rivara (AR) OGUK

HMG

Jo Wakeman (JW) HMRC: LBS Oil & Gas
Rob Hodges (RH) HM Treasury
Susan New (SN) HMRC: LBS Oil & Gas
Balraj Singh (BS) HMRC: LBS Oil & Gas
Hugh Hedges (HH) HMRC: LBS Oil & Gas
Tony Chanter (TC) HMRC: LBS Oil & Gas
Russell Malloch (RM) HMRC: LBS Oil & Gas
Paul Philip (PP) HMRC: LBS Oil & Gas

Apologies

Peter Gunn Pinnacle Energy
Peter Harrington HMRC

Agenda items

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

Attendees were welcomed and introductions were made.

The minutes of the previous meeting were agreed and the action points (AP) reviewed:

- AP1: LBS to circulate information from the Carter Programme. This was provided in the minutes of the meeting by way of links to the HMRC website;
- AP2: LBS to organise a further meeting with Industry to continue discussions about concerns relating to iXBRL and online filing requirements. JW offered apologies that this had not happened sooner. Further consideration of the issue is picked up under agenda item 3(iii) below;
- AP3: LBS to send possible venue options for Conference 2010 to KW by the end of January. This issue is picked up under agenda item 5 below.

2. Oil and Gas: Tax policy

i. FA 2009 time limits (TC)

Background information was provided on the changes that have been made by Schedule 51 of Finance Act 2009 to the time limits for PRT assessments and claims.

The time limits are being reduced from six years to four years but do not come into force until 1 April 2011, to give companies time to make claims that are due to go out of time. Claims under Schedule 7 and Schedule 8 which currently are not subject to time limits are not affected by the new legislation.

A note to Industry on the changes that are being made is being prepared and will be sent out in due course. HMRC guidance will also be updated.

Action point 1: TC will issue note on the changes being made.

ii. Decommissioning (HH)

The meeting held on 22 March 2010 with UKOITC, OGUK, DECC and HMT had been extremely constructive. The meeting considered a number of areas relating to the taxation and accounting treatment of Decommissioning Security Agreement (DSA) trust funds, and how these should be taken forward.

Seven action points emerged from the meeting. One for HMRC and the others for Industry.

The first next meeting with Industry will be on 6 May 2010 to discuss the accounting treatment of DSA trust funds.

Action point 2: AR (OGUK) to finalise work on the remaining Industry action points and report back to LBS before the end of May 2010.

iii. PBR 2009 Measures (HH)

Following the election new Ministers will need to consider the measures announced at PBR but not included in the Finance Bill. The measures affected relate to chargeable gains reinvestment relief for exploration and development, chargeable gains swaps, chargeable gains group reinvestment (Budget 2010 announcement) and field allowance for redeveloped fields. Although the proposed measures may be uncontroversial it will still be for new Ministers to make the final decision.

New Ministers will also consider the measure which revises HPHT thresholds. If the measure is agreed it may be possible to table the Statutory Instrument in the House of Commons in July 2010. The timing will however depend on what else is in the queue for secondary legislation.

Action point 3 [not to be pursued currently because of election purdah]

UKOITC to provide any available information on whether any delay to the HPHT measure extending beyond July 2010 would adversely impact on investment decisions in the Industry, and whether any companies had acted in the expectation of qualifying for reinvestment relief where another group company made the reinvestment.

iv. UKOITC items relating to Finance Act 2009 (HH)

HH reported that he had provided an email response to UKOITC on 10 March 2010. This acknowledged that there were some areas where further discussion would be needed (change of use, post licence expiry transfers and field allowance) but because they are areas of policy it would not be possible to discuss them before the election.

On the basis that it would be possible to pick these issues up after the election UKOITC will set up separate working groups for each of the areas.

Action point 4: LBS will follow up after the election to make arrangements for meetings with the UKOITC working groups.

v. Farm-ins (HH)

HH reported that HMRC remain of the view that the treatment of the farmer-in under what is now section 439(1) CAA 2001, set out in the 1987 letter is incorrect. HH had just sent an email to PG.

UKOITC noted HMRC's revised view and would subject it to further consideration; they still did not agree with HMRC.

Action point 5: UKOITC to further consider HMRC analysis and respond in due course, and HH to send a copy of his email to KW and GM.

3. Oil and Gas: operational issues

i. Business Planning (JW)

HMRC's 'Delivering our Vision' Business Plan 2010-11 has recently been published. The paper describes HMRC planning for the current financial year and the Business Tax Business Plan describes how that directorate (Business Tax) will deliver into HMRC's Business Plan. Similarly, an LBS tactical delivery plan will set out LBS's contribution to the Business Tax Plan.

Although these documents have been published in a period of high uncertainty (the impending election and expected increased financial constraints), they build on the six strategic objectives identified in 2009-10.

These objectives include:

- Improving the extent to which individuals and businesses pay the tax due and receive the credits and payments to which they are entitled (Objective 1);
- Improving customers' experience of HMRC and contributing to improving the UK business environment (Objective 2);
- Transforming the performance of the Department through the exploitation of information and technology services (Objective 6).

The recently published HMRC Business Plan 2010-11 captures some of the highlights of 2009-10 performance. These include:

- 75 per cent of SA returns filed online;

- the launch of HMRC's 'Your Charter' in November 2009 explaining customers' rights and obligations;
- collection of £322 billion revenues to pay for UK public services;
- publication of Budget material on the internet within 11 minutes of the end of the Chancellor's Budget 2009 speech

Business Tax planning highlights for 2010-11 of particular interest to Industry representatives include improving the relationship-managed service for its largest customers and continuing to improve its approach to dealing with avoidance cases. LBS will also continue to move resource to risk, focus on resolving new issues within 18 months and increasingly work with customers 'in real time'.

ii. Advance Pricing Agreements (SN)

The current statement of practice (SoP) SP3/99 has now been redrafted but its launch has been affected by election purdah. It is anticipated that it will be launched for consideration and consultation at a stakeholder meeting (to which UKOITC will be invited) planned for early July 2010.

