

Oil

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PART 1

OIL ACTIVITIES: CORPORATION TAX

CHAPTER 1

INTRODUCTION

- 1 Overview of Part [J7oilover]** 5
- (1) This Part is about the corporation tax treatment of oil activities.
[Origin: Drafting.](#)
- (2) Chapter 2 contains basic definitions used in this Part.
[Origin: Drafting.](#)
- (3) Chapter 3 makes provision about the calculation of profits from oil activities. 10
[Origin: Drafting.](#)
- (4) Chapter 4 makes provision about ring fence expenditure supplement.
[Origin: Drafting.](#)
- (5) Chapter 5 makes provision about the supplementary charge in respect of ring fence trades. 15
[Origin: Drafting.](#)
- (6) For the meaning of “ring fence trade”, see section 7.
[Origin: Drafting.](#)

CHAPTER 2

BASIC DEFINITIONS 20

- 2 Meaning of “associated companies” [J7502e]**
- (1) For the purposes of this Part two companies are associated with one another if—
- (a) one is a 51% subsidiary of the other,
 - (b) each is a 51% subsidiary of a third company, 25
 - (c) one is owned by a consortium of which the other is a member,
 - (d) one has control of the other, or
 - (e) both are under the control of the same person.

Origin: ICTA s.502(3), (4).

- (2) For the purposes of this section a company –
- (a) is owned by a consortium, or
 - (b) is a member of a consortium,
- if it would be treated as such for the purposes of [Part [5]] if that Part were modified in accordance with subsections (3) to (5). 5

Origin: ICTA s.502(3A).

- (3) [Section {j4800Brm} (meaning of 75% and 90% subsidiary)] is to have effect as if the following subsections were inserted after subsection (4) –
- “(4A) Subsection (4B) applies if a company (“the shareholder”) directly owns shares in a non-UK resident body corporate. 10
- (4B) The shareholder is treated as not being the owner of those shares for the purpose of determining if any company is a 75% subsidiary of any other company”.

Origin: ICTA s.502(3A). 15

- (4) [Section {j4800Drm} (companies owned by consortiums and members of consortiums)] is to have effect as if the following subsection were substituted for subsections (1) to (3) –
- “(1) For the purposes of this Part a company is owned by a consortium if at least 75% of the company’s ordinary share capital is beneficially owned by other companies each of which beneficially owns at least 5% of that capital. 20
- The other companies each owning at least 5% of the share capital are the members of the consortium for the purposes of this Part.”

Origin: ICTA s.502(3A). 25

- (5) [Section {j4800Arm} (other definitions that apply for the purposes of Part [5] (group relief)] is to have effect as if for the definition of “company” there were substituted –
- ““company” means any UK resident body corporate,”.

Origin: ICTA s.502(3A). 30

- (6) In this section “control” has the same meaning as in [Part [16] (close companies) (see sections {j7416} and {j7416b})].

Origin: ICTA s.502(4).

3 Meaning of “oil extraction activities” [j7502a]

- (1) In this Part “oil extraction activities” means activities within any of subsections (2) to (5) (but see also section 20(6)). 35

Origin: ICTA s.502(1).

- (2) Activities of a company in searching for oil in the United Kingdom or a designated area or causing such searching to be carried out for it.

Origin: ICTA s.502(1). 40

- (3) Activities of a company in extracting, or causing to be extracted for it, oil at any place in the United Kingdom or a designated area under rights which –
- (a) authorise the extraction, and
 - (b) are held by it or by a company associated with it.
- Origin: ICTA s.502(1). 5
- (4) Activities of a company in transporting, or causing to be transported for it, oil extracted at any such place not on dry land under rights which –
- (a) authorise the extraction, and
 - (b) are held as mentioned in subsection (3)(b),
- if the transportation meets condition A or B (see subsections (6) and (7)). 10
- Origin: ICTA s.502(1).
- (5) Activities of a company in effecting, or causing to be effected for it, the initial treatment or initial storage of oil won from any oil field under rights which –
- (a) authorise its extraction, and
 - (b) are held as mentioned in subsection (3)(b).
- Origin: ICTA s.502(1). 15
- (6) Condition A is that the transportation is to the place where the oil is first landed in the United Kingdom.
- Origin: ICTA s.502(1).
- (7) Condition B is that the transportation – 20
- (a) is to the place in the United Kingdom, or
 - (b) in the case of oil first landed in another country, is to the place in that or any other country (other than the United Kingdom),
- at which the seller in a sale at arm’s length could reasonably be expected to deliver it (or, if there is more than one such place, the one nearest to the place of extraction). 25
- Origin: ICTA s.502(1).
- (8) The definition of “initial storage” in section 12(1) of OTA 1975 applies for the purposes of this section.
- Origin: ICTA s.502(2). 30
- (9) But in its application for those purposes in relation to the company mentioned in subsection (5) and to oil won from any one oil field, that definition is to have effect as if the reference to the maximum daily production rate of oil for the field mentioned in that definition were to a share of that maximum daily production rate proportionate to that company’s share of the oil won from that field. 35
- Origin: ICTA s.502(2).
- (10) In this section “initial treatment” has the same meaning as in Part 1 of OTA 1975 (see section 12(1) of that Act).
- Origin: ICTA s.502(2). 40

4 Meaning of “oil rights” [j7502b]

In this Part “oil rights” means –

- (a) rights to oil to be extracted at any place in the United Kingdom or a designated area, or
- (b) rights to interests in or to the benefit of such oil.

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Origin: ICTA s.502(1).

5 Meaning of “ring fence income” [j7502c]

In this Part “ring fence income” means income arising from oil extraction activities or oil rights.

Origin: ICTA s.502(1).

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6 Meaning of “ring fence profits” [j7502f]

In this Part “ring fence profits”, in relation to an accounting period, means –

- (a) if in accordance with section 197(3) of TCGA 1992 a company has an aggregate gain for that period, that gain and that company’s ring fence income (if any) for that period, or
- (b) otherwise, that company’s ring fence income for that period.

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Origin: ICTA s.502(1), (1A).

7 Meaning of “ring fence trade” [j7502g]

In this Part “ring fence trade” means activities which –

- (a) are within the definition of “oil-related activities” in section [40] [j034801(2)] of [the Corporation Tax Act 2009 (oil extraction and related activities)], and
- (b) constitute a separate trade (whether because of section [40] [j034801(1)] of [that Act] or otherwise).

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Origin: ICTA s.502(1).

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8 Other definitions [j7502d]

In this Part –

“chargeable period” has the same meaning as in Part 1 of OTA 1975 (see section 1(3) of that Act),

“designated area” means an area designated by Order in Council under section 1(7) of the Continental Shelf Act 1964 (c. 29),

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“oil” means any substance won or capable of being won under the authority of a licence granted under Part 1 of the Petroleum Act 1998 (c. 17) or the Petroleum (Production) Act (Northern Ireland) 1964, other than methane gas won in the course of operations for making and keeping mines safe,

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“oil field” has the same meaning as in Part 1 of OTA 1975 (see section 12(1) of that Act),

“OTA 1975” means the Oil Taxation Act 1975 (c. 22), and

“participator” has the same meaning as in Part 1 of OTA 1975 (see section 12(1) of that Act).

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Origin: ICTA s. 493(1A), s.500(10), s.502(1), (2); drafting.

CHAPTER 3

CALCULATION OF PROFITS

Oil valuation

- 9 Disposal to be valued by reference to section 2(5A) of OTA 1975 [j7493] 5**
- (1) This section applies if each of conditions A to G are met.
Origin: ICTA s.493(A1).
- (2) Condition A is that oil is won from an oil field in the United Kingdom.
Origin: ICTA s.493(A2).
- (3) Condition B is that there is a disposal of the oil by a company. 10
Origin: ICTA s.493(A1).
- (4) Condition C is that the disposal is a disposal of the oil by the company crude in a sale at arm's length (as defined in paragraph 1 of Schedule 3 to OTA 1975).
Origin: ICTA s.493(A2).
- (5) Condition D is that the circumstances are such that the price received or receivable— 15
- (a) falls to be taken into account under section 2(5)(a) of that Act in calculating for the purposes of petroleum revenue tax the assessable profit or allowable loss accruing to the company in a chargeable period from the oil field, or 20
- (b) would fall to be so taken into account, had the oil field been a taxable field (as defined in section 185 of FA 1993).
Origin: ICTA s.493(A2).
- (6) Condition E is that the terms of the contract are such as are described in the opening words of section 2(5A) of OTA 1975 (transportation etc). 25
Origin: ICTA s.493(A2).
- (7) Condition F is that, but for subsection (9), the company is not entitled to a transportation allowance in respect of the oil in calculating ring fence profits.
Origin: ICTA s.493(A2).
- (8) Condition G is that the company does not claim a transportation allowance in respect of the oil in calculating for the purposes of corporation tax any profits that are not ring fence profits. 30
Origin: ICTA s.493(A2).
- (9) Section 2(5A) of OTA 1975 is to apply in determining the amount which the company is to bring into account for the purposes of the charge to corporation tax on income in respect of the disposal as it applies (or would apply) for the purposes of petroleum revenue tax. 35

Origin: ICTA s.493(A1).

- (10) In this section “transportation allowance”, in relation to any oil, means –
- (a) a deduction in respect of the expense of transporting the oil as mentioned in the opening words of section 2(5A) of OTA 1975,
 - (b) a deduction in respect of any costs of or incidental to the transportation of the oil as so mentioned, or
 - (c) any such reduction in the price to be regarded as received or receivable for the oil as would result from the application of section 2(5A) of OTA 1975, if that provision applied for the purposes of corporation tax.

Origin: ICTA s.493(A3). 10

10 Valuation where market value taken into account under section 2 of OTA 1975 [j7493a]

- (1) This section applies if a person disposes of oil in circumstances such that the market value of the oil –
- (a) falls to be taken into account under section 2 of OTA 1975, otherwise than by virtue of paragraph 6 of Schedule 3 to that Act, in calculating for the purposes of petroleum revenue tax the assessable profit or allowable loss accruing to that person in a chargeable period from an oil field, or
 - (b) would so fall but for section 10 of that Act.

Origin: ICTA s.493(1).

- (2) For the purposes of the charge to corporation tax on income, the disposal of the oil and its acquisition by the person to whom it was disposed is to be treated as having been for a consideration equal to the market value of the oil –
- (a) as so taken into account under section 2 of that Act, or
 - (b) as would have been so taken into account under that section but for section 10 of that Act.

Origin: ICTA s.493(1).

11 Valuation where disposal not sale at arm’s length [j7493d]

- (1) This section applies if conditions A, B and C are met. 30

Origin: ICTA s.493(3).

- (2) Condition A is that a person disposes of oil acquired by the person –
- (a) in the course of oil extraction activities carried on by the person, or
 - (b) as a result of oil rights held by the person.

Origin: ICTA s.493(3). 35

- (3) Condition B is that the disposal is not a sale at arm’s length (as defined in paragraph 1 of Schedule 3 to OTA 1975).

Origin: ICTA s.493(3).

- (4) Condition C is that section 10 does not apply in relation to the disposal.

Origin: ICTA s.493(3). 40

- (5) For the purposes of the charge to corporation tax on income, the disposal of the oil, and its acquisition by the person to whom it was disposed, is to be treated as having been for a consideration equal to the market value of the oil.
[Origin: ICTA s.493\(3\).](#)
- (6) Paragraphs 2 and 3A of Schedule 3 to OTA 1975 (definition of market value of oil including light gases) apply for the purposes of this section as they apply for the purposes of Part 1 of that Act, but with the following modifications. 5
[Origin: ICTA s.493\(5\), \(6\).](#)
- (7) Those modifications are that – 10
- (a) any reference in paragraph 2 to the notional delivery day for the actual oil is to be read as a reference to the day on which the oil is disposed of as mentioned in this section, and
 - (b) paragraph 2(4) is to be treated as omitted.
- [Origin: ICTA s.493\(5\).](#)
- 12 Valuation where excess of nominated proceeds [\[j7493b\]](#)** 15
- (1) This section applies if an excess of nominated proceeds for a chargeable period – 20
- (a) is taken into account in calculating a company’s profits under section 2(5)(e) of OTA 1975, or
 - (b) would have been so taken into account if the company were chargeable to tax under OTA 1975 in respect of an oil field.
- [Origin: ICTA s.493\(1A\).](#)
- (2) For the purposes the charge to corporation tax on income, the amount of the excess is to be added to the consideration which the company is treated as having received in respect of oil disposed of by it in the period. 25
[Origin: ICTA s.493\(1A\).](#)
- (3) For the purposes of corporation tax, that amount is to be available to the company as a deduction in calculating the profits of any trade which (whether because of section [40] [j034801(1)] of [the Corporation Tax Act 2009] or otherwise) does not consist of activities falling within the definition of “oil-related activities” in section [40] [j034801(2)] of [that Act]. 30
[Origin: ICTA s.493\(1A\); Annex 1, Change 668 \[jc668\].](#)
- 13 Valuation where relevant appropriation but no disposal [\[j7493c\]](#)**
- (1) This section applies if conditions A and B are met. 35
[Origin: ICTA s.493\(2\).](#)
- (2) Condition A is that a company makes a relevant appropriation of oil without disposing of it. 40
[Origin: ICTA s.493\(2\).](#)
- (3) Condition B is that the company does so in circumstances such that the market value of the oil –

-
- (a) falls to be taken into account under section 2 of OTA 1975 in calculating for the purposes of petroleum revenue tax the assessable profit or allowable loss accruing to it in a chargeable period from an oil field, or
- (b) would so fall but for section 10 of that Act.
- [Origin: ICTA s.493\(2\).](#) 5
- (4) For the purposes of the charge to corporation tax on income, the company is to be treated as having, at the time of the appropriations –
- (a) sold the oil in the course of the separate trade consisting of activities falling within the definition of “oil-related activities” in section [40] [j034801(2)] of [the Corporation Tax Act 2009 (oil extraction and related activities)], and 10
- (b) purchased it in the course of the separate trade consisting of activities not so falling.
- [Origin: ICTA s.493\(2\).](#)
- (5) For those purposes, that sale and purchase is to be treated as having been at a price equal to the market value of the oil – 15
- (a) as so taken into account under section 2 of OTA 1975, or
- (b) as would have been so taken into account under that section but for section 10 of that Act.
- [Origin: ICTA s.493\(2\).](#) 20
- (6) In this section “relevant appropriation” has the meaning given by section 12(1) of OTA 1975.
- [Origin: ICTA s.493\(2\).](#)
- 14 Valuation where appropriation to refining etc [j7493e]**
- (1) This section applies if conditions A, B and C are met. 25
- [Origin: ICTA s.493\(4\).](#)
- (2) Condition A is that a company appropriates oil acquired by it –
- (a) in the course of oil extraction activities carried on by it, or
- (b) as a result of oil rights held by it.
- [Origin: ICTA s.493\(4\).](#) 30
- (3) Condition B is that the oil is appropriated to refining or to any use except the production purposes of an oil field (as defined in section 12(1) of OTA 1975).
- [Origin: ICTA s.493\(4\).](#)
- (4) Condition C is that section 13 does not apply in relation to the appropriation.
- [Origin: ICTA s.493\(4\).](#) 35
- (5) For the purposes of the charge to corporation tax on income –
- (a) the company is to be treated as having, at the time of the appropriation, sold and purchased the oil as mentioned in section 13(4)(a) and (b), and
- (b) that sale and purchase is to be treated as having been at a price equal to the market value of the oil. 40
- [Origin: ICTA s.493\(4\).](#)

- (6) Paragraphs 2 and 3A of Schedule 3 to OTA 1975 (definition of market value of oil including light gases) apply for the purposes of this section as they apply for the purposes of Part 1 of that Act, but with the following modifications.

Origin: ICTA s.493(5), (6).

- (7) Those modifications are that – 5
- (a) any reference in paragraph 2 to the notional delivery day for the actual oil is to be read as a reference to the day on which the oil is appropriated as mentioned in this section,
 - (b) any reference in paragraphs 2 and 2A to oil being relevantly appropriated is to be read as a reference to its being appropriated as mentioned in this section, and 10
 - (c) paragraph 2(4) is to be treated as omitted.

Origin: ICTA s.493(5).

Loan relationships

15 Restriction on debits to be brought into account [j7494] 15

- (1) Debits may not be brought into account for the purposes of Part [6] of [the Corporation Tax Act 2009 (loan relationships)] in respect of a company's loan relationships in any way that results in a reduction of what would otherwise be the company's ring fence profits, but this is subject to subsections (2) to (4).

Origin: ICTA s.494(2). 20

- (2) Subsection (1) does not apply so far as a loan relationship is in respect of money borrowed by the company which has been –
- (a) used to meet expenditure incurred by the company in carrying on oil extraction activities or in acquiring oil rights otherwise than from a connected person, or 25
 - (b) appropriated to meeting expenditure to be so incurred by the company.

Origin: ICTA s.494(2).

- (3) Subsection (1) does not apply, in the case of debits falling to be brought into account as a result of section [338] [j061084ex] of [the Corporation Tax Act 2009] in respect of a loan relationship that has not been entered into, so far as the relationship would have been one entered into for the purpose of borrowing money to be used or appropriated as mentioned in subsection (2). 30

Origin: ICTA s.494(2).

- (4) Subsection (1) does not apply, in the case of debits in respect of a loan relationship to which Chapter [2] of Part [7] of [the Corporation Tax Act 2009 (relevant non-lending relationships)] applies, so far as – 35
- (a) the payment of interest under the relationship is expenditure incurred as mentioned in subsection (2)(a), or
 - (b) the exchange loss arising from the relationship is in respect of a money debt on which the interest payable (if any) is, or would be, such expenditure. 40

Origin: ICTA s.494(2).

- (5) If a debit –

-
- (a) falls to be brought into account for the purposes of Part [6] of [the Corporation Tax Act 2009] in respect of a loan relationship of a company, but
- (b) as a result of this section cannot be brought into account in a way that results in any reduction of what would otherwise be the company's ring fence profits, 5
the debit is to be brought into account for those purposes as a non-trading debit despite anything in section [306] [j061082aa] of [that Act].
- [Origin: ICTA s.494\(2A\).](#)
- (6) References in this section to a loan relationship, in relation to the borrowing of money, do not include a relationship to which Chapter [2] of Part [7] of [the Corporation Tax Act 2009 (relevant non-lending relationships)] applies. 10
- [Origin: ICTA s.494\(2\).](#)
- 16 Restriction on credits to be brought into account [j74941]**
- (1) Credits in respect of exchange gains from a company's loan relationships may not be brought into account for the purposes of Part [6] of [the Corporation Tax Act 2009 (loan relationships)] in any way that results in an increase of what would otherwise be the company's ring fence profits, but this is subject to subsections (2) to (4). 15
- [Origin: ICTA s.494\(2ZA\).](#) 20
- (2) Subsection (1) does not apply so far as a loan relationship is in respect of money borrowed by the company which has been –
- (a) used to meet expenditure incurred by the company in carrying on oil extraction activities or in acquiring oil rights otherwise than from a connected person, or 25
- (b) appropriated to meeting expenditure to be so incurred by the company.
- [Origin: ICTA s.494\(2\), \(2ZA\).](#)
- (3) Subsection (1) does not apply, in the case of credits falling to be brought into account as a result of section [338] [j061084ex] of [the Corporation Tax Act 2009] in respect of a loan relationship that has not been entered into, so far as the relationship would have been one entered into for the purpose of borrowing money to be used or appropriated as mentioned in subsection (2). 30
- [Origin: ICTA s.494\(2\), \(2ZA\).](#)
- (4) Subsection (1) does not apply, in the case of credits in respect of a loan relationship to which Chapter [2] of Part [7] of [the Corporation Tax Act 2009 (relevant non-lending relationships)] applies, so far as – 35
- (a) the payment of interest under the relationship is expenditure incurred as mentioned in subsection (2)(a), or
- (b) the exchange gain arising from the relationship is in respect of a money debt on which the interest payable (if any) is, or would be, such expenditure. 40
- [Origin: ICTA s.494\(2\), \(2ZA\).](#)
- (5) If a credit –

- (a) falls to be brought into account for the purposes of Part [6] of [the Corporation Tax Act 2009] in respect of any loan relationship of a company, but
 - (b) as a result of this section cannot be brought into account in a way that results in any increase of what would otherwise be the company's ring fence profits, 5
- the credit is to be brought into account for those purposes as a non-trading credit despite anything in section [306] [j061082aa] of [that Act].
- Origin: ICTA s.494(2A).
- (6) Section 15(6) applies for the purposes of this section. 10
- Origin: ICTA s.494(2), (2ZA).

Sale and lease-back

17 Sale and lease-back [j7494AA]

- (1) This section applies if conditions A, B and C are met. 15
- Origin: ICTA s.494AA(1).
- (2) Condition A is that a company ("the seller") carrying on a trade has disposed of –
- (a) an asset which was used for the purposes of that trade, or
 - (b) an interest in such an asset.
- Origin: ICTA s.494AA(1). 20
- (3) Condition B is that the asset is used, under a lease, by the seller or a company associated with the seller ("the lessee") for the purposes of a ring fence trade carried on by the lessee.
- Origin: ICTA s.499AA(1).
- (4) Condition C is that the lessee uses the asset before the end of the period of two years beginning with the disposal. 25
- Origin: ICTA s.494AA(1).
- (5) Subsection (6) applies to so much (if any) of the expenditure incurred by the lessee under the lease as –
- (a) falls, in accordance with generally accepted accounting practice, to be treated in the accounts of the lessee as a finance charge, or 30
 - (b) falls, if the lease is a long funding operating lease, to be deductible in calculating the profits of the lessee for the purposes of corporation tax (after first making against any such expenditure any reductions falling to be made as a result of section 502K of ICTA (lessee under long funding operating lease)). 35
- But subsection (6) is subject to subsection (7).
- Origin: ICTA s.494AA(2).
- (6) The expenditure is not allowable in calculating the profits of the ring fence trade. 40
- Origin: ICTA s.494AA(3).

- (7) Expenditure is not to be disallowed because of subsection (6) so far as the disposal mentioned in subsection (2) is made for a consideration which—
- (a) is used to meet expenditure incurred by the seller in carrying on oil extraction activities or in acquiring oil rights otherwise than from a company associated with the seller, or 5
 - (b) is appropriated to meeting expenditure to be so incurred by the seller.
- [Origin: ICTA s.494AA\(4\).](#)
- (8) If any expenditure—
- (a) would, but for subsection (6), be allowable in calculating the profits of the ring fence trade for an accounting period, but 10
 - (b) because of that subsection is not so allowable,
- the expenditure is to be brought into account for the purposes of Part [6] of [the Corporation Tax Act 2009 (loan relationships)] as if it were a non-trading debit in respect of a loan relationship of the lessee for that period.
- [Origin: ICTA s.494AA\(5\).](#) 15
- (9) In this section—
- “long funding operating lease” means a long funding operating lease for the purposes of Part 2 of CAA 2001 (see section 70YI(1) of that Act), and “lease”, in relation to an asset, has the same meaning as in [Chapter [3] of Part [12] (see section [j355])]. 20
- [Origin: ICTA s.494AA\(6\).](#)

Regional development grants

18 Reduction of expenditure by reference to regional development grant [j7495]

- (1) This section applies if conditions A and B are met. 25
- [Origin: ICTA s.495\(1\).](#)
- (2) Condition A is that a person has incurred expenditure (by way of purchase, rent or otherwise) on the acquisition of an asset in a transaction to which paragraph 2 of Schedule 4 to OTA 1975 applies (transactions between connected persons and otherwise than at arm’s length). 30
- [Origin: ICTA s.495\(1\).](#)
- (3) Condition B is that the expenditure incurred by the other person mentioned in that paragraph in acquiring, bringing into existence or enhancing the value of the asset as mentioned in that paragraph —
- (a) has been or is to be met by a regional development grant, and
 - (b) falls (in whole or in part) to be taken into account under Part 2, 3 or 6 of CAA 2001 (capital allowances relating to plant and machinery, industrial buildings or research and development). 35
- [Origin: ICTA s.495\(1\).](#)
- (4) Subsection (5) applies for the purposes of the charge to corporation tax on the income arising from the activities of the person mentioned in subsection (2) which are treated by section [40] [j034801(1)] of [the Corporation Tax Act 2009 (oil extraction and related activities)] as a separate trade for those purposes. 40

Origin: ICTA s.495(2).

- (5) The expenditure mentioned in subsection (2) is to be reduced by the amount of the regional development grant mentioned in subsection (3).

Origin: ICTA s.495(2).

- (6) In this section “regional development grant” means a grant falling within section 534(1) of CAA 2001 (Northern Ireland regional development grant). 5

Origin: ICTA s.495(7).

19 Adjustment as a result of regional development grant [j7495a]

- (1) This section applies if conditions A, B and C are met.

Origin: ICTA s.495(3). 10

- (2) Condition A is that expenditure incurred by a company in relation to an asset in an accounting period (“the initial period”) has been or is to be met by a regional development grant.

Origin: ICTA s.495(3), (7).

- (3) Condition B is that, despite the provisions of section 534(2) and (3) of CAA 2001 (Northern Ireland regional development grants) and section 18 of this Act, in determining that company’s liability to corporation tax for the initial period, the whole or some part of that expenditure falls to be taken into account under Part 2, 3 or 6 of CAA 2001. 15

Origin: ICTA s.495(3). 20

- (4) Condition C is that –

- (a) expenditure on the asset becomes allowable under section 3 or 4 of OTA 1975 in an accounting period (an “adjustment period”) subsequent to the initial period, or
(b) the proportion of any such expenditure which is allowable in an adjustment period is different as compared with the initial period. 25

Origin: ICTA s.495(3), (7).

- (5) There is to be redetermined for the purposes of subsections (7) and (8) the amount of the expenditure mentioned in subsection (2) which would have been taken into account as mentioned in subsection (3) if the circumstances mentioned in subsection (4) had existed in the initial period. 30

Origin: ICTA s.495(4).