Some key points of the redrafted SoP reflect:

- updated statutory references to reflect the changes resulting from the Tax Law Rewrite programme;
- an emphasis on positive criteria – what HMRC would expect to see in an issue seeking an APA, rather than reasons why HMRC would want to reject the request;
- encouragement of early expressions of interest;
- more detail on when a unilateral APA might be appropriate;
- the outline and agreement of timelines for both HMRC and business with the caveat that sometimes these will be affected by work in the hands of other tax authorities;
- updating of the SoP for UK to UK transfer pricing, although it is not anticipated that there will be much need for these

iii. Online filing and iXBRL (JW)

JW apologised that the further meeting promised, to continue discussions about concerns and issues relating to iXBRL and online filing requirements, had not yet been arranged. A further meeting will now be arranged for May 2010 (with possible additional meetings in June 2010 if there were sufficient demand). It was agreed that at the next meeting HMRC Carter Programme colleagues would need to be able to respond to the detailed practicalities of how iXBRL would work for companies in the oil and gas sector. It was also agreed that attendees would need to include those with a financial reporting background and not just tax.

Action point 6: AR to arrange for potential meeting dates to be notified to LBS.

Action point 7: JW to notify the availability of Jeff Smith from the Carter Programme, and draft a first note proposing an agenda of the areas and issues the meetings will need to consider.

iv. Local Compliance issues (RM)

The new Customer Co-ordinator (CC) role being introduced was described. The role of the CC will be to act as an identified point of contact for customers and to act as a co-ordinator to ensure that HMRC is joined up in its dealings with its large but sub LBS customers. As the role of the CC beds in and in any other circumstances where there was any concern that issues were not being progressed quickly enough RM asked that he should be contacted.

v. Action planning – implementing lessons learned (JW)

LBS are planning to implement lessons learned from managing work through action planning and working collaboratively with customer groups. LBS is improving the action planning tool it currently uses with a view to realising with customer groups a step change improvement in the way enquiries are conducted and the period over which they are carried out.

There will be a pilot exercise in LBS Oil and Gas to test how best to exploit the potential of the new action planning tool with customer groups. Use of the new tool will involve putting in place well developed plans to manage work that needs to be carried out. It will also mean agreeing from the outset, timelines, resources needed by both sides and when and how resolution can be achieved. It is anticipated that with LBS and customer groups working closely to agreed plans the anticipated step change improvements can be realised without otherwise hugely impacting the way work is currently carried out.

KW believed that most in Industry would welcome the setting of a final date for resolution and will work with HMRC to meet self-imposed deadlines although she believed further work and attention was needed to the end processes of enquiries.

4. Oil and Gas: technical issues

Gas pricing project (TC)

Some tentative conclusions have been reached from the work that has been carried out but further engagement with Industry will have to wait until completion of the election process.

5. 2010 conference (JW)

BS will co-ordinate arrangements from the LBS side. It was confirmed that it would not be possible to host the conference in Somerset House and that it would now be hosted in 100 Parliament Street (100 PS). Although there are improved facilities at 100 PS it will be necessary to limit the number of attendees to around 100 people.

The conference will be held on Friday 19 November 2010.

Action point 8: KW will make arrangements for the Industry team to contact BS to take forward organisation of the conference.

6. Any other business

i. Schedule 15 (SN)

HMRC requires license holders to provide certain particulars about payments made to third parties under schedule 15 FA 1973. The need to redraft the return form 850 to accommodate Tax Law Rewrite changes has prompted LBS to review the whole process to ensure it is still fit for purpose, in terms of the information it provides to allow LBS to police the sector, without placing an undue burden on licence holders.

Initial indications are that it may be appropriate to review the extent of the information and particulars requested by the return form as well as the population of licence holders to whom returns are sent because:

- many returns reflect payments to known contractors indicating that the compliance burdens on these reporting companies could possibly be reduced by reducing the amount of information requested;
- at the moment LBS only issues returns to around 25 per cent of licence holders and so does not know what level of payments may be being made by the other 75 per cent;
- some returns that have been made suggest there may be a lack of understanding about what information is required

LBS is still carrying out work but would welcome UKOITC's input on how the current arrangements could be improved, resulting in benefits for both HMRC and Industry. In particular LBS would welcome UKOITC's views on:

- how best to raise awareness of reporting requirements;
- how best to take forward discussions that aim to reduce the compliance burden (for example, by reducing the requirement to provide quarterly returns to providing returns only on an annual basis, or by reducing the amount of information requested)

Action point 9: LBS will provide UKOITC with a further update towards the end of May 2010, and in the meantime Industry will carry out some preparatory work on the basis of the points raised.

ii. Next meeting

The next meeting will be held on Tuesday 13 July 2010 from 15:00 to 17:00.

7. Summary of action points

Action point 1: TC will issue note on the changes being made.

Action point 2: AR (OGUK) to finalise work on the remaining Industry action points and report back to LBS before the end of May 2010.

Action point 3 [not to be pursued currently because of election purdah]

Action point 4: LBS will follow up after the election to make arrangements for meetings with the UKOITC working groups.

Action point 5: UKOITC to further consider HMRC analysis and respond in due course, and HH to send a copy of his email to KW and GM.

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