- (6) According to whether the amount as so redetermined is greater or less than the amount actually taken into account as mentioned in subsection (3), the difference is referred to in subsections (7) and (8) as the increase or the reduction in the allowance. 35

Origin: ICTA s.495(4).

- (7) If there is an increase in the allowance, an amount of capital expenditure equal to the increase is to be treated, for the purposes of Part 2, 3 or 6 of CAA 2001, as having been incurred by the company concerned in the adjustment period on an extension of, or addition to, the asset mentioned in subsection (2). 40

Origin: ICTA s.495(5).

- (8) If there is a reduction in the allowance, the company concerned is to be treated, for the purpose of determining its liability to corporation tax, as having received in the adjustment period, as income of the trade in connection with which the expenditure mentioned in subsection (2) was incurred, a sum equal to the amount of the reduction in the allowance. 5

Origin: ICTA s.495(6).

- (9) In this section “regional development grant” has the meaning given by section 18(6).

Origin: ICTA s.495(7). 10

Tariff receipts etc

20 Tariff receipts etc [j7496]

- (1) Subsection (5) applies to a sum which meets conditions A, B and C.

Origin: ICTA s.496(1).

- (2) Condition A is that the sum constitutes a tariff receipt or tax-exempt tariffing receipt of a person who is a participator in an oil field. 15

Origin: ICTA s.496(1).

- (3) Condition B is that the sum constitutes consideration in the nature of income rather than capital.

Origin: ICTA s.496(1). 20

- (4) Condition C is that the sum would not, but for subsection (5), be treated as mentioned in that subsection.

Origin: ICTA s.496(1).

- (5) The sum is to be treated as a receipt of the separate trade mentioned in section [40] [j034801(1)] of [the Corporation Tax Act 2009 (oil extraction and related activities)]. 25

Origin: ICTA s.496(1).

- (6) So far as they would not otherwise be so treated, the activities –
 (a) of a participator in an oil field, or
 (b) of a person connected with the participator,
 in making available an asset in a way which gives rise to tariff receipts or tax-exempt tariffing receipts of the participator are to be treated for the purposes of this Part as oil extraction activities. 30

Origin: ICTA s.496(2).

- (7) In determining for the purposes of subsection (2) whether a sum constitutes a tariff receipt or tax-exempt tariffing receipt of a person who is a participator, no account may be taken of any sum which –
 (a) is in fact received or receivable by a person connected with the participator, and 35

(b) constitutes a tariff receipt or tax-exempt tariffing receipt of the participator.

But in relation to the person by whom such a sum is actually received, subsection (2) has effect as if the person were a participator and as if condition A were met.

5

Origin: ICTA s.496(3).

(8) References in this section to a person connected with a participator include a person with whom the person is associated, within the meaning of paragraph 11 of Schedule 2 to the Oil Taxation Act 1983 (c. 56).

Origin: ICTA s.496(4).

10

(9) In this section –

“tax-exempt tariffing receipt” has the meaning given by section 6A(2) of the Oil Taxation Act 1983, and

“tariff receipt” has the same meaning as in that Act.

Origin: Drafting.

15

Abandonment guarantees

21 Expenditure on and under abandonment guarantees [j762FA91]

(1) Subsection (2) applies if, as a result of section 3(1)(hh) of OTA 1975 (obtaining abandonment guarantee), expenditure incurred by a participator in an oil field is allowable (in whole or in part) for the purposes of petroleum revenue tax under section 3 of that Act.

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Origin: FA 1991 s.62(1).

(2) So far as that expenditure is so allowable, it is to be allowed as a deduction in calculating the participator’s ring fence income.

Origin: FA 1991 s.62(1).

25

(3) Subsection (4) applies if a payment is made by the guarantor under an abandonment guarantee.

Origin: FA 1991 s.62(3).

(4) So far as any expenditure for which the relevant participator is liable is met, directly or indirectly, out of the payment, the expenditure is not to be regarded for the purposes of corporation tax as having been incurred by the relevant participator or any other participator in the oil field concerned.

30

Origin: FA 1991 s.62(3).

(5) See also section 23 (payment under abandonment guarantee not immediately applied).

35

Origin: Drafting.

(6) In this Chapter –

“abandonment guarantee” has the same meaning as it has for the purposes of section 105 of FA 1991 (see section 104 of that Act), and

“the guarantor” and “the relevant participator” have the same meaning as in section 104 of that Act.

40

Origin: FA 1991 s.62(5), s.63(8).

22 Relief for reimbursement expenditure under abandonment guarantees [j763FA91]

- (1) This section applies if—
- (a) a payment (“the guarantee payment”) is made by the guarantor under an abandonment guarantee, 5
 - (b) as a result of the making of the guarantee payment, the relevant participator becomes liable under the terms of the abandonment guarantee to pay any sum to the guarantor, and
 - (c) expenditure is incurred, or consideration in money’s worth is given, by the relevant participator in or towards meeting that liability. 10

Origin: FA 1991 s.63(1).

- (2) In this section “reimbursement expenditure” means expenditure incurred as mentioned in subsection (1)(c) or consideration (or the value of consideration) given as so mentioned; and any reference to the incurring of reimbursement expenditure is to be read accordingly. 15

Origin: FA 1991 s.63(3).

- (3) So much of any reimbursement expenditure as constitutes qualifying expenditure (see subsection (4)) is to be allowed as a deduction in calculating the relevant participator’s ring fence income; and no part of the expenditure which is so allowed is to be otherwise deductible or allowable by way of relief for any purposes of tax. 20

Origin: FA 1991 s.63(4).

- (4) The amount of reimbursement expenditure incurred in any accounting period by the relevant participator which constitutes qualifying expenditure is determined by the formula— 25

$$A \times \frac{B}{C}$$

where—

- A is the reimbursement expenditure incurred in the accounting period,
- B is so much of the expenditure represented by the guarantee payment as, had it been incurred by the relevant participator, would have been taken into account (by way of capital allowance or a deduction) in calculating the relevant participator’s ring fence income, and 30
- C is the total of the sums which, at or before the end of the accounting period, the relevant participator is or has become liable to pay to the guarantor as mentioned in subsection (1)(b). 35

But this is subject to subsection (5).

Origin: FA 1991 s.63(5).

- (5) In relation to the guarantee payment, the total of the reimbursement expenditure (whenever incurred) which constitutes qualifying expenditure may not exceed whichever is the less of B and C in subsection (4). 40

Origin: FA 1991 s.63(6).

- (6) Any limitation on qualifying expenditure under subsection (5) is to be applied to the expenditure of a later accounting period in preference to an earlier one.

Origin: FA 1991 s.63(6).

- (7) For the purposes of this section, the expenditure represented by the guarantee payment is any expenditure – 5
- (a) for which the relevant participator is liable, and
 - (b) which is met, directly or indirectly, out of the guarantee payment (and which, accordingly, because of section 21(4) is not to be regarded as expenditure incurred by the relevant participator). 10

Origin: FA 1991 s.63(7).

- (8) See also –
- (a) section 23 (payment under abandonment guarantee not immediately applied), and
 - (b) section 24 which excludes amounts from subsection (1). 15

Origin: Drafting.

23 Payment under abandonment guarantee not immediately applied [j762aFA91]

- (1) This section applies if –
- (a) a payment made by the guarantor under an abandonment guarantee is not immediately applied in meeting any expenditure, 20
 - (b) the payment is for any period invested (either specifically or together with payments made by persons other than the guarantor) so as to be represented by, or by part of, the assets of a fund or account, and
 - (c) at a subsequent time, any expenditure for which the relevant participator is liable is met out of the assets of the fund or account. 25

Origin: FA 1991 s.62(4).

- (2) The references in sections 21(4) and 22(7) to expenditure which is met, directly or indirectly, out of the payment are to be read as references to so much of the expenditure for which the relevant participator is liable as is met out of those assets of the fund or account which, at the subsequent time mentioned in subsection (1)(c), it is just and reasonable to attribute to the payment. 30

Origin: FA 1991 s.62(4).

24 Amounts excluded from section 22(1) [j762bFA91]

- (1) This section applies if – 35
- (a) the whole of the guarantee payment mentioned in section 22, or of the assets which under section 23 are attributed to the guarantee payment, is not applied in meeting liabilities of the relevant participator so mentioned which fall within section 104(1)(a) and (b) of FA 1991, and
 - (b) a sum representing the unapplied part of the guarantee payment or of those assets is repaid, directly or indirectly, to the guarantor so mentioned. 40

Origin: FA 1991 s.63(2).

- (2) Any liability of the relevant participator to repay that sum is to be excluded in determining the total liability of the relevant participator which falls within section 22(1)(b).

Origin: FA 1991 s.63(2).

- (3) The repayment to the guarantor of that sum is not be regarded as expenditure incurred by the relevant participator as mentioned in section 22(1)(c). 5

Origin: FA 1991 s.63(2).

Abandonment expenditure

25 Introduction to sections 26 and 27 [j764FA91]

- (1) Sections 26 and 27 apply if – 10
- (a) paragraph 2A of Schedule 5 to OTA 1975 applies, or would apply if a claim under paragraph 2A(2) of that Schedule were made, and
 - (b) the default payment falls (in whole or part) to be attributed to the contributing participator under paragraph 2A(2) of that Schedule (as an addition to his share of the abandonment expenditure). 15

Origin: FA 1991 s.64(1), s.65(1).

- (2) In section 26 “the additional abandonment expenditure” means the amount which is attributed to the contributing participator as mentioned in subsection (1)(b) (whether representing the whole or only part of the default payment).

Origin: FA 1991 s.64(3). 20

- (3) In this Chapter “default payment”, “the defaulter” and “contributing participator” have the same meaning as in paragraph 2A of Schedule 5 to OTA 1975.

Origin: FA 1991 s.64(2), s.65(1).

26 Relief for expenditure incurred by a participator in meeting defaulter’s abandonment expenditure [j764aFA91] 25

- (1) Relief by way of capital allowance, or a deduction in calculating ring fence income, is to be available to the contributing participator in respect of the additional abandonment expenditure if any such relief or deduction would have been available to the defaulter if – 30
- (a) the defaulter had incurred the additional abandonment expenditure, and
 - (b) at the time that that expenditure was incurred the defaulter continued to carry on a ring fence trade.

Origin: FA 1991 s.64(4). 35

- (2) The basis of qualification for or entitlement to any relief or deduction which is available to the contributing participator under this section is to be determined on the assumption that the conditions in subsection (1)(a) and (b) are met.

Origin: FA 1991 s.64(5).

- (3) But, subject to subsection (2), any such relief or deduction is to be available in the same way as if the additional abandonment expenditure had been incurred 40

by the contributing participator for the purposes of the ring fence trade carried on by the participator.

[Origin: FA 1991 s.64\(5\).](#)

27 Reimbursement by defaulter in respect of certain abandonment expenditure [j765FA91]

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- (1) This section applies if expenditure is incurred, or consideration in money's worth is given, by the defaulter in reimbursing the contributing participator in respect of, or otherwise making good to him, the whole or any part of the default payment.

[Origin: FA 1991 s.65\(1\).](#)

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- (2) In this section “reimbursement expenditure” means expenditure incurred as mentioned in subsection (1) or consideration (or the value of consideration) given as so mentioned; and any reference to the incurring of reimbursement expenditure is to be read accordingly.

[Origin: FA 1991 s.65\(2\).](#)

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- (3) Reimbursement expenditure is to be allowed as a deduction in calculating the defaulter's ring fence income (but this is subject to subsection (6)).

[Origin: FA 1991 s.65\(4\).](#)

- (4) Reimbursement expenditure received by the contributing participator is to be treated as a receipt (in the nature of income) of the participator's ring fence trade for the relevant accounting period (but this is subject to subsection (6)).

[Origin: FA 1991 s.65\(4\).](#)

20

- (5) Any additional assessment to corporation tax required in order to take account of the receipt of reimbursement expenditure by the contributing participator may be made at any time not later than 6 years after the end of the calendar year in which the reimbursement expenditure is so received.

[Origin: FA 1991 s.65\(6\).](#)

25

- (6) In relation to a particular default payment, reimbursement expenditure incurred at any time –

- (a) is to be allowed as mentioned in subsection (3), and
(b) is to be taken into account as a result of subsection (4) in calculating the contributing participator's ring fence income,

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only so far as, when aggregated with any reimbursement expenditure previously incurred in respect of that default payment, it does not exceed so much of the default payment as falls to be attributed to the contributing participator as mentioned in section 25(1)(b).

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[Origin: FA 1991 s.65\(7\).](#)

- (7) The incurring of reimbursement expenditure is not to be regarded, by virtue of section 532 of CAA 2001 (the general rule excluding contributions), as the meeting of the expenditure of the contributing participator in making the default payment.

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[Origin: FA 1991 s.65\(8\).](#)

- (8) In subsection (4) “the relevant accounting period” means –
- (a) the accounting period in which the reimbursement expenditure is received by the contributing participator, or
 - (b) if the contributing participator’s ring fence trade is permanently discontinued before the receipt of the reimbursement expenditure, the last accounting period of that trade.

Origin: FA 1991 s.65(5).

Deduction of PRT in calculating income for corporation tax purposes

28 Deduction of PRT in calculating income for corporation tax purposes [j7500]

- (1) This section applies if a participator in an oil field has paid any petroleum revenue tax with which the participator was chargeable for a chargeable period.

Origin: ICTA s.500(1).

- (2) In calculating for corporation tax the amount of the participator’s income arising from oil extraction activities or oil rights in the relevant accounting period, there is to be deducted an amount equal to that petroleum revenue tax.

Origin: ICTA s.500(1).

- (3) There are to be made all such adjustments of assessments to corporation tax as are required in order to give effect to subsection (2).

Origin: ICTA s.500(2). 20

- (4) In this section “the relevant accounting period”, in relation to any petroleum revenue tax paid by a company, means –

- (a) the accounting period of the company in or at the end of which the chargeable period for which that tax was charged ends, or
- (b) if that chargeable period ends after the accounting period of the company in or at the end of which the trade giving rise to the income mentioned in subsection (2) is permanently discontinued, that accounting period.

Origin: ICTA s.500(3).

29 Effect of repayment of PRT: general rule [j7500a] 30

- (1) This section applies if some or all of the petroleum revenue tax in respect of which a deduction has been made under section 28(2) is subsequently repaid.

Origin: ICTA s.500(4).

- (2) The deduction is to be reduced or extinguished accordingly (but this is subject to section 30).

Origin: ICTA s.500(4).

- (3) Any additional assessment to corporation tax required in order to give effect to subsection (2) may be made at any time not later than 6 years after the end of the calendar year in which the petroleum revenue tax was repaid.

Origin: ICTA s.500(4). 40

30 Effect of repayment of PRT: special rule [j7500b]

- (1) This section applies if, in a case where paragraph 17 of Schedule 2 to OTA 1975 applies, an amount of petroleum revenue tax in respect of which a deduction has been made under section 28(2) is repaid as a result of an assessment under that Schedule or an amendment of such an assessment. 5
- Origin: ICTA s.500(5).
- (2) As regards so much of that repayment as constitutes the appropriate repayment—
- (a) section 29 does not apply, and
- (b) the following provisions apply in relation to the company which is entitled to the repayment. 10
- Origin: ICTA s.500(5).
- (3) In calculating for corporation tax the amount of the company's income arising in the relevant accounting period from oil extraction activities or oil rights there is to be added an amount equal to the appropriate repayment (but this is subject to subsections (4) and (5)). 15
- Origin: ICTA s.500(7).
- (4) Subsection (5) applies if—
- (a) two or more carried back losses give rise to the appropriate repayment,
- (b) the operative chargeable period in relation to each of the carried back losses is not the same, and 20
- (c) if this section were applied separately in relation to each of the carried back losses there would be more than one relevant accounting period.
- Origin: ICTA s.500(7), (8).
- (5) The appropriate repayment is to be treated as apportioned between each of the relevant accounting periods mentioned in subsection (4)(c) in such a way as to secure that the amount added as a result of subsection (3) in relation to each of those relevant accounting periods is what it would have been if— 25
- (a) relief for each of the carried back losses for which there is a different operative chargeable period had been given by a separate assessment or amendment of an assessment under Schedule 2 to OTA 1975, and 30
- (b) relief for a carried back loss accruing in an earlier chargeable period had been so given before relief for a carried back loss accruing in a later chargeable period.
- Origin: ICTA s.500(8). 35
- (6) Any additional assessment to corporation tax required in order to give effect to the addition of an amount as a result of subsection (3) may be made at any time not later than 6 years after the end of the calendar year in which the repayment of petroleum revenue tax comprising the appropriate repayment is made.
- Origin: ICTA s.500(9). 40
- (7) In this section—
- “allowable loss” has the same meaning as in Part 1 of OTA 1975 (see section 2 of that Act),
- “the appropriate repayment” has the meaning given by paragraph 17(2) of Schedule 2 to that Act, 45

“carried back loss”, in relation to the appropriate repayment, means an allowable loss –

(a) which falls within paragraph 17(1)(a) of Schedule 2 to OTA 1975, and

(b) which (alone or together with one or more other carried back losses) gives rise to the appropriate repayment, 5

“the operative chargeable period”, in relation to a carried back loss, means the chargeable period in which the loss accrued, and

“the relevant accounting period”, in relation to the company which is entitled to the appropriate repayment, means – 10

(a) the accounting period in or at the end of which the operative chargeable period ends, or

(b) if the company’s ring fence trade is permanently discontinued before the end of the operative chargeable period, the last accounting period of that trade. 15

Origin: ICTA s.500(6), (10).

Interest on repayment of PRT

31 Interest on repayment of PRT [j7501]

(1) This section applies if any amount of petroleum revenue tax paid by a participator in an oil field is, under any provision of Part 1 of OTA 1975, repaid to the participator with interest. 20

Origin: ICTA s.501.

(2) The amount of the interest paid is to be disregarded in calculating the amount of the participator’s income for the purposes of corporation tax.

Origin: ICTA s.501. 25

Relief

32 Management expenses [j7492c]

No deduction under section [1143] [j2000]] of [the Corporation Tax Act 2009 (expenses of management of a company’s investment business)] is to be allowed from a company’s ring fence profits. 30

Origin: ICTA s.492(3A).

33 Losses [j7492]

(1) Relief in respect of a loss incurred by a company may not be given under [section {j4505rm} (relief for trade losses against total profits)] against that company’s ring fence profits except so far as the loss arises from oil extraction activities or from oil rights. 35

Origin: ICTA s.492(3).

(2) Subsection (5) applies if conditions A and B are met.

Origin: ICTA s.492(4).

- (3) Condition A is that a company incurs a loss in an accounting period in activities (“separate activities”) which, for that or any subsequent accounting period, are treated by section [40] [j034801](1)] of [the Corporation Tax Act 2009 (oil extraction and related activities)] as a separate trade for the purposes of the charge to corporation tax on income. 5
[Origin: ICTA s.492\(4\).](#)
- (4) Condition B is that any of the company’s trading income in any subsequent accounting period is derived from activities (“related activities”) which are not part of the separate activities but which would together with those activities constitute a single trade, were it not for section [40] [j034801(1)] of [that Act]. 10
[Origin: ICTA s.492\(4\).](#)
- (5) The amount of the loss may be set off in accordance with [section {j4513rm} (carry forward of trade loss against subsequent trade profits)] against so much of the company’s trading income in any subsequent accounting period as is derived from the related activities. 15
[Origin: ICTA s.492\(4\).](#)
- (6) Subsection (5) applies despite anything in section [40] [j034801(1)] of [the Corporation Tax Act 2009].
[Origin: ICTA s.492\(4\).](#)
- 34 Group relief [j7492b]** 20
- (1) On a claim for group relief made by a claimant company in relation to a surrendering company, group relief may not be allowed against the claimant company’s ring fence profits except so far as the claim relates to losses incurred by the surrendering company that arose from oil extraction activities or from oil rights. 25
[Origin: ICTA s.492\(8\).](#)
- (2) In [section {j4812rm}(6) (restriction on surrender of losses etc within [section {j4801rm}(1)(d) to (g)])] the reference to the surrendering company’s total profits of the surrender period does not include the company’s relevant ring fence profits for that period. 30
[Origin: ICTA s.494A\(1\).](#)
- (3) The company’s “relevant ring fence profits” for that period are – 35
- (a) if for that period there are no charges on income paid by the company that are allowable under [section {j30001}(charges allowed on income)], the company’s ring fence profits for that period, or
 - (b) otherwise, so much of the company’s ring fence profits for that period as exceeds the amount of the charges on income paid by the company that are allowable under [section {j30001}] for that period.
- [Origin: ICTA s.494A\(2\), \(3\).](#)

35 Capital allowances [j7492a]

- (1) A capital allowance may not to any extent be given effect under section 259 or 260 of CAA 2001 (special leasing) by deduction from a company's ring fence profits.

Origin: ICTA s.492(6). 5

- (2) But subsection (1) does not apply to a capital allowance which falls to be made to a company for any accounting period in respect of an asset which –

(a) is used in the relevant accounting period by a company associated with it, and

(b) is so used in carrying on oil extraction activities. 10

Origin: ICTA s.492(7).

- (3) “The relevant accounting period” means that for which the allowance in question first falls to be made to the company (whether or not it can to any extent be given effect in that period under section 259 of CAA 2001).

Origin: ICTA s.492(7). 15

CHAPTER 4**RING FENCE EXPENDITURE SUPPLEMENT***Introduction***36 Introduction [j719C1]**

- (1) This Chapter entitles a company carrying on a ring fence trade, on making a claim in respect of an accounting period beginning on or after 1 January 2006, to a supplement (initially of 6%, but variable by Treasury order) in respect of – 20

(a) qualifying pre-commencement expenditure incurred before the trade is set up and commenced,

(b) losses incurred in the trade, and 25

(c) some or all of the supplement allowed in respect of earlier periods.

Origin: ICTA Sch.19C para.1(1).

- (2) Sections 37 to 43 make provision about the application and interpretation of this Schedule.

Origin: ICTA Sch.19C para.1(2). 30

- (3) Sections 44 to 49 make provision about supplement in relation to expenditure incurred by the company –

(a) with a view to carrying on a ring fence trade, but

(b) in an accounting period before the company sets up and commences that trade. 35

Origin: ICTA Sch.19C para.1(3).

- (4) Sections 50 to 58 make provision about supplement in relation to losses incurred in carrying on the ring fence trade.

Origin: ICTA Sch.19C para.1(4).

- (5) There is a limit on the number of accounting periods (6) in respect of which a company may claim supplement.

Origin: ICTA Sch.19C para.1(5).

- (6) In determining the amount of supplement allowable, reductions fall to be made in respect of – 5

- (a) disposal receipts in respect of any asset representing qualifying pre-commencement expenditure.
- (b) ring fence losses that could be set off under [section [j4505rm](#)] (relief for trade losses against total profits)] or [section 393B of ICTA (relief for ring fence losses)] against ring fence profits of earlier periods, 10
- (c) ring fence losses incurred in earlier periods that fall to be set off under [section [j4513rm](#)] (carry forward of trade loss against subsequent trade profits)] against profits of succeeding periods,
- (d) unrelieved group ring fence profits.

Origin: ICTA Sch.19C para.1(6).

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Application and interpretation

37 Qualifying companies [j719C2](#)

- (1) This Chapter applies in relation to any company which –
- (a) carries on a ring fence trade, or
 - (b) is engaged in any activities with a view to carrying on a ring fence trade. 20

Origin: ICTA Sch.19C para.2.

- (2) In this Chapter such a company is referred to as a “qualifying company”.

Origin: ICTA Sch.19C para.2.

38 Accounting periods [j719C3](#)

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- (1) In this Chapter, in the case of a qualifying company –
- “the commencement period” means the accounting period in which the company sets up and commences its ring fence trade,
 - “post-commencement period” means an accounting period beginning on or after 1 January 2006 – 30
 - (a) which is the commencement period, or
 - (b) which ends after the commencement period, and
 - “pre-commencement period” means an accounting period –
 - (a) beginning on or after 1 January 2006, and
 - (b) ending before the commencement period. 35

Origin: ICTA Sch.19C para.3(1).

- (2) For the purposes of this Chapter, a company not within the charge to corporation tax which incurs any expenditure is to be treated as having such accounting periods as it would have if –

- (a) it carried on a trade consisting of the activities in respect of which the expenditure is incurred, and 40

- (b) it had started to carry on that trade when it started to carry on the activities in the course of which the expenditure is incurred.

Origin: ICTA Sch.19C para.3(2).

- (3) In the case of an accounting period (a “straddling period”) of a qualifying company beginning before 1 January 2006 and ending on or after that date— 5
- (a) so much of the straddling period as falls before 1 January 2006, and
- (b) so much of the straddling period as falls on or after that date,
- are treated as separate accounting periods for the purposes of this Chapter.

Origin: ICTA Sch.19C para.3(3).

- (4) But special provision is made elsewhere in this Chapter in relation to straddling periods (see sections 40, 53 and 56(4) to (6)). 10

Origin: ICTA Sch.19C para.3(4).

39 The relevant percentage [j719C4]

- (1) For the purposes of this Chapter, the relevant percentage for an accounting period beginning on or after 1 January 2006 is 6%. 15

Origin: ICTA Sch.19C para.4(1).

- (2) The Treasury may by order vary the percentage for the time being specified in subsection (1) for such accounting periods as may be specified in the order.

Origin: ICTA Sch.19C para.4(2).

40 Limit on number of accounting periods for which supplement may be claimed [j719C5] 20

- (1) A company may claim supplement under this Chapter in respect of no more than 6 accounting periods.

Origin: ICTA Sch.19C para.5(1).

- (2) The accounting periods in respect of which claims are made need not be consecutive. 25

Origin: ICTA Sch.19C para.5(2).

- (3) A claim for supplement by the company under Schedule 19B to ICTA (exploration expenditure supplement) in respect of an accounting period is to count for the purposes of this section as a claim for supplement under this Chapter in respect of that accounting period. 30

Origin: ICTA Sch.19C para.5(3).

- (4) But, if the company makes a claim for supplement under this Chapter in respect of the deemed accounting period, any claim for supplement by the company under Schedule 19B to ICTA in respect of the Schedule 19B deemed accounting period is to be ignored for the purposes of this section. 35

Origin: ICTA Sch.19C para.5(4).

- (5) In subsection (4) —

“the deemed accounting period” means the deemed accounting period under [section 38(3)] beginning on 1 January 2006, and
“the Schedule 19B deemed accounting period” means the deemed accounting period under paragraph 3(3) of Schedule 19B to ICTA ending before 1 January 2006.

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Origin: ICTA Sch.19C para.5(5).

41 Qualifying pre-commencement expenditure [j719C6]

- (1) For the purposes of this Chapter, expenditure is “qualifying pre-commencement expenditure” if it meets each of conditions A to D.

Origin: ICTA Sch.19C para.6(1).

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- (2) Condition A is that the expenditure is incurred on or after 1 January 2006.

Origin: ICTA Sch.19C para.6(2).

- (3) Condition B is that the expenditure is incurred in the course of oil extraction activities.

Origin: ICTA Sch.19C para.6(3).

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- (4) Condition C is that the expenditure is incurred by a company with a view to carrying on a ring fence trade but before the company sets up and commences the ring fence trade.

Origin: ICTA Sch.19C para.6(4).

- (5) Condition D is that the expenditure –

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- (a) is subsequently allowable as a deduction in calculating the profits of the ring fence trade for the commencement period (whether or not any part of it is so allowable for any post-commencement period), or
(b) is relevant R&D expenditure incurred by an SME.

Origin: ICTA Sch.19C para.6(5).

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- (6) For the purposes of this section, expenditure incurred by a company is “relevant R&D expenditure incurred by an SME” if –

- (a) the company makes an election under section [977] [j8001] of [the Corporation Tax Act 2009 (alternative treatment for pre-trading expenditure: deemed trading losses)] in respect of that expenditure, but
(b) the company does not make a claim for an R&D tax credit under Chapter [2] of Part [13] of [the Corporation Tax Act 2009 (relief for SMEs)] in respect of that expenditure.

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Origin: ICTA Sch.19C para.6(6).

- (7) In the case of any qualifying pre-commencement expenditure which is relevant R&D expenditure incurred by an SME, the amount of that expenditure is treated for the purposes of this Chapter as being equal to 150% of its actual amount.

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Origin: ICTA Sch.19C para.6(7).

- (8) In the case of any qualifying pre-commencement expenditure which is relevant R&D expenditure incurred by a large company, the amount of that

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expenditure is treated for the purposes of this Chapter as being equal to 125% of its actual amount.

Origin: ICTA Sch.19C para.6(8).

- (9) In subsection (8) “relevant R&D expenditure incurred by a large company” means qualifying Chapter 5 expenditure, as defined in section [1005] [j8027] of [the Corporation Tax Act 2009]. 5

Origin: ICTA Sch.19C para.6(9).

42 Unrelieved group ring fence profits for accounting periods [j719C7]

- (1) There is an amount of unrelieved group ring fence profits for an accounting period of a qualifying company (“company Q”) if – 10
- (a) the company and any other company (“company X”) are members of the same group, and
 - (b) company X has an amount of taxable ring fence profits (see section 43) for a corresponding accounting period.

Origin: ICTA Sch.19C para.7(1). 15

- (2) An accounting period of company X corresponds to an accounting period of company Q if –
- (a) it coincides with, or falls wholly within, the accounting period of company Q, or
 - (b) it falls partly within the accounting period of company Q. 20

Origin: ICTA Sch.19C para.7(2).

- (3) If an accounting period of company X –
- (a) coincides with an accounting period of company Q, or
 - (b) falls wholly within an accounting period of company Q,
- there is, for the accounting period of company Q, an amount of unrelieved group ring fence profits equal to the whole of company X’s taxable ring fence profits for its accounting period. 25

Origin: ICTA Sch.19C para.7(3).

- (4) If an accounting period of company X falls partly within an accounting period of company Q – 30
- (a) there is an amount of unrelieved group ring fence profits for the accounting period of company Q, and
 - (b) that amount is an amount equal to the part of company X’s taxable ring fence profits for its accounting period that is attributable, on an apportionment in accordance with section 834(4) of ICTA, to the part of that period which falls within the accounting period of company Q. 35

Origin: ICTA Sch.19C para.7(4).

- (5) For the purposes of this section, two companies are members of the same group if they are members of the same group of companies within the meaning of [Part [5] (group relief)]. 40

Origin: ICTA Sch.19C para.7(1).

- (6) This section applies for the purposes of this Chapter.

Origin: ICTA Sch.19C para.7(5).

43 Taxable ring fence profits of an accounting period [j719C8]

For the purposes of this Chapter, a company has taxable ring fence profits for an accounting period if it has an amount of ring fence profits which is chargeable to corporation tax for that accounting period after any group relief claimed under [Part 5] (group relief). 5

Origin: ICTA Sch.19C para.8.

Pre-commencement supplement

44 Supplement in respect of a pre-commencement accounting period [j719C9]

- (1) If— 10
- (a) a qualifying company incurs qualifying pre-commencement expenditure in respect of a ring fence trade, and
 - (b) the expenditure is incurred before the commencement period,
- the company may claim supplement under this section (“pre-commencement supplement”) in respect of one or more pre-commencement periods. 15

Origin: ICTA Sch.19C para.9(1).

- (2) Any pre-commencement supplement allowed on a claim in respect of a pre-commencement period is to be treated as expenditure—
- (a) which is incurred by the company in the commencement period, and
 - (b) which is allowable as a deduction in calculating the profits of the ring fence trade for that period. 20

Origin: ICTA Sch.19C para.9(2).

- (3) The amount of the supplement for any pre-commencement period in respect of which a claim under this section is made is the relevant percentage for that period of the reference amount for that period. 25

Origin: ICTA Sch.19C para.9(3).

- (4) If the pre-commencement period is a period of less than 12 months, the amount of the supplement for the period (apart from this subsection) is to be reduced proportionally.

Origin: ICTA Sch.19C para.9(4). 30

- (5) Sections 45 to 48 have effect for the purpose of determining the reference amount for a pre-commencement period.

Origin: ICTA Sch.19C para.9(5).

45 The mixed pool of qualifying pre-commencement expenditure and supplement previously allowed [j719C10] 35

- (1) For the purpose of determining the amount of any pre-commencement supplement, a qualifying company is to be taken to have had, at all times in the pre-commencement periods of the company, a continuing mixed pool of—

- (a) the relevant amount (if any) which the company carries forward under Schedule 19B to ICTA,
 (b) qualifying pre-commencement expenditure, and
 (c) pre-commencement supplement.
 Origin: ICTA Sch.19C para.10(1). 5
- (2) The pool is to be taken to have consisted of –
 (a) the relevant amount (if any) which the company carries forward under Schedule 19B to ICTA,
 (b) the company’s qualifying pre-commencement expenditure, allocated to the pool for each pre-commencement period in accordance with subsection (3), and 10
 (c) the company’s pre-commencement supplement, allocated to the pool for each pre-commencement period in accordance with subsection (4).
 Origin: ICTA Sch.19C para.10(2).
- (3) To allocate qualifying pre-commencement expenditure to the pool for any pre-commencement period, take the following steps – 15
- Step 1*
 Count as eligible expenditure for that period so much of the qualifying pre-commencement expenditure mentioned in section 44(1) as was incurred in that period. 20
- Step 2*
 Find the total of all the eligible expenditure for that period (amount E).
- Step 3*
 If section 46 applies, reduce amount E in accordance with that section.
- Step 4* 25
 If section 47 applies, reduce (or, as the case may be, further reduce) amount E in accordance with that section.
- And so much of amount E as remains after making those reductions is to be taken to have been added to the pool in that period 30
 Origin: ICTA Sch.19C para.10(3).
- (4) If any pre-commencement supplement is allowed on a claim in respect of a pre-commencement period, the amount of that supplement is to be taken to have been added to the pool in that period.
 Origin: ICTA Sch.19C para.10(1). 35
- (5) In this section references to the relevant amount (if any) which the company carries forward under Schedule 19B to ICTA are to the amount in its mixed pool for the purposes of Part 3 of Schedule 19B to ICTA immediately before 1 January 2006.
 Origin: ICTA Sch.19C para.10(5). 40

46 Reduction in respect of disposal receipts under CAA 2001 [j719C11]

- (1) This section applies in the case of the qualifying company if—
- (a) it incurs qualifying pre-commencement expenditure in respect of a ring fence trade in any pre-commencement period,
 - (b) it would, on the relevant assumption, be entitled to an allowance under any provision of CAA 2001 in respect of that expenditure, 5
 - (c) an event occurs in relation to any asset representing the expenditure in any pre-commencement period, and
 - (d) the event would, on the relevant assumption, require a disposal value (the “deductible amount”) to be brought into account under any provision of CAA 2001 for any pre-commencement period. 10

Origin: ICTA Sch.19C para.11(1).

- (2) The relevant assumption is that the company was carrying on the ring fence trade—
- (a) when the expenditure was incurred, and 15
 - (b) when the event giving rise to the disposal value occurred.

Origin: ICTA Sch.19C para.11(2).

- (3) For the purpose of allocating qualifying pre-commencement expenditure to the pool for each pre-commencement period—
- (a) find the total amount of the disposal values in the case of all such events (amount D), and 20
 - (b) taking later periods before earlier periods, reduce (but not below nil) amount E for any pre-commencement period by setting against it so much of amount D as does not fall to be set against amount E for a later pre-commencement period. 25

Origin: ICTA Sch.19C para.11(3).

47 Reduction in respect of unrelieved group ring fence profits [j719C12]

- (1) This section applies if there is an amount of unrelieved group ring fence profits for a pre-commencement period.
- Origin: ICTA Sch.19C para.12(1). 30
- (2) For the purpose of allocating qualifying pre-commencement expenditure to the pool for that period—
- (a) find so much (if any) of amount E for that period as remains after any reduction falling to be made under section 46, and
 - (b) reduce that amount (but not below nil) by setting against it a sum equal to the aggregate of the amounts of unrelieved group ring fence profits for the period. 35

Origin: ICTA Sch.19C para.12(2).

48 The reference amount for a pre-commencement period [j719C13]

For the purposes of section 44, the reference amount for a pre-commencement period is the amount in the pool at the end of the period— 40

- (a) after the addition to the pool of any qualifying pre-commencement expenditure allocated to the pool for that period in accordance with section 45(3), but
- (b) before determining, and adding to the pool, the amount of any pre-commencement supplement claimed in respect of the period. 5

Origin: ICTA Sch.19C para.13.

49 Claims for pre-commencement supplement [j719C14]

- (1) Any claim for pre-commencement supplement in respect of a pre-commencement period must be made as a claim for the commencement period. 10

Origin: ICTA Sch.19C para.14(1).

- (2) Paragraph 74 of Schedule 18 to FA 1998 (company tax returns etc: time limit for claims for group relief) applies in relation to a claim for pre-commencement supplement as it applies in relation to a claim for group relief.

Origin: ICTA Sch.19C para.14(2). 15

Post-commencement supplement

50 Supplement in respect of a post-commencement period [j719C15]

- (1) A qualifying company which incurs a ring fence loss (see section 52) in any post-commencement period may claim supplement under this section (“post-commencement supplement”) in respect of – 20
 - (a) that period, or
 - (b) any subsequent accounting period in which it carries on its ring fence trade.

Origin: ICTA Sch.19C para.15(1).

- (2) Any post-commencement supplement allowed on a claim in respect of a post-commencement period is to be treated for the purposes of the Corporation Tax Acts (other than the post-commencement supplement provisions or Part 4 of Schedule 19B to ICTA) as if it were a loss – 25
 - (a) which is incurred in carrying on the ring fence trade in that period, and
 - (b) which falls in whole to be set off under [section {j4513rm} (carry forward of trade loss against subsequent trade profits)] against trading income from the ring fence trade in succeeding accounting periods. 30

Origin: ICTA Sch.19C para.15(2).

- (3) Paragraph 74 of Schedule 18 to FA 1998 (company tax returns etc: time limit for claims for group relief) applies in relation to a claim for post-commencement supplement as it applies in relation to a claim for group relief. 35

Origin: ICTA Sch.19C para.15(3).

- (4) In this Chapter “the post-commencement supplement provisions” means this section and sections 51 to 58.

Origin: ICTA Sch.19C paras.15(2), 17(2), (5), 18(5). 40

- 51 Amount of post-commencement supplement for a post-commencement period [j719C16]**
- (1) The amount of the post-commencement supplement for any post-commencement period in respect of which a claim under section 50 is made is the relevant percentage for that period of the reference amount for that period. 5
Origin: ICTA Sch.19C para.16(1).
- (2) If the post-commencement period is a period of less than 12 months, the amount of the supplement for the period (apart from this subsection) is to be reduced proportionally. 10
Origin: ICTA Sch.19C para.16(2).
- (3) Sections 54 to 58 have effect for the purpose of determining the reference amount for a post-commencement period. 10
Origin: ICTA Sch.19C para.16(3).
- 52 Ring fence losses [j719C17]**
- (1) If— 15
- (a) in any post-commencement period (“the period of the loss”) a qualifying company carrying on a ring fence trade incurs a loss in the trade, and
- (b) some or all of the loss falls to be set off under [section {j4513rm} (carry forward of trade loss against subsequent trade profits)] against trading income from the trade in succeeding accounting periods, 20
so much of the loss as falls to be so set off is a “ring fence loss” of the company.
Origin: ICTA Sch.19C para.17(1).
- (2) In determining for the purposes of the post-commencement supplement provisions how much of a loss incurred in a ring fence trade falls to be set off as mentioned in subsection (1)(b), the following assumptions are to be made. 25
Origin: ICTA Sch.19C para.17(2).
- (3) The first assumption is that every claim is made that could be made by the company under [section {j4505rm} (relief for trade losses against total profits)] to set losses incurred in the ring fence trade against ring fence profits of earlier post-commencement periods. 30
Origin: ICTA Sch.19C para.17(3).
- (4) The second assumption is that (where appropriate) [section 393B of ICTA (relief for ring fence losses)] applies in relation to every such claim under [section {j4505rm}]. 35
Origin: ICTA Sch.19C para.17(3A).
- (5) This section is subject to section 53 (special rule for straddling periods).
Origin: ICTA Sch.19C para.17(4).
- (6) This section has effect for the purposes of the post-commencement supplement provisions. 40
Origin: ICTA Sch.19C para.17(5).

53 Special rule for straddling periods [j719C18]

- (1) This section applies if the period of the loss in which a ring fence loss is incurred is the deemed accounting period under section 38(3) beginning on 1 January 2006 (“the deemed accounting period”).

Origin: ICTA Sch.19C para.18(1).

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- (2) The amount of ring fence loss in the deemed accounting period is determined as follows –

Step 1

Calculate so much of the ring fence loss in the straddling period as, for the purposes of Part 4 of Schedule 19B to ICTA, is attributable to qualifying E&A allowances for the straddling period.

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The amount given by this step is “the qualifying Schedule 19B amount”.

Step 2

Calculate so much of the ring fence loss in the straddling period as is attributable to allowances for the straddling period under Part 6 of CAA 2001 in respect of relevant expenditure.

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For the purposes of this step “relevant expenditure” means expenditure incurred by the company on or after 1 January 2006 which, but for that fact, would be qualifying E&A expenditure for the purposes of Schedule 19B to ICTA.

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For the purposes of this step a ring fence loss is attributable to those allowances so far as the amount of the loss (less the qualifying Schedule 19B amount) does not exceed the amount of those allowances for that period.

The amount given by this step is “the amount of the post-1 January 2006 E&A allowances”.

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Step 3

Deduct the qualifying Schedule 19B amount and the amount of the post-1 January 2006 E&A allowances from the amount of the ring fence loss in the straddling period.

Step 4

Apportion the remaining amount of that loss (if any) to the deemed accounting period in proportion to the number of days in the deemed accounting period that fall in the straddling period.

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The amount given by this step is “the amount of the apportioned loss”

Step 5

The amount of the ring fence loss in the deemed accounting period is the amount of the apportioned loss plus the amount of the post-1 January 2006 E&A allowances.

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Origin: ICTA Sch.19C para.18(2).

- (3) In this section “the straddling period”, in relation to a qualifying company, means an accounting period of the company –
- (a) beginning before 1 January 2006, and
 - (b) ending on or after that date,
- disregarding section 38(3).

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Origin: ICTA Sch.19C para.18(3).

- (4) In this section references to the ring fence loss in the straddling period are to that loss determined on the assumption that the straddling period is the period of the loss for the purposes of section 52.

Origin: ICTA Sch.19C para.18(4).

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- (5) This section has effect for the purposes of the post-commencement supplement provisions.

Origin: ICTA Sch.19C para.18(5).

54 The pool of ring fence losses and the pool of non-qualifying Schedule 19B losses [j719C19] 10

- (1) For the purpose of determining the amount of any post-commencement supplement, a qualifying company is to be taken at all times in its post-commencement periods to have a continuing mixed pool (the “ring fence pool”) of –

- (a) the carried forward qualifying Schedule 19B amount, 15
(b) the company’s ring fence losses, and
(c) post-commencement supplement.

Origin: ICTA Sch.19C para.19(1).

- (2) The ring fence pool continues even if the amount in it is nil.

Origin: ICTA Sch.19C para.19(2). 20

- (3) For the purpose of determining the amount of any post-commencement supplement, a qualifying company is also to be taken in its post-commencement periods to have a non-qualifying pool consisting of the carried forward non-qualifying Schedule 19B amount.

Origin: ICTA Sch.19C para.19(3). 25

- (4) But the non-qualifying pool ceases to exist when the amount in it is reduced to nil.

Origin: ICTA Sch.19C para.19(4).

- (5) In this section –
“the carried forward qualifying Schedule 19B amount”, in relation to a qualifying company, means the amount in its qualifying pool for the purposes of Part 4 of Schedule 19B to ICTA immediately before 1 January 2006, and 30

“the carried forward non-qualifying Schedule 19B amount”, in relation to a qualifying company, means the amount in its non-qualifying pool for the purposes of Part 4 of Schedule 19B to that Act immediately before 1 January 2006. 35

Origin: ICTA Sch.19C para.19(5).

55 The ring fence pool [j719C20] 40

- (1) The ring fence pool consists of –
(a) the carried forward qualifying Schedule 19B amount,

- (b) the company’s ring fence losses, allocated to the pool in accordance with subsection (2)(a), and
- (c) the company’s post-commencement supplement, allocated to the pool in accordance with subsection (2)(b).

Origin: ICTA Sch.19C para.20(1). 5

- (2) The allocation of ring fence losses and post-commencement supplement to the pool is made as follows –

- (a) the amount of a ring fence loss is added to the pool in the period of the loss, and
- (b) if any post-commencement supplement is allowed on a claim in respect of a post-commencement period, the amount of that supplement is added to the pool in that period. 10

Origin: ICTA Sch.19C para.20(2).

- (3) The amount in the ring fence pool is subject to reductions in accordance with the following provisions of this Chapter. 15

Origin: ICTA Sch.19C para.20(3).

- (4) If a reduction in the amount in the ring fence pool falls to be made in any accounting period, the reduction is to be made –

- (a) after the addition to the pool of the amount of any ring fence losses allocated to the pool in that period in accordance with subsection (2)(a), but
- (b) before determining, and adding to the pool, the amount of any supplement claimed in respect of the period, 20

and references to the amount in the pool are to be read accordingly.

Origin: ICTA Sch.19C para.20(3). 25

- (5) In this section “the carried forward qualifying Schedule 19B amount”, in relation to a qualifying company, means the amount in its qualifying pool for the purposes of Part 4 of Schedule 19B to ICTA immediately before 1 January 2006.

Origin: ICTA Sch.19C para.20(4). 30

56 Reductions in respect of utilised ring fence losses [j719C21]

- (1) If one or more ring fence losses are set off under [section {j4513rm} (carry forward of trade loss against subsequent trade profits)] against any profits of a post-commencement period, reductions are to be made in that period in accordance with this section. 35

Origin: ICTA Sch.19C para.21(1).

- (2) If the company has a non-qualifying pool, the amount in the non-qualifying pool is to be reduced (but not below nil) by setting against it a sum equal to the total amount so set off.

Origin: ICTA Sch.19C para.21(2). 40

- (3) If –
- (a) any of that sum remains after being so set against the amount in the non-qualifying pool, or

(b) the company does not have a non-qualifying pool, the amount in the ring fence pool is to be reduced (but not below nil) by setting against it so much of that sum as so remains or (as the case may be) a sum equal to the total amount set off as mentioned in subsection (1).

Origin: ICTA Sch.19C para.21(3). 5

(4) If the post-commencement period is the deemed accounting period under section 38(3) beginning on 1 January 2006 (“the deemed accounting period”), the amount of the profits of the deemed accounting period is determined as follows.

Origin: ICTA Sch.19C para.21(3). 10

(5) The amount of the profits of the straddling period is apportioned to the deemed accounting period in proportion to the number of days in the deemed accounting period that fall in the straddling period.

Origin: ICTA Sch.19C para.21(4).

(6) The apportioned amount is taken for the purposes of this section to be the amount of the profits of the deemed accounting period. 15

Origin: ICTA Sch.19C para.21(5).

(7) In this section “the straddling period”, in relation to a qualifying company, means an accounting period of the company –

(a) beginning before 1 January 2006, and 20

(b) ending on or after that date,

disregarding section 38(3).

Origin: ICTA Sch.19C para.21(6).

57 Reductions in respect of unrelieved group ring fence profits [J719C22]

(1) If there is an amount of unrelieved group ring fence profits for a post-commencement period, reductions are to be made in that period in accordance with this section. 25

Origin: ICTA Sch.19C para.22(1).

(2) If, after making any reductions that fall to be made in accordance with section 56, the company does not have a non-qualifying pool, the remaining amount in the ring fence pool is to be reduced (but not below nil) by setting against it a sum equal to the aggregate of the amounts of unrelieved group ring fence profits for the period. 30

Origin: ICTA Sch.19C para.22(2).

(3) If, after making any reductions that fall to be made in accordance with section 56, the company has an amount in a non-qualifying pool, the amount in that pool is to be reduced (but not below nil) by setting against it a sum equal to the aggregate of the amounts of unrelieved group ring fence profits for the period. 35

Origin: ICTA Sch.19C para.22(3).

(4) If any of that sum remains after being so set against the amount in the non-qualifying pool, the remaining amount in the ring fence pool is to be reduced (but not below nil) by setting against it so much of that sum as so remains. 40

Origin: ICTA Sch.19C para.22(4).

- (5) For the purposes of this section references to the remaining amount in the ring fence pool are references to so much (if any) of the amount in the ring fence pool as remains after making any reductions that fall to be made in accordance with section 56. 5

Origin: ICTA Sch.19C para.22(5).

58 The reference amount for a post-commencement period [j719C23]

For the purposes of section 51 the reference amount for a post-commencement period is so much of the amount in the ring fence pool as remains after making any reductions required by section 56 or 57. 10

Origin: ICTA Sch.19C para.23.

CHAPTER 5

SUPPLEMENTARY CHARGE IN RESPECT OF RING FENCE TRADES

59 Supplementary charge in respect of ring fence trades [j7501A]

- (1) If a company carries on a ring fence trade in an accounting period, a sum equal to 20% of its adjusted ring fence profits for that period is to be charged on the company as if it were an amount of corporation tax chargeable on the company. 15

Origin: ICTA s.501A(1).

- (2) A company's "adjusted ring fence profits" for an accounting period are the amount which, on the assumption mentioned in subsection (3), would be determined for that period as the profits of the company's ring fence trade chargeable to corporation tax. 20

Origin: ICTA s.501A(2).

- (3) The assumption is that financing costs are left out of account in calculating – 25
- (a) the amount of the profits or loss of any ring fence trade of the company for an accounting period, and
 - (b) if for any such period the whole or part of any loss relief is surrendered to the company in accordance with section 34(1), the amount of that relief or part. 30

Origin: ICTA s.501A(3).

- (4) See also section 60 (meaning of financing costs etc).

Origin: Drafting.

60 Meaning of "financing costs" etc [j7501Aa]

- (1) This section applies for the purposes of section 59. 35

Origin: Drafting.

- (2) "Financing costs" means the costs of debt finance.

Origin: ICTA s.501A(4).

- (3) In calculating the costs of debt finance for an accounting period the matters to be taken into account include—
- (a) any costs giving rise to debits in respect of debtor relationships of the company under Part [6] of [the Corporation Tax Act 2009 (loan relationships),] other than debits in respect of exchange losses from such relationships, 5
 - (b) any exchange gain or loss from a debtor relationship of the company in relation to debt finance,
 - (c) any credit or debit falling to be brought into account in accordance with Part [8] of [the Corporation Tax Act 2009 (derivative contracts)] in relation to debt finance, 10
 - (d) the financing cost implicit in a payment under a finance lease,
 - (e) if the company is the lessee under a long funding operating lease, the amount deductible in respect of payments under the lease in calculating the profits of the lessee for the purposes of corporation tax (after first making against any such amount any reductions falling to be made as a result of section 502K of ICTA (lessee under long funding operating lease)), and, 15
 - (f) any other costs arising from what would be considered in accordance with generally accepted accounting practice to be a financing transaction. 20

Origin: ICTA s.501A(5).

- (4) If an amount representing the whole or part of a payment falling to be made by a company— 25
- (a) falls (or would fall) to be treated as a finance charge under a finance lease for the purposes of accounts which relate to that company and one or more other companies and are prepared in accordance with generally accepted accounting practice, but
 - (b) is not so treated in the accounts of the company, 30
- the amount is to be treated as financing costs within subsection (3)(d).

Origin: ICTA s.501A(6).

- (5) If—
- (a) in calculating the adjusted ring fence profits of a company for an accounting period, an amount falls to be left out of account as a result of subsection (3)(d), but 35
 - (b) the whole or any part of that amount is repaid,
- the repayment is also to be left out of account in calculating the adjusted ring fence profits of the company for any accounting period.

Origin: ICTA s.501A(7).

- (6) In this section “finance lease” means any arrangements which— 40
- (a) provide for an asset to be leased or otherwise made available by a person to another person (“the lessee”), and
 - (b) under generally accepted accounting practice— 45
 - (i) fall (or would fall) to be treated, in the accounts of the lessee or a person connected with the lessee, as a finance lease or a loan, or

- (ii) are comprised in arrangements which fall (or would fall) to be so treated.

Origin: ICTA s.501A(8).

- (7) For the purposes of applying subsection (6)(b), the lessee and any person connected with the lessee are to be treated as being companies which are incorporated in a part of the United Kingdom. 5

Origin: ICTA s.501A(9).

- (8) In this section –
- “accounts”, in relation to a company, includes accounts which –
- (a) relate to two or more companies of which that company is one, 10
and
- (b) are drawn up in accordance with generally accepted accounting practice,
- “exchange gains” and “exchange losses” are to read in accordance with section [462] [j0610103a] of [the Corporation Tax Act 2009], and 15
- “long funding operating lease” means a long funding operating lease for the purposes of Part 2 of CAA 2001 (see section 70YI(1) of that Act).

Origin: ICTA s.501A(5), (10), (11).

61 Assessment, recovery and postponement of supplementary charge [j7501B]

- (1) The provisions of section 59(1) relating to the charging of a sum as if it were an amount of corporation tax are to be taken as applying all enactments applying generally to corporation tax. 20

Origin: ICTA s.501B(1).

- (2) But this is subject to –
- (a) the provisions of the Taxes Acts, 25
(b) any necessary modifications, and
(c) subsection (5).

Origin: ICTA s.501B(1).

- (3) The enactments mentioned in subsection (1) include –
- (a) those relating to returns of information and the supply of accounts, statements and reports, 30
(b) those relating to the assessing, collecting and receiving of corporation tax,
(c) those conferring or regulating a right of appeal, and
(d) those concerning administration, penalties, interest on unpaid tax and priority of tax in cases of insolvency under the law of any part of the United Kingdom. 35

Origin: ICTA s.501B(1).

- (4) Accordingly TMA 1970 is to have effect as if any reference to corporation tax included a sum chargeable under section 59(1) as if it were an amount of corporation tax (but this does not limit subsections (1) to (3)). 40

Origin: ICTA s.501B(2).

- (5) In any regulations made under section 32 of FA 1998 (as at 1 July 2008, the Corporation Tax (Treatment of Unrelieved Surplus Advance Corporation Tax) Regulations 1999) –
- (a) references to corporation tax do not include a sum chargeable on a company under section 59(1) as if it were corporation tax, and 5
 - (b) references to profits charged to corporation tax do not include adjusted ring fence profits, within the meaning of section 59.

Origin: ICTA s.501B(3).

- (6) In this section “the Taxes Acts” has the same meaning as in TMA 1970 (see section 118(1) of that Act). 10

Origin: ICTA s.501B(4).

PART 2

OIL ACTIVITIES: INCOME TAX

62 Amendments of ITTOIA 2005 [\[J7introsch\]](#)

The Schedule, which contains amendments of ITTOIA 2005 relating to oil activities, has effect. 15

Origin: Drafting.

SCHEDULE

Section 62

OIL ACTIVITIES: INCOME TAX AMENDMENTS [J7SCH]

PART 1

OIL ACTIVITIES: INCOME TAX AMENDMENTS

- | | | |
|---|---|----|
| 1 | After section 225 of ITTOIA 2005 insert – | 5 |
| | “CHAPTER 16A | |
| | OIL ACTIVITIES | |
| | <i>Basic definitions</i> | |
| | 225A Meaning of “oil extraction activities” | |
| | (1) In this Chapter “oil extraction activities” means activities within any of subsections (2) to (5) (but see also section 225M(6)). | 10 |
| | (2) Activities of a person in searching for oil in the United Kingdom or a designated area or causing such searching to be carried out for that person. | |
| | (3) Activities of a person in extracting or causing to be extracted for that person oil at any place in the United Kingdom or a designated area under rights which – | 15 |
| | (a) authorise the extraction, and | |
| | (b) are held by that person. | |
| | (4) Activities of a person in transporting or causing to be transported for that person oil extracted at any such place not on dry land under rights which – | 20 |
| | (a) authorise the extraction, and | |
| | (b) are held as mentioned in subsection (3)(b), | |
| | if the transportation meets condition A or B (see subsections (6) and (7)). | 25 |
| | (5) Activities of a person in effecting or causing to be effected for that person the initial treatment or initial storage of oil won from any oil field under rights which – | |
| | (a) authorise its extraction, and | 30 |
| | (b) are held as mentioned in subsection (3)(b). | |
| | (6) Condition A is that the transportation is to the place where the oil is first landed in the United Kingdom. | |
| | (7) Condition B is that the transportation – | |
| | (a) is to the place in the United Kingdom, or | 35 |

- (b) in the case of oil first landed in another country, is to the place in that or any other country (other than the United Kingdom), at which the seller in a sale at arm's length could reasonably be expected to deliver it (or, if there is more than one such place, the one nearest to the place of extraction). 5
- (8) The definition of “initial storage” in section 12(1) of OTA 1975 applies for the purposes of this section.
- (9) But in its application for those purposes in relation to the person mentioned in subsection (5) and to oil won from any one oil field, that definition is to have effect as if the reference to the maximum daily production rate of oil for the field mentioned in that definition were to a share of that maximum daily production rate proportionate to that person's share of the oil won from that field. 10
- (10) In this section “initial treatment” has the same meaning as in Part 1 of OTA 1975 (see section 12(1) of that Act). 15

225B Meaning of “oil rights”

In this Chapter “oil rights” means –

- (a) rights to oil to be extracted at any place in the United Kingdom or a designated area, or
- (b) rights to interests in or to the benefit of such oil. 20

225C Meaning of “ring fence income”

In this Chapter “ring fence income” means income arising from oil extraction activities or oil rights.

225D Meaning of “ring fence trade”

In this Chapter “ring fence trade” means activities which – 25

- (a) are within the definition of “oil-related activities” in section 16(2) of ITTOIA 2005 (oil extraction and related activities), and
- (b) constitute a separate trade (whether because of section 16(1) of that Act or otherwise). 30

225E Other definitions

In this Chapter –

- “chargeable period” has the same meaning as in Part 1 of OTA 1975 (see section 1(3) of that Act),
- “designated area” means an area designated by Order in Council under section 1(7) of the Continental Shelf Act 1964 (c. 29), 35
- “oil” means any substance won or capable of being won under the authority of a licence granted under Part 1 of the Petroleum Act 1998 (c. 17) or the Petroleum (Production) Act (Northern Ireland) 1964, other than methane gas won in the course of operations for making and keeping mines safe, 40
- “oil field” has the same meaning as in Part 1 of OTA 1975 (see section 12(1) of that Act),
- “OTA 1975” means the Oil Taxation Act 1975 (c. 22), and 45

“participator” has the same meaning as in Part 1 of OTA 1975
 (see section 12(1) of that Act).

Oil valuation

225F Valuation where market value taken into account under section 2 of OTA 1975	5
<ul style="list-style-type: none"> (1) This section applies if a person disposes of oil in circumstances such that the market value of the oil – <ul style="list-style-type: none"> (a) falls to be taken into account under section 2 of OTA 1975, otherwise than by virtue of paragraph 6 of Schedule 3 to that Act, in calculating for the purposes of petroleum revenue tax the assessable profit or allowable loss accruing to that person in a chargeable period from an oil field, or (b) would so fall but for section 10 of that Act. (2) For the purposes of income tax, the disposal of the oil and its acquisition by the person to whom it was disposed is to be treated as having been for a consideration equal to the market value of the oil – <ul style="list-style-type: none"> (a) as so taken into account under section 2 of that Act, or (b) as would have been so taken into account under that section but for section 10 of that Act. 	10 15
225G Valuation where disposal not at arm’s length	20
<ul style="list-style-type: none"> (1) This section applies if conditions A, B and C are met. (2) Condition A is that a person disposes of oil acquired by the person – <ul style="list-style-type: none"> (a) in the course of oil extraction activities carried on by the person, or (b) as a result of oil rights held by the person. (3) Condition B is that the disposal is not a sale at arm’s length (as defined in paragraph 1 of Schedule 3 to OTA 1975). (4) Condition C is that section 225F does not apply in relation to the disposal. (5) For the purposes of income tax, the disposal of the oil, and its acquisition by the person to whom it was disposed, is to be treated as having been for a consideration equal to the market value of the oil. (6) Paragraphs 2 and 3A of Schedule 3 to OTA 1975 (definition of market value of oil including light gases) apply for the purposes of this section as they apply for the purposes of Part 1 of that Act, but with the following modifications. (7) Those modifications are that – <ul style="list-style-type: none"> (a) any reference in paragraph 2 to the notional delivery day for the actual oil is to be read as a reference to the day on which the oil is disposed of as mentioned in this section, and (b) paragraph 2(4) is to be treated as omitted. 	25 30 35 40
225H Valuation where excess of nominated proceeds	
<ul style="list-style-type: none"> (1) This section applies if an excess of nominated proceeds for a chargeable period – 	

- (a) is taken into account in calculating a person's profits under section 2(5)(e) of OTA 1975, or
 - (b) would have been so taken into account if the person were chargeable to tax under OTA 1975 in respect of an oil field.
- (2) For the purposes of income tax, the amount of the excess is to be added to the consideration which the person is treated as having received in respect of oil disposed of by that person in the period. 5

225I Valuation where relevant appropriation but no disposal

- (1) This section applies if conditions A and B are met.
- (2) Condition A is that a person makes a relevant appropriation of oil without disposing of it. 10
- (3) Condition B is that the person does so in circumstances such that the market value of the oil –
- (a) falls to be taken into account under section 2 of OTA 1975 in calculating for the purposes of petroleum revenue tax the assessable profit or allowable loss accruing to that person in a chargeable period from an oil field, or 15
 - (b) would so fall but for section 10 of that Act.
- (4) For the purposes of income tax, the person is to be treated as having, at the time of the appropriations – 20
- (a) sold the oil in the course of the separate trade consisting of activities falling within the definition of “oil-related activities” in section 16(2) of ITTOIA 2005 (oil extraction and related activities), and
 - (b) purchased it in the course of the separate trade consisting of activities not so falling. 25
- (5) For those purposes, that sale and purchase is to be treated as having been at a price equal to the market value of the oil –
- (a) as so taken into account under section 2 of OTA 1975, or
 - (b) as would have been so taken into account under that section but for section 10 of that Act. 30
- (6) In this section “relevant appropriation” has the meaning given by section 12(1) of OTA 1975.

225J Valuation where appropriation to refining etc

- (1) This section applies if conditions A, B and C are met. 35
- (2) Condition A is that a person appropriates oil acquired by the person –
- (a) in the course of oil extraction activities carried on by the person, or
 - (b) as a result of oil rights held by the person. 40
- (3) Condition B is that the oil is appropriated to refining or to any use except the production purposes of an oil field (as defined in section 12(1) of OTA 1975).
- (4) Condition C is that section 225I does not apply in relation to the appropriation. 45

- (5) For the purposes of income tax –
- (a) the person is to be treated as having, at the time of the appropriation, sold and purchased the oil as mentioned in section 225I(4)(a) and (b), and
 - (b) that sale and purchase is to be treated as having been at a price equal to the market value of the oil. 5
- (6) Paragraphs 2 and 3A of Schedule 3 to OTA 1975 (definition of market value of oil including light gases) apply for the purposes of this section as they apply for the purposes of Part 1 of that Act, but with the following modifications. 10
- (7) Those modifications are that –
- (a) any reference in paragraph 2 to the notional delivery day for the actual oil is to be read as a reference to the day on which the oil is appropriated as mentioned in this section,
 - (b) any reference in paragraphs 2 and 2A to oil being relevantly appropriated is to be read as a reference to its being appropriated as mentioned in this section, and 15
 - (c) paragraph 2(4) is to be treated as omitted.

Regional development grants

- 225K Reduction of expenditure by reference to regional development grant 20**
- (1) This section applies if conditions A and B are met.
- (2) Condition A is that a person has incurred expenditure (by way of purchase, rent or otherwise) on the acquisition of an asset in a transaction to which paragraph 2 of Schedule 4 to OTA 1975 applies (transactions between connected persons and otherwise than at arm's length). 25
- (3) Condition B is that the expenditure incurred by the other person mentioned in that paragraph in acquiring, bringing into existence or enhancing the value of the asset as mentioned in that paragraph –
- (a) has been or is to be met by a regional development grant, and 30
 - (b) falls (in whole or in part) to be taken into account under Part 2 or 6 of CAA 2001 (capital allowances relating to plant and machinery or research and development).
- (4) Subsection (5) applies for the purposes of the charge to income tax on the income arising from the activities of the person mentioned in subsection (2) which are treated by section 16(1) of ITTOIA 2005 (oil extraction and related activities) as a separate trade for those purposes. 35
- (5) The expenditure mentioned in subsection (2) is to be reduced by the amount of the regional development grant mentioned in subsection (3). 40
- (6) In this section “regional development grant” means a grant falling within section 534(1) of CAA 2001 (Northern Ireland regional development grant).

225L Adjustment as a result of regional development grant

- (1) This section applies if conditions A, B and C are met.
- (2) Condition A is that expenditure incurred by a person in relation to an asset in a tax year (“the initial period”) has been or is to be met by a regional development grant. 5
- (3) Condition B is that, despite the provisions of section 534(2) and (3) of CAA 2001 (Northern Ireland regional development grants) and section 225K of this Act, in determining that person’s liability to income tax for the initial period, the whole or some part of that expenditure falls to be taken into account under Part 2 or 6 of CAA 2001. 10
- (4) Condition C is that –
 - (a) expenditure on the asset becomes allowable under section 3 or 4 of OTA 1975 in a tax year (an “adjustment period”) subsequent to the initial period, or 15
 - (b) the proportion of any such expenditure which is allowable in an adjustment period is different as compared with the initial period.
- (5) There is to be redetermined for the purposes of subsections (7) and (8) the amount of the expenditure mentioned in subsection (2) which would have been taken into account as mentioned in subsection (3) if the circumstances mentioned in subsection (4) had existed in the initial period. 20
- (6) According to whether the amount as so redetermined is greater or less than the amount actually taken into account as mentioned in subsection (3), the difference is referred to in subsections (7) and (8) as the increase or the reduction in the allowance. 25
- (7) If there is an increase in the allowance, an amount of capital expenditure equal to the increase is to be treated, for the purposes of Part 2 or 6 of CAA 2001, as having been incurred by the person concerned in the adjustment period on an extension of, or addition to, the asset mentioned in subsection (2). 30
- (8) If there is a reduction in the allowance, the person concerned is to be treated, for the purpose of determining that person’s liability to income tax, as having received in the adjustment period, as income of the trade in connection with which the expenditure mentioned in subsection (2) was incurred, a sum equal to the amount of the reduction in the allowance. 35
- (9) In this section “regional development grant” has the meaning given by section 225K(6). 40

Tariff receipts etc

225M Tariff receipts etc

- (1) Subsection (5) applies to a sum which meets conditions A, B and C.
- (2) Condition A is that the sum constitutes a tariff receipt or tax-exempt tariffing receipt of a person who is a participator in an oil field. 45

-
- (3) Condition B is that the sum constitutes consideration in the nature of income rather than capital.
- (4) Condition C is that the sum would not, but for subsection (5), be treated as mentioned in that subsection.
- (5) The sum is to be treated as a receipt of the separate trade mentioned in section 16(1) of ITTOIA 2005 (oil extraction and related activities). 5
- (6) So far as they would not otherwise be so treated, the activities –
 (a) of a participator in an oil field, or
 (b) of a person connected with the participator,
 in making available an asset in a way which gives rise to tariff receipts or tax-exempt tariffing receipts of the participator are to be treated for the purposes of this Chapter as oil extraction activities. 10
- (7) In determining for the purposes of subsection (2) whether a sum constitutes a tariff receipt or tax-exempt tariffing receipt of a person who is a participator, no account may be taken of any sum which – 15
 (a) is in fact received or receivable by a person connected with the participator, and
 (b) constitutes a tariff receipt or tax-exempt tariffing receipt of the participator.
 But in relation to the person by whom such a sum is actually received, subsection (2) has effect as if the person were a participator and as if condition A were met. 20
- (8) References in this section to a person connected with a participator include a person with whom the person is associated, within the meaning of paragraph 11 of Schedule 2 to the Oil Taxation Act 1983 (c. 56). 25
- (9) In this section –
 “tax-exempt tariffing receipt” has the meaning given by section 6A(2) of the Oil Taxation Act 1983, and
 “tariff receipt” has the same meaning as in that Act. 30

Abandonment guarantees

225N Expenditure on and under abandonment guarantees

- (1) Subsection (2) applies if, as a result of section 3(1)(hh) of OTA 1975 (obtaining abandonment guarantee), expenditure incurred by a participator in an oil field is allowable (in whole or in part) for the purposes of petroleum revenue tax under section 3 of that Act. 35
- (2) So far as that expenditure is so allowable, it is to be allowed as a deduction in calculating the participator’s ring fence income.
- (3) Subsection (4) applies if a payment is made by the guarantor under an abandonment guarantee. 40
- (4) So far as any expenditure for which the relevant participator is liable is met, directly or indirectly, out of the payment, the expenditure is not to be regarded for the purposes of income tax as having been incurred by the relevant participator or any other participator in the oil field concerned. 45

- (5) See also section 225P (payment under abandonment guarantee not immediately applied).
- (6) In this Chapter –
“abandonment guarantee” has the same meaning as it has for the purposes of section 105 of FA 1991 (see section 104 of that Act), and
“the guarantor” and “the relevant participator” have the same meaning as in section 104 of that Act.

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225O Relief for reimbursement expenditure under abandonment guarantees

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- (1) This section applies if –
- (a) a payment (“the guarantee payment”) is made by the guarantor under an abandonment guarantee,
- (b) as a result of the making of the guarantee payment, the relevant participator becomes liable under the terms of the abandonment guarantee to pay any sum to the guarantor, and
- (c) expenditure is incurred, or consideration in money’s worth is given, by the relevant participator in or towards meeting that liability.
- (2) In this section “reimbursement expenditure” means expenditure incurred as mentioned in subsection (1)(c) or consideration (or the value of consideration) given as so mentioned; and any reference to the incurring of reimbursement expenditure is to be read accordingly.
- (3) So much of any reimbursement expenditure as constitutes qualifying expenditure (see subsection (4)) is to be allowed as a deduction in calculating the relevant participator’s ring fence income; and no part of the expenditure which is so allowed is to be otherwise deductible or allowable by way of relief for any purposes of tax.
- (4) The amount of reimbursement expenditure incurred in any tax year by the relevant participator which constitutes qualifying expenditure is determined by the formula –

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$$A \times \frac{B}{C}$$

where –

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- A is the reimbursement expenditure incurred in the tax year,
B is so much of the expenditure represented by the guarantee payment as, had it been incurred by the relevant participator, would have been taken into account (by way of capital allowance or a deduction) in calculating the relevant participator’s ring fence income, and
C is the total of the sums which, at or before the end of the tax year, the relevant participator is or has become liable to pay to the guarantor as mentioned in subsection (1)(b).

40

But this is subject to subsection (5).

- (5) In relation to the guarantee payment, the total of the reimbursement expenditure (whenever incurred) which constitutes qualifying expenditure may not exceed whichever is the less of B and C in subsection (4). 5
- (6) Any limitation on qualifying expenditure under subsection (5) is to be applied to the expenditure of a later tax year in preference to an earlier one.
- (7) For the purposes of this section, the expenditure represented by the guarantee payment is any expenditure – 10
 - (a) for which the relevant participator is liable, and
 - (b) which is met, directly or indirectly, out of the guarantee payment (and which, accordingly, because of section 225N(4) is not to be regarded as expenditure incurred by the relevant participator). 15
- (8) See also –
 - (a) section 225P (payment under abandonment guarantee not immediately applied), and
 - (b) section 225Q which excludes amounts from subsection (1).

225P Payment under abandonment guarantee not immediately applied 20

- (1) This section applies if –
 - (a) a payment made by the guarantor under an abandonment guarantee is not immediately applied in meeting any expenditure,
 - (b) the payment is for any period invested (either specifically or together with payments made by persons other than the guarantor) so as to be represented by, or by part of, the assets of a fund or account, and 25
 - (c) at a subsequent time, any expenditure for which the relevant participator is liable is met out of the assets of the fund or account. 30
- (2) The references in sections 225N(4) and 225O(7) to expenditure which is met, directly or indirectly, out of the payment are to be read as references to so much of the expenditure for which the relevant participator is liable as is met out of those assets of the fund or account which, at the subsequent time mentioned in subsection (1)(c), it is just and reasonable to attribute to the payment. 35

225Q Amounts excluded from section 225O

- (1) This section applies if –
 - (a) the whole of the guarantee payment mentioned in section 225O, or of the assets which under section 225P are attributed to the guarantee payment, is not applied in meeting liabilities of the relevant participator so mentioned which fall within section 104(1)(a) and (b) of FA 1991, and 40
 - (b) a sum representing the unapplied part of the guarantee payment or of those assets is repaid, directly or indirectly, to the guarantor so mentioned. 45

- (2) Any liability of the relevant participator to repay that sum is to be excluded in determining the total liability of the relevant participator which falls within section 225O(1)(b).
- (3) The repayment to the guarantor of that sum is not be regarded as expenditure incurred by the relevant participator as mentioned in section 225O(1)(c). 5

Abandonment expenditure

225R Introduction to sections 225S and 225T

- (1) Sections 225S and 225T apply if –
 - (a) paragraph 2A of Schedule 5 to OTA 1975 applies, or would apply if a claim under paragraph 2A(2) of that Schedule were made, and 10
 - (b) the default payment falls (in whole or part) to be attributed to the contributing participator under paragraph 2A(2) of that Schedule (as an addition to his share of the abandonment expenditure). 15
- (2) In section 225S “the additional abandonment expenditure” means the amount which is attributed to the contributing participator as mentioned in subsection (1)(b) (whether representing the whole or only part of the default payment). 20
- (3) In this Chapter “default payment”, “the defaulter” and “contributing participator” have the same meaning as in paragraph 2A of Schedule 5 to OTA 1975.

225S Relief for expenditure incurred by a participator in meeting defaulter’s abandonment expenditure 25

- (1) Relief by way of capital allowance, or a deduction in calculating ring fence income, is to be available to the contributing participator in respect of the additional abandonment expenditure if any such relief or deduction would have been available to the defaulter if –
 - (a) the defaulter had incurred the additional abandonment expenditure, and 30
 - (b) at the time that that expenditure was incurred the defaulter continued to carry on a ring fence trade.
- (2) The basis of qualification for or entitlement to any relief or deduction which is available to the contributing participator under this section is to be determined on the assumption that the conditions in subsection (1)(a) and (b) are met. 35
- (3) But, subject to subsection (2), any such relief or deduction is to be available in the same way as if the additional abandonment expenditure had been incurred by the contributing participator for the purposes of the ring fence trade carried on by the participator. 40

225T Reimbursement by defaulter in respect of certain abandonment expenditure

- (1) This section applies if expenditure is incurred, or consideration in money’s worth is given, by the defaulter in reimbursing the 45

- contributing participator in respect of, or otherwise making good to him, the whole or any part of the default payment.
- (2) In this section “reimbursement expenditure” means expenditure incurred as mentioned in subsection (1) or consideration (or the value of consideration) given as so mentioned; and any reference to the incurring of reimbursement expenditure is to be read accordingly. 5
- (3) Reimbursement expenditure is to be allowed as a deduction in calculating the defaulter’s ring fence income (but this is subject to subsection (6)). 10
- (4) Reimbursement expenditure received by the contributing participator is to be treated as a receipt (in the nature of income) of the participator’s ring fence trade for the relevant tax year (but this is subject to subsection (6)).
- (5) Any additional assessment to income tax required in order to take account of the receipt of reimbursement expenditure by the contributing participator may be made at any time not later than 6 years after the end of the calendar year in which the reimbursement expenditure is so received. 15
- (6) In relation to a particular default payment, reimbursement expenditure incurred at any time – 20
- (a) is to be allowed as mentioned in subsection (3), and
- (b) is to be taken into account as a result of subsection (4) in calculating the contributing participator’s ring fence income, only so far as, when aggregated with any reimbursement expenditure previously incurred in respect of that default payment, it does not exceed so much of the default payment as falls to be attributed to the contributing participator as mentioned in section 225R(1)(b). 25
- (7) The incurring of reimbursement expenditure is not to be regarded, by virtue of section 532 of CAA 2001 (the general rule excluding contributions), as the meeting of the expenditure of the contributing participator in making the default payment. 30
- (8) In subsection (4) “the relevant tax year” means – 35
- (a) the tax year in which the reimbursement expenditure is received by the contributing participator, or
- (b) if the contributing participator’s ring fence trade is permanently discontinued before the receipt of the reimbursement expenditure, the last tax year in which that trade was carried on.” 40

Origin: ICTA s.493(1), (1A), (2), (3), (4), (5), (6), s.495(1), (2), (3), (4), (5), (6), (7), s.496(1), (2), (3), (4), s.502(1), (2); FA 1991 s. 62(1), (3), (4), (5), s.63(1), (2), (3), (4), (5), (6), (7), (8), s.64(1), (2), (3), (4), (5), s.65(1), (2), (4), (5), (6), (7), (8); drafting: Annex 1, Change 669 [jc669].